



Committee Secretary

Senate Legal and Constitutional Committee

Parliament House

Canberra ACT 2600

Email: legcon.sen@aph.gov.au

11 November 2005

Inquiry into the provisions of the *Anti-Terrorism Bill (No. 2) 2005*

Dear Secretary,

We appreciate the opportunity to make a submission to the Senate Legal and Constitutional Committee for the Inquiry into the provisions of the *Anti-Terrorism Bill (No. 2) 2005*.

Combined Community Legal Centres Group (NSW) Inc. (CCLCG) has 40 member community legal centres (CLCs) throughout New South Wales. We are also a member of the National Association of Community Legal Centres (NACLC). CCLCG works for the public interest, particularly for disadvantaged and marginalize people and communities. We promote human rights, social justice and a better environment by advocating for access to justice and equitable law and legal systems and through the provision of legal services including strategic case work, community legal education and law reform campaigns. Thus we are well placed to foresee the implications of the proposed legislation, particularly in terms of how they might impact on restricting people's liberties and rights in every day life.

**Combined
Community
Legal Centres'
Group (NSW) Inc**

**Suite 3B Briard House
491 - 493 Elizabeth St
Surry Hills NSW 2010
Ph: 02 9318 2355
Fax: 02 9318 2863**

The full extent of our concerns with the *Anti-Terrorism Bill (No.2) 2005* is set out in detail in the submission made by one of our members, the Public Interest Advocacy Centre (PIAC). We fully endorse the PIAC submission as well as submissions made by other CCLCG and NALCLC members, including the Federation of Community Legal Centres (Victoria) and the NALCLC National Human Rights Network.

In this submission, we wish to emphasise and reiterate our main concerns that there are significant risks posed by the proposed legislation. The key issues we wish to highlight include:

- **Inadequate time to review the proposed legislation to properly assess the potential impact.**

The indecent haste with which the Bill is being pushed through Parliament has limited public debate and discussion about the impact of the proposals. The lack of opportunity for proper review is further exacerbated by the fact that these additional laws are being introduced before the Security Legislation Review Committee has had the opportunity to complete its review of a number of existing security and counter-terrorism legislative measures, including the *Security Legislation Amendment (Terrorism) Act 2002* (Cth) and the *Intelligence Services Act 2001* (Cth). Thus even though processes are set in place to assess the effect, necessity and effectiveness of existing laws, those processes are not being abided by, and we submit it is inappropriate and unreasonable to introduce further legislation of a similar nature.

- **The wide, largely non-reviewable, discretionary nature of the powers proposed - such as those in relation to control orders and random stop and search powers - leave them open to misuse and would likely have a disproportionate impact upon already marginalised communities.**

If the rule of law is to be respected, the scope of such powers should be limited by requiring their application to be subject to meeting the “beyond reasonable doubt” standards and applicable only if “it would substantially assist in preventing an *imminent* terrorist act”.

- **The extended period of 10 years set for the sunset clause.**

It has been widely recognised that the instances of terrorism that have occurred to date signify that these are exceptional times. The exceptionality provides strong reasons for ensuring that the corresponding measures being introduced to counter terrorism are strictly confined. Due to the constraints they place on the rule of law and people's liberties, they should not be a permanent part of the legal system in Australia. Further, we submit that a 10-year sunset clause is too lengthy and should be reduced to a more reasonable period of 3 years.

To ensure consistency in the application of the laws, the sunset clause provisions should be applied to all of the new measures, including the expansion of the Attorney-General's power to proscribe 'terrorist organisations' to those that 'advocate' the doing of a terrorist act under the *Criminal Code*; powers conferred on the Australian Federal Police to compel the production of documents, etc., and to force persons to answer questions in relation to various offences; and the extension of time periods for which the various ASIO warrants can remain in force.

Correspondingly the review period for these laws should be reduced to 3 years, and be applicable to all parts of the legislation, not just Schedules 1, 3, 4 and 5 as is currently the case under Clause 4 of the Bill.

We urge the Committee to consider these issues in its deliberations of the Bill. Should you require any further information, please contact me on 02 8204 1360, or by e-mail agnes_chong@fcl.fl.asn.au.

Your sincerely,

Agnes Chong
Co-Convenor, Law Reform and Policy Committee