

Importance: High

Submission to the Senate Legal and Constitutional Committee

From: Candice Trevor, Coolbellup, Western Australia

Date: Tuesday, November 8, 2005

Subject: Anti-Terrorism Bill 2005,
(1) Schedule 7, Sedition
(2) Constitutionality and State Legislation

I respectfully request the Senate Committee to consider my submission and include this submission in the Government record, as per my constitutional rights as an Australian citizen.

The duty of the Australian Government to safeguard the freedom and safety of Australian citizens is seriously compromised by this Bill, that has been described publicly as "draconian" by State Premiers, members of the Government's party, legal experts, and journalists such as myself. Overall, the Bill removes basic democratic rights that the Government claims to protect in the "war on terror".

The Anti-Terrorism Bill in its current form directly contravenes several articles in the United National "Universal Declaration of Human Rights", (<http://web.amnesty.org/pages/aboutai-udhr-eng>) specifically articles 7, 9, 10, 11, 12, 13, 18, and 19. Should the Senate pass the Bill in its current form, Australia will be breaking its signed convention to these universally recognised international laws. In summary, the Terror Laws remove the following human rights: the right to be judged under the law as anyone else, the right to proper arrest and charge, the right to a lawyer, the right to a fair and public hearing, the right to be presumed innocent until proven guilty, the right to privacy, to right to move about freely in our country, the right to express anti-war views without fear of punishment or censure, and the right to mobilise support for protecting these rights.

While I am opposed to all major sections of the Bill that bypasses our judicial system and reverts the important democratic principle of "presumption of innocence", I draw your attention to two specific issues of major concern:
(1) the expansion of sedition offences and
(2) the dubious constitutionality of using State based legislation and emergency services to over-ride important protections in the federal Constitution.

I am a peace activist who has publicly opposed the war and supported the plight of Iraqis who have suffered under the American-led invasion and occupation of their country. According to the proposed laws of sedition, I could be charged with "supporting the enemy", even though Australia never officially declared war on Iraq or Afghanistan, but instead joined the Bush administration in a declaration of war on a subjective noun, terrorism. The impact and potential effect of the sedition laws will be to curtail investigative journalism that exposes the corruption and economic motivation of an ill-defined "war" with invisible "enemies".

I am also an active volunteer with Amnesty International and note that even within the Bill's exception referring to humanitarian work, you still place the evidentiary burden on the defendant. This is a travesty of the basic principle of presuming innocence in a fair democracy, and places undue pressure on all volunteers and workers for humanitarian rights and equality.

The Bill also directly contradicts the Government's report "Australia's National Framework for Human Rights: National Action Plan", published only a few months

ago with a foreword by Prime Minister John Howard in which he claimed, "Australia has a good human rights record. We enjoy a strong democratic tradition, a transparent and independent judicial system and a free press." I submit that the Anti-Terrorism Bill 2005 overturns those rights. I will also be submitting a formal complain to the United Nations, and pointing out that the Australian Government is currently passing legislation that directly contravenes several treaties.

In the course of my research and consultation with legal experts about this Bill, I have read several notable legal opinions that claim the Bill in its current form is unconstitutional. The Prime Minister admitted this when he said publicly following the COAG conference that he required four of the Premiers to support the Bill and agree to pass state legislation so that certain aspects of the Bill could be enforced by State emergency services. The Prime Minister of Australia has a duty to uphold and safeguard the Australian constitution. I submit that the Prime Minister, the Government Ministry, the Opposition Leader, and the State Premiers who support the laws are by their actions in supporting this Bill conspiring to overthrow the Constitution of the Commonwealth of Australia, and should therefore be charged with sedition under the new laws.

As a concerned citizen who respects and obeys the Constitutional laws and our judiciary system, I pledge to protect and uphold my democratic rights. I therefore in good conscience will not honor or obey laws that I believe overturn basic democratic rights, agreed international human rights, and the freedom to speak out and mobilise action against a Government that is conspiring to remove those rights.

Thank you for the opportunity to make this submission, and be assured that I am not alone in these views or in my determination to uphold democracy.

Your sincerely,
Candice Trevor
Coolbellup, WA

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Anti-Terrorism Bill 2005, Schedule 7, Sedition,

Urging a person to assist those engaged in armed hostilities 15

(8) A person commits an offence if (a) the person urges another person to engage in conduct; and 1

(b) the first-mentioned person intends the conduct to assist, by any means whatever, an organisation or country; and (c) the organisation or country is engaged in armed hostilities 20

against the Australian Defence Force.

Penalty: Imprisonment for 7 years.

Defence

(9) Subsections (7) and (8) do not apply to engagement in conduct by way of, or for the purposes of, the provision of aid of a humanitarian nature.

Note 1: A defendant bears an evidential burden in relation to the matter in 27 subsection (9).