



ISLAMIC WOMEN'S WELFARE COUNCIL *of Victoria Inc.*

Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

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Dear Secretary,

Re: Anti-Terrorism Bill (No. 2) 2005

On behalf of Islamic Women's Welfare Council of Victoria (Council), I would like to raise a number of concerns that about the Anti-Terrorism Bill (No. 2) 2005.

The Council shares the same concerns as many Muslim community members and community organisations, as well as legal, community and civil rights groups, and former Prime Ministers, politicians, judges and other officers of the court that this Bill represents some of the most intrusive attacks on our rights as citizens.

Existing anti-terror laws are more than sufficient

It has been put forward by many analysts that there should be no further increases to the anti-terror laws until the review of the existing legislation is complete. The recent raids and arrests demonstrate that, existing anti-terror laws and police powers can be effectively used to prevent alleged terrorist acts, even in the early stages of planning. Currently the Muslim community feels that they are over policed, monitored and interrogated by police forces. Increase in laws without legitimate and compelling justification only further entrenches views that the development of these laws is designed specifically to discriminate against the community. These beliefs are taking root in the broader Australian society.

Insufficient time for consultation and debate

We support the opposition to the Bill on the grounds that it undermines fundamental principles of Australian society and its legal system: such as the presumption of innocence, freedom of speech, due process and the right to a fair trial. Concerned citizens are not given the opportunity to analyse, digest, or even understand these attacks on our fundamental freedoms before they become a part of Australia's legal landscape.

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The introduction of such measures with limited consultation and understanding within the community is of concern for the Australian citizens, but it is particularly troubling for the Muslim community and Muslim women specifically. To date the Muslim community continues to have significant difficulties understanding the Australian legal system and its laws. This difficulty arises from the fact that the majority of Muslims are immigrants or children of immigrants to this country. Given that Muslims are already significantly disadvantaged within the existing system of laws, the introduction of these new laws which are not only extremely complex, but lack sufficient independent oversight means that once Muslims come the attention of law enforcement agencies, they are unlikely to be able to be advocate for themselves appropriately. This reality has been absent from both the consultation and the debate about the impact of these proposed laws.

In addition, the limited time for consultation and the debate has not allowed for the inclusion of Muslim women, who are most likely to be the innocent bystanders in whatever future raids/detention/control orders are implemented and will bear the brunt of any consequential backlash. It is unjust that Muslims and particularly Muslim women are not only denied sufficient information about the proposed laws but also that their voices are absent from the consideration of these laws.

Muslim community concerns

Many legal, community and civil rights groups have stated their concerns about the impact on the Muslim community. From our perspective, the impact on the Muslim community is already profound. The application of the first set of terrorist laws had many in the various Muslim communities afraid, despondent and apprehensive about their chances of integrating into Australia. The application of these new laws will further alienate and isolate those in the community. When a minority withdraws from the broader society, it is women and children who are most affected and the outer withdrawal of the community riches off into internal issues such as domestic violence.

Muslims have unequivocally denounced terrorism in its many forms, but they continue to be subject to increased surveillance and suspicion as a consequence of these laws. They also continue to be subject to racial discrimination and violence, and women have been the overwhelming target of such discrimination and violence. The Council and the Human Rights and Equal Opportunity Commission have documented attacks against women.

Impact of control orders

We support the civil liberties objection to the imposition of control orders that allow people's freedoms to be severely curtailed, including by house arrest, limitations on communications and being forced to wear tracking devices. The test applied is the "balance of probabilities", rather than "beyond reasonable doubt". We agree there is potential for stereotypes and racial profiling, and the fact that someone is Muslim or, for example, prays in a particular mosque, could be enough to tip the scales. Our experience of working with law enforcement agencies is that even those with the best intentions they are still vulnerable to misunderstanding religious and cultural practices of those they are policing. This could lead to many innocent people being imprisoned, especially those with a Muslim background. We are supposed to operate under the presumption of innocence, but with these control orders people are judged guilty and punished without a fair trial.

We also have grave concerns regarding the possible retrospectivity of the "training with a terrorist organisation" clause as one of the reasons for imposing control orders. It would apply to people who might have -- many years ago -- trained with Hamas or Lashkar-e-Taiba, before they were outlawed and before September 11. There is already a crime for "training with a terrorist organisation", and this seems to be a backdoor way to limit the freedoms of people who can't be found guilty of a crime. It also creates uncertainty for the community as to whether any actions which are legally undertaken at present may become a crime some time in the future.

