

To the Committee Secretary  
Parliamentary Joint Committee on ASIO, ASIS and DSD  
Parliament House  
Canberra

I wish to lodge my opposition and grave concerns over the proposed counter-terrorism laws that are due to go before the Senate shortly and that John Howard is keen to "finalise" before Christmas.

I have written a number of articles and letters on this issue (under my pen name of Wanda Fish), including several letters to each Senator requesting him or her to carefully consider the future implications of this legislation. I am also a volunteer with Amnesty International, and am working with them on actions opposing these laws and advocating the protection of human rights.

In summary, my concerns with the proposed legislation are as follows:

1. Existing criminal law deals adequately with the detention and arrest of criminals. Terrorism is a criminal offense, and to create a new set of laws that remove basic democratic freedoms is both dangerous and unnecessary.
2. The proposed laws are unconstitutional and bypass our existing judiciary system. The fact that John Howard requires four state Premiers to sign up to the laws is proof that this legislation provides extraordinary powers that will potentially endanger and compromise innocent civilians.
3. Detention without charge is untenable. This creates a similar scenario to Guantanamo Bay and the unlawful detention of Muslim men and boys whose main crime was to be "in the wrong place at the wrong time".
4. The clauses relating to sedition potentially make dissent a criminal offense. The difficulties in terms of defining terrorism (as evidenced by the 2002 legislation) make these powers particularly dangerous as they will be used by police (federal or state) whose individual judgment can decide whether someone or something is "suspicious".
5. Shoot to kill powers are particularly odious - surely the recent tragic example of an innocent Brazilian who was shot and killed in cold blood in London is sufficient warning about the inevitable consequence of this power.

In addition to these points, I offer the following excerpt from my most recent article on this topic. Each of John Howard's 12 point plan discussed with the Premiers is addressed in the excerpt pasted below. The full text of this article is available on several sites, including the Rights Australia site.

As a concerned Australian citizen, I cannot support these laws. Furthermore, as a freelance journalist and activist I fear that the right to "speak out" will be severely compromised. There is a point at which obedience to unjust laws compromises my personal values of human rights. The proposed legislation reaches that point, and I would support civil disobedience of this legislation if enacted.

Yours sincerely,  
Candice Trevor (Wanda Fish)  
Coolbellup WA

1. Control orders: 'People who pose a terrorist risk' will have year-long control orders placed on them. Tracking devices, travel restrictions, and 'association restrictions' are included. While the Government has argued that similar control orders already exist with Apprehended Violence Orders (AVO), legal critics have pointed out that the new terror control orders are significantly more restrictive and can be imposed with no public accountability because of secrecy restrictions that hide ASIO's activities from public scrutiny.
  
2. Preventative detention: 'suspects' can be detained for up to two weeks without charge. This step by-passes the judicial system and would have been unconstitutional if enforced by the Australian Federal Police. State police will be able to detain 'suspects' who might have information or might be intending to commit a terrorist act. Less than 2,000 Federal Police will no longer limit ASIO's invasiveness. The intelligence organisation will be able to use 45,000 police from the states and territories to detain suspects for up to two weeks without charge. This extraordinary power runs the risk of being used in criminal cases and the harassment of activists and protest leaders.
  
3. Notice to produce: The AFP may request and obtain virtually any information on any citizen under the banner of 'national security'.
  
4. Access to passenger information: Provide access to airline passenger information for ASIO and the AFP. If John Howard follows the American example, Australians can expect 'no-fly' lists that will be used to disrupt the activities and restrict travel options for known activists and dissidents.
  
5. Extensive stop, search and question powers: Federal police will have the power to stop, search and question any citizen whom they believe 'might have just committed, might be committing, or might be about to commit a terrorism offense'. The subjective judgment of police will determine what someone might be thinking of doing. The loose definition of terrorism makes this particular power easy to abuse.
  
6. Extending search and interrogation powers to state police at transport hubs: People at bus stops, taxi ranks, railway stations, and airports can and will be subjected to random searches and the subjective judgment of police.
  
7. ASIO warrants regime: ASIO search warrants will be extended from 28 days to three months, while mail and delivery service warrants extend from 90 days to six months. Moreover, ASIO will be able to remove and keep anything they take from premises that have been searched 'for as long as needed' for purposes of security. Organisations opposing the Government on issues such as industrial relations or student rights are aware of the potential for this power to be used to spy on them, disrupt activity and remove records. Lawyers have argued that the extended warrants enable ASIO to go on 'fishing expeditions' that will see innocent Australians being watched.

8. Create new offences: The existing sedition offence will be scrapped, and replaced with the broader, new crime of 'inciting violence against the community'. Journalists and internet writers who 'communicate inciting messages directed against Australia's forces overseas and groups who 'support Australia's enemies' could face up to seven years in prison. The new warrants regime combined with ASIO's unfettered access to private emails, computer searches, on-line forums, may impact on cyber-journalism's resolve to report the truth.

9. Strengthen offences for financing terrorism or providing false or misleading information under an ASIO questioning warrant. The right to remain silent is removed, and anyone refusing to answer questions can be imprisoned. Former Liberal Prime Minister, Malcolm Fraser, publicly opposed this regime when he spoke at a symposium addressing global leaderships and ethics, 'The legislation is contrary to the Rule of Law. It is contrary to Due Process, to Habeas Corpus, to the basic rights which we have come to understand are central to a free and open society.'<sup>[i]</sup> Lawyers have also asked what 'strengthens' means in relation to financing terrorism, given that under the Criminal Code this offense already incurs life imprisonment.

10. Criteria for listing terrorist organizations will be extended. Organisations that 'advocate terrorism' can be banned. Community lawyers, policy workers, advocates and legal academics have argued<sup>[ii]</sup> that 'the extension of the unprecedented powers to ban terrorist organisations ...poses the danger that many organisations that publicly support independence movements like Fretilin and the ANC will be vulnerable to proscription.' The potential for this list to grow to include organizations that oppose the Government is self-evident.

11. Citizenship: The Government will extend the waiting period for citizenship from two to three years and will refuse citizenship on 'security grounds'. As a critical electorate and organizations such as Amnesty International draw unwanted attention to the Government's inhumane treatment of refugees, the Immigration Department will be able to make secret decisions based on 'national security'. The recent case of Scott Parkin demonstrated how joint exercises between ASIO and the Department of Immigration can quickly and legally expel dissidents or unwanted refugees. The only explanation that needs to be given is 'for reasons of national security'.

12. Terrorist financing: More invasive processes to ensure that charities are not used to fund 'terrorist organisations' will be extended to institutions and couriers involved in the process. What ASIO will deem to be a terrorist organisation is as open-ended as the definition of terrorism itself. Similar legislation in the UK has already resulted in legitimate Iraqi orphanage charities being banned and having their funds seized.

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[i] Malcolm Fraser, 'Responsibilities and Human Rights in the Age of Terror', address given to InterAction Council Symposium, Global Leadership and Ethics Program, Markkula Center for Applied Ethics, Santa Clara

[ii] Laws for Insecurity? A Report on the Government's Proposed Counter-Terrorism Measures, by Agnes Chong, Patrick Emerton, Waleed Kadous, Annie Pettitt, Stephen Sempill, Vicki Santas, Jane Stratton and Joo-Cheong Tham. Published on 23 September 2005 and sent to all State Premiers prior to the Government summit on 27 September 2005.