

submission to the Senate Legal and Constitutional Committee re the Anti-Terrorism Bill (No. 2) 2005

by Dr Martin Wesley-Smith, AM

Like others who have made a submission to this committee, I am alarmed at what seems to me to be the severe and un-necessary restriction of civil liberties entailed in this bill.

Even if I were not extremely sceptical about the Government's motives here - based on its past mendacity - I would still object to, amongst other things, the loss of Habeas Corpus and presumption of innocence. The government has failed to make a convincing case that these aspects of the bill - or, indeed, the bill itself - are necessary, for existing laws seem to me to be quite adequate for the task at hand.

We in Australia do not have a Bill of Rights. Thus without stringent legal provisions to protect us from Government and/or bureaucratic abuse, none of us is safe. It is all very well to say, as many Australians do, that if you've got nothing to hide then you've got nothing to fear. Tell that to Ms Solon or any of the hundreds of other innocent victims of government ineptitude. The point here is that people are people, with personal strengths and weaknesses, axes to grind, a normal human propensity for making mistakes, and so on. We've seen how Government bureaucrats, frightened for their jobs, have kept silent as appalling injustice occurs (those who stand up and protest are denigrated on any grounds other than on the substance of their argument). We need watertight protection, not a bill that leaves us at the mercy of petty officialdom.

We are bringing democracy, so we are told, to the people of Iraq, whether they want it or not, at the point of a gun. What kind of democracy are we exporting? Not the one that my father fought for in World War 2. Not the one that Sir Robert Menzies defended. Instead of safeguarding our freedoms, the Government is attacking them in various ways (and not just with this bill: through allowing concentration of media ownership, for example, which effectively denies most people access to the truth).

Woodrow Wilson wrote "The history of liberty is a history of the limitation of governmental power, not the increase of it." This bill increases the Government's power over its citizens, simultaneously restricting, through the Sedition section, our right to object. Charles Eliot Norton wrote: "The voice of protest, of warning, of appeal is never more needed than when the clamor of fife and drum, echoed by the press . . ., is bidding all men fall in and keep step and obey in silence the tyrannous word of command. Then, more than ever, it is the duty of the good citizen not to be silent."

The hypocrisy of this bill is staggering. If we are so concerned about terrorism, then we should be objecting to the Indonesian army - "terrorists in uniform" - in its campaign of terror in, for example, West Papua. But we are officially co-operating with it, effectively endorsing its methods. We should be urging that those responsible for the outrages in East Timor in 1999 be brought to justice. But we are silent. When this bill has been passed, citizens of Australia will have fewer liberties than the murderers of the TNI.

There is a lot more to be said, but I am running out of time. Let me conclude by saying that this bill is making this country appear demonic to those overseas who love liberty. This can be seen by the international publication of the following article, with which I broadly agree. I urge the Senate not to pass this bill but to send it back for a complete re-think.

Sleepwalking to Fascism

By Michael Buky

<http://www.informationclearinghouse.info/article10928.htm>

11/09/05 "ICH " -- -- Boots on the stairs, a broken front door at 4am, detention and interrogation for six months without the right to see a lawyer or your family and without judicial oversight except for secret courts. The military patrol the streets and arrest citizens, camps are set up for the detained, journalists are forced to give details of their sources under threat of imprisonment and the population broadly support the government's actions. Hitler's Germany? Stalin's Russia? Certainly, that is what happened then. Now try Australia in 2006.

As we learn that Defence Minister Robert Hill intends to introduce a bill enabling the military to be mobilised by the government for 'terrorist' incidents, another linchpin of our democracy is being abandoned on the countdown to Fascism by stealth in Australia today.

I speak from a tinged perspective as my father was a refugee from Hitler's Germany. My early years were frequently punctuated by reminders of what unconstrained power can achieve, supported by a docile population who were made to live in fear. Although not suggesting that we are heading down the path of genocide and arbitrary executions, the New World Order Fascism-lite should nevertheless be of increasing concern to people everywhere as our civil rights are slowly eroded.

As a recent migrant to Australia, I have been increasingly horrified by the ease with which repressive actions and legislation have been nodded through by parliament and senate in an increasingly strident climate of government-inspired fear. Not that the opposition would do much different as they are currently engaged in overtaking the government on the right. At any rate, we have no meaningful opposition as the current leader, Kim Beazley, is the ultimate Buggins-turn time-server who is doomed to failure. Love him or loathe him, ex-Leader of the Opposition, Mark Latham at least had a spine as opposed to the invertebrates currently occupying the opposition benches.

The 2003 ASIO Bill was not the first step in this descent but few would have imagined the Terrorism Bill currently being contemplated. This bill puts a number of features in place to ensure that, not only potential terrorists, but also dissenters and protesters from a wide spectrum of the population, can be detained and imprisoned in legal black holes without the fundamental right of 'Habeas Corpus', an ancient Anglo-Saxon right that preceded even the Magna Carta.

Governments say 'Trust us', and, obediently, we roll over and whimper, 'Of course, Johnny'. Who amongst us would trust the Secret Services to follow

'judges rules' in the interrogation of suspects and dissenters while they are held incommunicado for six months? The frequently heard defence of 'If you've done nothing wrong, you have nothing to fear' misses the point that we will all now live in fear, as the psychology of the Terrorism Bill is that we ALL have hidden guilt, while a smashed front door at 4am will make the hardiest person feel and act nervous, hence guilty. How do think your mate down the road with the funny accent and the dark skin will feel? Without the due process of being charged and brought before a magistrate, we all become vulnerable to the whims and inevitable cock-ups of a bureaucracy that needs to show results.

With a mobilised military, yet another layer of bureaucratic impenetrability is achieved where accountability is further lessened, recourse is virtually impossible and in which abuses are guaranteed to occur. The bones of the structure for a Fascist State are already in place. Detention camps have been tried and tested, others are mothballed and ready to go. We have also seen how, despite the previous lack of a Terrorism Bill, detainees have languished in these camps, emerging years later psychologically damaged.

Although we illegally invaded Iraq, citizens protesting the invasion and who support the rights of the Iraqi Resistance to expel their attackers will be silenced lest their blasphemies gain greater acceptance in the general Australian population. Hitler and Stalin, I am sure, are laughing in their graves while their ideological enemies tread the same path that brought them to power and while maintaining terror over their peoples.

In a civilised society, there is no need to imprison without trial anyone, whatever their alleged crime or intention to commit a criminal act. If there is proof, a magistrate can remand a suspect indefinitely, but the suspect has to be produced in court every week. Ditching Habeas Corpus will make all forms of abuse that much easier. How many of these civil liberties won over the centuries do we need to sacrifice in order to pay for the misguided policies of our governments? We, the Australian people, by our mute acceptance, are agreeing to these strictures on our fundamental civil rights as we slowly sleepwalk our way to Fascism.

signed
Martin Wesley-Smith