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Impact of preventative detention

Many Muslims have migrated to escape arbitrary detention, control orders and stop and search policing. We are particularly troubled by these measures which we believe will create the atmosphere in the community of being once again under siege. We are concerned about the possible 'disappearances' within the community and the impact of these disappearances on the community collectively and in particular women. In the event of a Muslim man being detained, we are concerned that once detained, a married man having informed his wife of his detention, places his wife at risk imprisonment. It is unreasonable to expect a Muslim woman (any woman for that matter) to carry the burden of her husbands detention. In addition, women who are immigrants to Australia will be unable to meet their children's and housekeeping requirements without assistance, financial and otherwise. In addition to this, a vast majority of Muslims in the community continue to live in small communities which are defined by geographical proximity. It is highly unlikely that someone could be taken into preventative detention inconspicuously, and again the burden of this reality will be carried by women. In such circumstances, women are being punished for a crime which their husbands may or may not have committed.

As with control orders we are concerned that preventative detention measures allow a person to be detained for up to two days under this Bill, and possible even longer under the COAG agreement with the States. The criteria for detention, especially in the aftermath of a terrorist attack, are very low.

It is possible that in the aftermath of a terrorist attack, many Muslims will be arrested to "preserve evidence", while the police try to work out what is going on and apply a "better safe than sorry" approach to detaining people. Indeed, in the aftermath of September 11, at least 70 people (all but one Muslim) were detained using the "material witness" laws in the US, the effect of which is similar to preventative detention. This is the most conservative estimate. Due to secrecy, we don't know how many were detained, but some estimates are as high as 1200.

Impact of random stop and search powers

We are concerned that this will lead to racial profiling and that Muslims are more likely to be searched. Young Muslim men are already vulnerable to racial profiling. Furthermore, it may cause community backlash against Muslims as people would be likely to blame them for any inconvenience they experience because of an area being locked down as a "security zone".

There is also a particular issue for women who wear hijab (head scarf), niqaab and chador (traditional Islamic dress which also covers part of/or full face) who might be requested to remove their hijab/niqaab/chador as part of a search. There is no requirement that the search be conducted in private and this will be a source of great distress for women. We believe that fear of random stop and search powers; will further isolate women for fear of being searched publicly or being searched by male officers. It also appears that Muslim men are more likely to be stopped in relation to these matters (this has been demonstrated by the fact that all the raids in relation to terrorism have been conducted on Muslims) and therefore, their wives, daughters or other women who might be accompanying them are again vulnerable to the policing measures targeting Muslim men.

Impact of Incitement, Sedition and "Advocating Terrorism"

We oppose the provisions in relation to incitement, sedition, and the new criteria for banning an organisation on the basis that it "advocates" terrorism because they would severely limit the freedom of speech in this country. We have a system of accountable government which means that we should be able to speak openly about the government and comment. We should be able to speak up against oppression, no matter who it is committed by or against which countries.

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We are particularly troubled by the provisions of sedition and advocating terrorism, we believe that this will leave many Muslims vulnerable to prosecution because they may express views not commonly accepted in Australia but may be in common circulation in overseas media. For example; the current situations in

Iraq/Palestine are often described in Arab media as war in which insurgents are not committing terrorism, but are defined a legitimate resistance or freedom fighters. For whatever the politics of the situation; many people will often repeat media reporting views verbatim.

Impact of “Financing Terrorism”

There is serious potential that innocent people with a sincere intention to help others by donating to charity would end up in prison for having done no wrong except for having taken someone's word. Furthermore, existing anti-terror laws have seen donations to charities in Australia decrease. These laws would reduce charity even more, and would create feelings of ill-will and suspicion among the community. We also think that women will be vulnerable to prosecution because there is tradition among Muslim women to send money to charities, especially during Ramadan (Muslim Holy Fasting month). Generally women do not have the resources to adequately research which organisations are proscribed. To date that information is only available through the internet and only in English. This information and the way it is made available is completely inaccessible to the vast majority of Muslim women.

Impact on privacy

We believe that everyone has the right to privacy. The proposed random stop and search powers allow police to intrude into a person's personal life in an unprecedented manner. We also object to other proposed measures, such as removing phone-tapping safeguards and allowing ASIO and the police access to information such as flight details. Currently, the Muslim community feels under constant surveillance and that much of their lives have come under scrutiny by methods that are not necessary.

Conclusion

We believe that as these laws stand, the Muslim community and particularly women are vulnerable to abuse. We understand that the intent of government is not to persecute the Muslim community, however the provision of justice is not ensured by the goodwill and intent of the government. It must be ensured by measured laws that are characterized by due process, transparency and accountability of those applying them. We ask the Committee to reject this Bill in its entirety or ensure that further safeguards are put in place to ensure the integrity of policing and the protection of citizens: whether or not they happen to be Muslim.

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