



Submission
to
Senate Legal and Constitutional
Committee
Inquiry into the Anti-Terrorism (No2) Bill
2005

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Submission to the Senate Legal and Constitutional Committee Inquiry into the Anti-Terrorism Bill (No2) 2005 By the NSW Teachers Federation

The protection of human rights and civil liberties is the fight against terrorism. A society that stands for peace, harmony, justice and democracy stands for the values that will conquer violence, fear and hatred. The Federal Government's determination to push the Anti-Terrorism Bill through Parliament without proper consultation with the Australian community is condemned by the NSW Teachers Federation. Such major changes demand wide and extensive consultation. The Senate Legal and Constitutional Committee should make that statement now.

NSW Teachers Federation

The NSW Teachers Federation ("the Federation") is the union that covers all teachers and related employees in NSW public education, including primary and secondary schools, TAFE, AMES and Corrective Services. The Federation has some 60,000 members who are employed across the state.

The Federation is committed to the principles of social justice and the promotion of human rights and civil liberties for its members, the teaching profession, students and the Australian community. On 22 October 2005, the State Council of the Federation (a body of 300 teachers representing the Federation membership that meets eight times a year) made the following decision:

"Draft Anti-Terrorism Bill – an attack on civil liberties

The industrial relations changes represent a fundamental, extreme attack on all working people and their families.

The attack on unions represents an attack on civil society. Coupled with the announced draft anti-terrorism bill this represents the most serious attack on civil liberties in the history of this nation.

The NSWTF condemns and opposes this draft bill and will develop a detailed policy response to be put before November Council."

This submission forms the basis of the detailed policy response that will be put before State Council on 19 November. This submission is authorised by the Senior Officers of the Federation.

Federation's Concerns

The Federation opposes the Anti-Terrorism Bill in its entirety but has specific concerns with the issues of control orders, preventative detention orders, sedition offences and the increased powers of the Australian Federal Police (AFP) and ASIO. The provisions of the Bill represent the gravest threat to the human rights and civil liberties that Australians have a right to expect in a secular, civil and democratic state.

In the Federation's view, the Government has not made out a case for the introduction of such draconian legislation. The Federation is not alone in this view. In an interview on The 7.30 Report on 8 November (after a major police operation against alleged terrorists) between Kerry O'Brien and Mick Keelty, AFP Commissioner, Mr Keelty stated he believed the current powers of the AFP were adequate:

"KERRY O'BRIEN: I am sure not, but does it demonstrate that current powers are adequate?"

MICK KEELTY: Well, I think they are and I think the issue about the proposed bill was an issue of

transparency and I commend transparency when we've got such difficult issues to work through with the community."

As well, ASIO already has significant powers to detain people suspected of involvement in terrorist activity for up to seven days. The case has not been made out for such draconian measures to be made law.

International Human Rights Obligations

The Federal Government has obligations under international law, in particular its obligations as a signatory to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. There is no doubt that the introduction of preventative detention orders and control orders will significantly affect a range of human rights and freedoms which have been enshrined in international human rights law and Australian law. The Government is ignoring declarations on human rights and freedoms that the United Nations made after the terrorist attacks on 11 September 2001, that is:

"...all measures to counter terrorism must be in strict conformity with the relevant provisions of international law, including international human rights standards." (UN General Assembly, Human Rights and Terrorism, 13 February 2002)

"States must ensure that any measure taken to combat terrorism comply with all their obligations under international law and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law." (UN General Assembly, Protection of human rights and fundamental freedoms when countering terrorism, 22 March 2004)

Control Orders

Control orders impose significant restrictions on the liberty of the person who is subject to the orders and could in extreme cases amount to home detention for periods of up to 12 months. They will affect a range of internationally guaranteed human rights and freedoms detailed in the International Covenants already mentioned, including the right to be free from arbitrary detention; the right to privacy and respect for human life; freedom of association; freedom of expression; freedom of movement; the right to work; freedom of religion; the right to health and the right to a fair and public hearing. Of particular concern to the Federation is that control orders could be made in respect of children from 16 years of age for up to three months.

Preventative Detention Orders

The preventative detention of people who have not committed any offence is a serious encroachment upon fundamental human rights, including the right to liberty and the presumption of innocence. The Government has argued that such orders are only initially for 48 hours but the AFP can apply for unlimited extensions up till 12 months. The restrictions on personal contact with members of person's family are also an encroachment on fundamental human rights. Of particular concern to the Federation is that preventative detention orders could be made in respect of children from 16 years of age.

Sedition

The updated sedition offences have the capacity to significantly erode freedom of speech and artistic expression. Healthy debate and dissent will be suppressed. This is contrary to the spirit of many school syllabuses.

The Federation is often critical of Government policy when speaking up about social justice issues. It does not appear to the Federation that the defence of good faith in the Bill is an adequate safeguard against the Federation or its members being accused of sedition. The Attorney-General, Phillip Ruddock, in the second reading speech on the Bill stated about the sedition offences:

“However, given the considerable interest in the provisions, I would like to assure this House that I will undertake to conduct with my department a review of the sedition offences.” (Anti-Terrorism Bill, Second Reading by Phillip Ruddock, 3 November 2005)

It seems to the Federation that the review should have occurred before the Bill was introduced into Parliament, not afterwards.

Conclusion

The Federation opposes the Anti-Terrorism Bill. There is no evidence to suggest that this legislation would be effective against terrorism. Indeed there is the distinct possibility that such draconian legislation could be counterproductive as it seems to be inevitable that racial profiling will occur in the community.

The threat of terrorism should not be allowed to be the excuse for the erosion of the human rights and civil liberties that are the mark of a civil society and that Australians have enjoyed for decades. The Federation requests that the Senate Committee and its members strongly urge the Federal Government not to proceed with the legislation, at least until all clauses and their implications have been thoroughly understood and debated.