ATWELL WA

The Secretariat
Senate Legal and Constitutional Committee
Room S1.61, Parliament House
Canberra ACT 2600
AUSTRALIA

26 June 2004

Dear Sir/Madam,

As a concerned Aboriginal muslim I would like to used the following to express my feelings regarding the the follow:

Submission to Inquiry into the provisions of the Anti-Terrorism Bill 2004 (No 2) (Cth) I wish to express in the strongest possible terms my opposition to certain provisions of the Anti-Terrorism Bill (No 2) 2004, in particular, the introduction of the new offence of 'associating with terrorist organisations', and the proposed new power to seize a person's passports even before an ASIO warrant has been issued against them.

Association with Terrorist Organisations

As a Muslim citizen of this country, I condemn terrorism and hope that those who have threatened or damaged Australia's national security will be brought to justice. However, Australia already has far-reaching anti-terrorism laws. The Commonwealth Criminal Code criminalises such acts as being a member, even an informal member, of an organisation that the government proscribes as a terrorist organisation. Now the Bill proposes to make it an offence to even 'associate' and 'communicate' with people connected to such organisations.

I vehemently object to this because it disproportionately infringes freedom of association, and imposes guilt by association. Furthermore, the offence depends upon the exercise of executive discretion in declaring an organisation to be a terrorist organisation under the Criminal Code, an exercise of discretion which itself is based upon the overly broad existing definition of terrorism. As a result, the police and the government have very broad discretion in how the law is applied, and there is grave concern
that it will be selectively exercised.

While Muslim Australians, like all other Australians, also condemn terrorism and terrorist acts, we are in a more precarious position where, because we are of the same religion as some of those who commit acts of terrorism, we are at a greater risk of being under surveillance, suspected, investigated, and charged.

As if the Muslim community was not isolated enough from other Australians, now the government wants to introduce laws that create division within the community - Muslims are now forced to think twice before even communicating with their brothers or sisters in faith.

Muslim communities are closely-knit, and the religion of Islam actively encourages the provision of support to others in need, even if they are not related, indeed, even if they are strangers. There is no appropriate regard to this under the Bill. It would be extremely easy for this kind of general support offered by a Muslim to be misinterpreted as a crime under this new amendment.

Further, I argue that the exceptions provided in the Bill are totally inadequate. Specifically, only close family members are excluded from the application of the offence. It is not unusual for Muslims to be close to their

extended family also, yet under this Bill, an uncle or a cousin cannot communicate with a person who may have some connection to an organisation that the government proscribes as a terrorist organisation.

What is particularly alarming is the combined effect of this amendment with the newly introduced bail provisions where a person charged will only be granted bail in exceptional circumstances. A person could very easily be charged and locked up in gaol on the thinnest of evidence before it is even tested in a court of law. This means a person could end up being in gaol for doing nothing more than phoning someone twice, even if he or she is later found to be innocent.

Power to seize a person's passports

Existing laws already give ASIO more powers than an intelligence-gathering agency should have. I strongly oppose the giving of further powers to ASIO to seize a person's passports even before a warrant has been issued against them. ASIO's role is to gather intelligence, not to have the unconstrained power of being able to prevent a person from leaving the country simply by making a request for a warrant to be issued for that person's questioning or detention. ASIO's functions and operation are not easily open to scrutiny, which makes the vesting in ASIO of this sort of power particularly dangerous and open to abuse.

Other issues

I oppose the fact that the Minister's decisions to transfer prisoners are not open to judicial review. I also oppose the limits placed upon the Administrative Appeals Tribunal to review decisions of the Minister if he or she issues a certificate in relation to a decision to seize a person's passports. Fundamental to the concept of responsible government is the fact that all administrative decisions must be reviewable in order to instil and ensure public confidence.

Conclusion

Fundamental to a fair and democratic society is the guarantee that all citizens are afforded their basic civil rights and freedoms. Any response to terrorism must be measured and reasoned, and above all, needs to uphold our democratic and civil rights, rather than undermine them.

It is unclear how the amendments will improve Australia's national security. There is little evidence of community support for terrorism in this country, and terrorists will commit terrorist acts regardless of whether they receive occasional phone calls. The only effect of the amendments is that it will deal a devastating blow to the civil rights of Australians and multicultural unity by inflaming suspicion and ill-will towards others, especially those in the Muslim community. This Bill is motivated by a desire to show that something is being done, rather than having a genuine impact in making Australia safer. For these reasons, I urge you to excise these provisions in the Bill.

Thank you for your attention.

Yours faithfully,

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