

FOREST HILL
6th November, 2005.

Senate Legal and Constitutional
Legislation Committee,
Parliament House,
CANBERRA, ACT, 2600.

The Federal Government's **proposed Anti-Terrorism legislation** is of very great concern for the whole of the Australian society.

This is without doubt one of the most critical moments in the life of our nation.

The Howard Government's proposed counter-terrorism laws pose one of the most serious challenges this country has faced since white settlement in 1788. Democracy, freedom, cultural and religious diversity, in particular, the peace of our nation, the region and the world are at stake.

While accepting the need for care and preparedness regarding possible threats of terror, the government's moves seem very much to be an elaborate knee-jerk reaction, reaching the extreme.

When existing laws regarding detention and security are already quite stringent, the reported extent of the new moves would seem quite draconian. We need to ask serious questions about the implications for human rights.

We should be very grateful to the ACT's Chief Minister for making the draft available to the general public, including issues such as secrecy requirements for families and lawyers. It was unthinkable that such steps should be taken without full and open consultation, and without haste. The proposal for an unseen draft to be presented and voted on on the same day was unbelievable. The fact that that day was Melbourne Cup Day only added to the way in which the Prime Minister is treating us all with complete disdain. At least the agreement for an extension of the inquiry into the proposed anti-terrorism legislation from one day to three weeks and for the Senate Legal and Constitutional Legislation Committee to report back to the Senate on 28 November 2005, is a slight improvement.

The lack in the Bill of any reference to the general principle that human rights restrictions must be consistent with Australia's obligations under the International Covenant for Civil and Political Rights is extremely disturbing. If such restrictions are intended, then the Government must justify them.

It is quite unacceptable to say that strong laws are needed to combat terrorism. It is absolutely necessary that the Government spell out in clear detail the validity of such objectives, that such measures are likely to achieve this objective, and that no other way would serve such a purpose, that fundamental rights will receive the absolute minimum of violation, and that there will be completely adequate safeguards to prevent any abuse of the extraordinary powers granted to ministers and the police.

Preventative detention of innocent people would seriously encroach on fundamental rights, overlooking completely the right to liberty and the presumption of innocence, which have been such an important part of our legal system.

The fact that the Australian Federal Police would be both the applicant for orders of preventative detention orders and that authority that grants and extends such orders is also of very great concern.

We note that continuing preventative orders, and extensions of these orders, are made by a Federal Magistrate or Judge who is appointed by the Minister.

Denial of any specific procedure that would allow the detention order to be reviewed by a court also flies in the face of Western justice.

The use of lethal force (“shoot to kill”) would also be extremely disturbing, and even though it may be on the claimed grounds that it may protect life is not acceptable – instance the most unfortunate event in London when a Brazilian paid with his life for an officer’s ineptitude, misjudgement or lack of poise.

Conditions for a detained person to contact a lawyer leave a lot to be desired, and also challenge the concept of justice and fairness. For example -

- a) such contact will be monitored by the police
- b) the lawyer may not disclose the fact that a person has been detained to anyone else
- c) the AFP may in certain circumstances prevent the detainee from contacting a particular lawyer, leaving the person little option but to choose a security-cleared lawyer.

Some of the key features of the legislation are horrifying, outlined on the grounds of obtaining information needed to combat terrorism. For example, a court may restrict or prohibit the person going to specific places, leaving the country, communicating with certain people, carrying out particular work, using the telephone or internet, and possessing or using otherwise legal materials. Such orders may also require the person to remain at home or at another location, to wear a tracking device, to report regularly, to be photographed and fingerprinted to monitor compliance. Such orders may be made for a period of 12 months, but successive orders may be made against the same person.

Up to five years’ imprisonment could be the penalty for contravening a control order .

Already restrictions on Australians at least equal those of Apartheid days in South Africa. To pass this bill in this way would bring us uncomfortably close to the situation in Nazi Germany.

Why the haste? Don’t our human rights and justice matter? It is increasingly obvious that our Government does not believe in democracy – not even the ‘make believe’ variety we currently experience.

Why are such draconian measures necessary? What proof is there that such action would achieve the stated goal of avoiding terrorism? Why does the government refuse to look toward root causes for recent moves towards terrorism? Why should human rights be violated, or seriously endangered in order so claimed to protect Australians? The end result could be devastating, with a complete loss of justice and community, which we have cherished.

It is impossible to avoid looking for hidden agendas. Similar laws in the United Kingdom were unable to avoid the London bombers, so, the measures being peddled by the Australian Government may well be to engender fear amongst the nation’s public.

It is increasingly obvious that this is just one in a long series of government actions to scapegoat the Muslim community, preparing the ground for undeserved discrimination and punishment of loyal members of society, claiming them for a problem which our government itself has created.

Widespread failure on the part of our Federal Government in the field of human rights is scandalous, eg. military intervention in Afghanistan, participation in an illegal war in Iraq, flouting UN decisions, refusal to condemn the US for its gross violations in Afghanistan and Iraq, and steadfast refusal to uphold the rights of Australian citizens wrongfully detained at Guantanamo Bay.

So much of these violations are no doubt due to the insane determination of the government to bow to the will of the United States, irrespective of the way in which our own human rights are sacrificed.

Australia is in a much more seriously threatened state of emergency due particularly to our slavish loyalty to the US, and our involvement in these wars. This has all exacerbated mistrust and threat between the West and the Islamic world. On the local level, the effect on our high achievements in the field of multicultural relations has constituted a very serious loss.

Prior to this phase of our national history, we had the potential to be ambassadors for intercultural, and even interfaith relations and understanding. Trust is a vital basis for peace: fear is not. It is urgent that we reverse the current trend.

Yours sincerely,

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