

Submission to the Senate and Legal Constitution legislation Committee inquiry into the Anti-Terrorism (No. 2) Bill 2005

The proposed new Anti-terrorism Bill raises a number of concerns that I feel have to be addressed before this Bill is passed into law.

Overall, the secrecy and lack of community consultation in the drafting and discussion about the content of the proposed legislation has been a concern. Particularly with regards to such a sensitive and controversial area, it should have been a subject of a concerted community consultation program by the government, to ensure that people not only had time to raise concerns, but also had the opportunity to learn about the proposals and the reasoning behind both support for and opposition to the new Bill.

In the current global climate where the coalition, of which Australia is a part, is using the rhetoric of freedom and democracy to justify an arguably illegal invasion of Iraq, to change the laws of war to allow for 'pre-emptive' attacks on other nations, and to detain people indefinitely and without charge (including at Guantanamo Bay), legislation restricting civil liberties should be open to intensive scrutiny.

Of particular concern to me are the detention without trial and the sedition offences.

Detention without trial attacks one of the fundamental tenets of our judicial system – innocence until proven guilty. The ability to detain people without charge on mere suspicion of guilt undermines our entire legal system. It also means that people will be more sceptical about the reason for detention, and opens the way for accusations of unfair persecution or victimisation, possible leading to civil protest or unrest.

The sedition offence has been available under Australian law since 1914, however, the slight change in wording and the revival of this law under the proposed Bill makes it more likely that it will be used. My major concern with these laws is that it will be used against Australian citizens who are exercising their right to protest, or to participate in public debate. I believe it would be difficult to find any Australian adult who has not urged disaffection with the government under a literal reading of the definition of sedition. And despite the 'good faith' defences, it is possible that peaceful demonstrators participating in the long tradition of civil disobedience protest that exists in Australia, could be refused this defence on the grounds, for example, that their actions may be seen to intend to create a public disorder.

While the intentions of this proposed Bill are obviously to tackle the issue of a terrorist threat to Australia, as the recent arrests in Sydney and Melbourne demonstrate, existing laws are adequate to fulfil this need.

In my opinion, the proposed laws make unreasonable attacks on civil liberties and will create an environment of distrust. They could also be used, at some time in the future, against peaceful protesters opposing government law or policy.

I urge the senate committee to oppose the introduction of this Bill in its current form.

Sincerely,
Emma King
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