

Response to Questions on Notice taken by the Australian Human Rights Commission at a public hearing on 14 August 2009

The Commission was asked for its view on whether there is public confidence in Australia's counter-terrorism laws.

The Commission has not conducted any research or consultations specifically on this question. However, the Commission is aware of public and academic discussion of Australia's counter-terrorism laws which indicates that there are aspects of these laws in which there is not complete public confidence. In particular, there has been significant criticism of the detention powers that were used in the case of Dr Mohammed Haneef. (See A Lynch, 'Achieving Security, Respecting Rights and Maintaining the Rule of Law' in A Lynch, E MacDonald & G Williams (eds), *Law and Liberty in the War on Terror* (2007) 222; The Hon John Clarke QC, *Report of the Inquiry into the Case of Dr Mohamed Haneef* (2008)). The evidence of Mr Patrick Emerton given to this Inquiry and the submission of AMCRAN also indicate that there are aspects of Australia's counter-terrorism laws that do not have full public confidence.

As noted in our submission, concerns that counter-terrorism laws may have a disproportionate impact upon members of Muslim communities were raised with the Commission in its national consultations on eliminating prejudice against Arab and Muslim Australians (Ismaع - Listen: National consultations on eliminating prejudice against Arab and Muslim Australians (2004), 67-9). Such views suggest that those communities may lack confidence in Australia's national security laws and their implementation.

The Parliamentary Joint Committee on Intelligence and Security in its *Review of Security and Counter Terrorism Legislation* (2006) also expressed special concern about 'reports of increased alienation attributed to new anti terrorist measures, which are seen as targeting Muslims and contributing to a climate of suspicion' ([3.5]).

The Commission therefore reiterates its view that an independent monitor is an important step in building public confidence in Australia's national security legislation.