

Inquiry into the provisions of the Anti-Terrorism Bill (No. 2) 2005: A submission

I make this submission in order to express my revulsion at the proposed “Anti-Terrorism” Bill. This bill is poorly worded, poorly thought out, and represents a draconian assault on civil liberties and human rights in Australia. Its proposals are entirely inappropriate for a small-l liberal democratic country in which the Rule of Law prevails.

The experience of other countries that have had such laws, such as South Africa, is that they provoke resentment and terrorist acts rather than containing them. Conversely, Great Britain, which unlike Australia suffered nearly three decades of ongoing attacks from terrorists from 1969 into the 1990’s, was able to prevent many atrocities and ultimately to resolve the whole problem without subjecting its inhabitants to such loss of liberty. Their anti-terrorist laws were tightly targeted against known members of known groups (see the 1974 Act at <http://cain.ulst.ac.uk/hms0/pta1974.htm>).

Those who claim that times have changed, and that more sweeping laws are now necessary, including the current Australian and British Prime Ministers, are being disingenuous. I believe that they have more interest in micromanagerial control of the population of their countries than in stopping terrorism. I do not believe governmental assertions that these laws will be targeted at specific groups. If that is the case, then why hasn’t that been written into them? I believe that they are sufficiently broad that mistakes will be made, and deliberate abuses will be committed, and innocent lives will be destroyed. I believe that the secretiveness with which the government prepared the Bill, and their evident desire to rush it through with minimal scrutiny, discussion or refinement, is cause for suspicion as to their motives.

The consequences of abuse of this much executive power will be devastating, and I believe that this Bill, if it becomes law, will be abused, if not by this government then by one of its successors. I believe that the Bill will usher in a risk of Terror perpetrated by the State in Australia, and that those who support it are guilty of betraying our Democracy. I ask its supporters: are they be happy to be remembered by history as the architects and welcomers of the Police State in Australia? Will they gain satisfaction from being assessed by Australians of the future as those who installed a homegrown version of the tyranny that their fathers and grandfathers fought against so valiantly in two World Wars?

I remind the Committee of Benjamin Franklin’s comment that “*Any society that would give up a little liberty to gain a little security will deserve neither and lose both.*” This has not become any less true in the last 200-odd years. Being free to live life, rather than merely survive it, necessarily entails nonzero risks, and it is the sign of a mature society composed of sane, responsible individuals that this is accepted. The freedoms that the government purposes to give away in weeks required centuries of struggle to obtain, and it is entirely unacceptable that we should have to go through that struggle a second time. Those who have succumbed to cowardice and hysteria over the exaggerated and (to them) unfamiliar threat of “terrorism” may wish to give up their freedoms, but they have no right to take those of the rest of us.

Most of my specific objections to the bill are largely those that are neatly summarised by the Law Council of Australia in response to the original Draft. The items below are largely quotations from their summary.

Control Orders:

“Persons not charged with or found guilty of a criminal offence should not be subjected by the State to such restrictions on their freedom.”

“Control orders are contrary to international human rights treaties (International Covenant on Civil and Political Rights 1966) ratified by Australia”

Preventative Detention Orders:

“Persons not charged with or found guilty of a criminal offence should not be imprisoned by the State.”

“Preventative detention orders are contrary to international human rights treaties (International Covenant on Civil and Political Rights 1966) ratified by Australia.”

Use of force:

“Reasonable powers to effect apprehension are warranted but a new power expressly authorising police to cause the death of a detainee who is not being arrested because he or she is believed to have committed a criminal offence is unacceptable.”

Sedition:

“Persons can be convicted of sedition for 'urging' others to commit violence against the community or to assist the enemy. This raises serious issues and difficulties for media commentators, broadcasters, publishers and protesters.”

“The new offences erode free speech and may be unconstitutional due to their breadth.”

There is no place for crimes of political speech, thought or writing in a modern democracy.

Financing terrorism:

“The broadening of existing offences to include the element of 'recklessness' threatens to catch innocent, well-meaning people and to stifle community generosity.”

“Such provisions have the potential to exacerbate community and racial tensions.”

“Casting the scope of these offences so wide is likely to create uncertainty and produce unjust consequences.”

“In the case of reckless financing of a terrorist act, the penalty of life imprisonment is unreasonable and not proportionate to an offence unknowingly committed by a person.”

I note that the proposed law makes it possible to imprison someone for life for giving money to a beggar, or a relative, even if they are unaware that the recipient is a terrorist or suspect. This is unjust to the point of being evil.

Representation by a lawyer:

“Communication between a person and his or her legal adviser in these circumstances should be completely privileged.

“It is extraordinary that a person not charged with any criminal offence should not be entitled

to at least the same level of privileged communications with his or her lawyer as is provided for persons charged with criminal offences.”

“Police monitoring of communications between lawyers and their clients in these situations should not be allowed.”

“Lawyers should be entitled to know the facts and other grounds which form the basis of an order.”

Reporting and review:

“The operation of the Anti-Terrorism Bill 2005 should be subjected to periodic statutory reviews similar to the review provided under the *Security Legislation Amendment (Terrorism) Act 2002*.”

Signed:

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