

Discussion AGAINST the Proposed Anti-Terrorism Legislation [Anti Terrorism Bill (No 2) 2005 - ATB2005]

Submission to Senate Legal and Constitutional References and Legislation Committees

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INTRODUCTION

I started to write a lengthy response, identifying faults with the Anti-Terrorism Bill (No 2) 2005 (ATB2005) clause-by-clause.

Others more knowledgeable than I will do that more accurately; others more schooled in jurisprudence will make submissions arguing the legal precedents of the ATB2005; others with the "right" credentials will be viewed as more credible than I.

What I can do - what I must do on behalf of all who live in Australia - is remind us all about the "dark side" of the laws in the ATB2005. It is here where I have the right schooling, experience, and credibility.

I will talk about this from the unique perspective that I bring, with my personal knowledge, schooling and eye-witnessing, and credibility from first-hand experience:

- I am Jewish
- I have done volunteer work in Israel and Palestine
- I believe passionately in human and civil rights, for all people, everywhere - and the concomitant responsibilities that go with rights

The laws in the ATB2005 are not such a worry in those "obvious" cases, where a person has a bunch of dynamite strapped to the body and is about to light the fuse in the middle of a crowd. I am concerned about the vast number of cases that fall around the fringes - where there is mistaken identity, over-zealous policing, and secrecy, secrecy, secrecy. And I am greatly concerned about these laws - which are self-declared as "draconian" - being used by governments and officials whose motives we cannot foresee. Just as Hitler himself manipulated the democratic laws within Germany to enable his madness. And I am also concerned that these laws remove:

- The right of habeas corpus; the requirement to "show cause"
- The presumption of innocence
- The requirement for proof and evidence of an indictable offence
- Freedom of speech and expression, in a responsible way

THE WORLD DID NOT CHANGE ON 11 SEPTEMBER 2001

The Howard Government asserts that the world changed on 11 September 2001, on 12 October 2002, and on key dates since. The Howard Government claims that the events of this and last week (7 November 2005 and 31 October 2005) demonstrate categorically how threatened we are, and how critical new powers are to fight the terrorist threat.

The people of Chile do not believe that the world changed on 11 September 2001. Chileans remember what happened in their country on 11 September 1973 - "the day democracy died" - when Salvador Allende, the democratically elected Marxist leader of Chile was deposed by a military coup - enabled by USA CIA covert operations - that put the tyrant Augusto Pinochet in power.

The laws enacted by Pinochet's government - enacted legally - were used to detain people without trial, without knowledge of charges; laws that made thousands of people "disappear," that accused people of sedition, that subjected thousands more to torture and death, far away from public scrutiny, hidden from judicial oversight, without accountability of the executive.

In Europe - the people of Northern Ireland do not believe that terrorism was invented on 11 September 2001 or 12 October 2002 ... they have lived with it since the mid-1800s. Bader Meinhof terrorised Germans from 1970 through 2000. In Spain, ETA terrorists have been active since 1959.

One source sites the Jewish Zealots among the very first terrorists, terrorising the Romans in the first century. [wikipedia]

From the 1920s through 1948, Jews living in Palestine lived with the threat and actuality of terrorism from Palestinians and neighbouring countries; from 1948 forward, Israelis still endure that situation. Equally so, from the 1920s through today, Palestinians also live with the threat and actuality of terrorism - from Israeli citizens within the State of Israel, from Jewish settlers in the Occupied territories, and from Israeli soldiers and Border Police. The deadly embrace of terror against terror ... nobody wins; everybody bleeds.

No - terrorism is not new; it is not unique to Australia.

TERRIFYING THE POPULATION

I believe that there are some real "bad guys" out there; people whose beliefs about the value of life differ greatly from mine, from most Australians. I believe there are some people who desire to kill you, me, anybody - for one reason or another; people who will stop at nothing to achieve their goals of death and destruction.

And I believe no laws - no matter how "civil" or "draconian" - will ever stop such people.

Not even Saddam Hussein's dictatorship in Iraq stopped terrorism completely.

No laws stopped Menachem Begin and the Irgun from blowing up the King David Hotel in Jerusalem and killing 91 people in 1946. Or Timothy McVeigh from blowing up the Alfred P Murrah Federal Building in Oklahoma City and killing 168 people in 1995. Or the many bombings occurring across Iraq, killing dozens of citizens today and tens of thousands, perhaps 100,000, since the invasion in March 2003.

The word "terrorist" and "terrorism" was/is used to refer to each of these.

I am not going to run my life worrying about this; I am not going to waste my precious time on this earth being "alert and alarmed."; I have far more important things to accomplish.

And I am not going to be made fearful by the propaganda from PM Howard, our Government, and our media. I will not become terrified of terrorism.

It seems that PM Howard is trying to ensure the Australian public is terrified ... so that he can pass whatever laws enable him to monitor and control the population. I do not necessarily mean this with any ill-will. Perhaps PM Howard, his Cabinet, and the Government believe truly that the laws included in ATB2005 are required to ensure the safety and security of the Australian people. This is truly a laudable goal; I mean that sincerely!

However, many other regimes have had similar laudable goals ... have put laws in place - legally - and then descended down that slippery path into tyranny.

HISTORY SHOWS US THE WAY

This has been done before. My partner is Dutch; he grew up in the Netherlands immediately following World War II. He told me that what is happening in Australia is reminiscent of what happened in Germany in the 1930s to bring the Nazis to power, and what happened under the Nazis in the 1940s.

Being Jewish, knowing the horrors of that time too well, I railed against his words. And then I did some research ...

Hermann Goering stated, at the Nuremberg Trials:

"Naturally, the common people don't want war ... But, after all, it is the leaders of the country who determine the policy and it is always a simple matter to drag the people along ... the people can always be brought to the bidding of the leaders. That is easy. All you have to do is tell them they are being attacked and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same way in any country."

[http://en.wikiquote.org/wiki/Hermann_Goering]

Laws were put in place - legally, of course - and the German people followed.

27 February 1933 brought the Reichstag Fire. Hitler used this as a pretext for the "emergency" Reichstag Fire Decree which, with assent from the president, suspended civil liberties. This Decree legally amended the constitution to allow the Reichspräsident to take any appropriate measure to remedy dangers to public safety. It suspended most of the human rights set forth in the constitution of the 1919 Weimar Republic. The Nazis legally abolished the civil rights provided by Germany's modern democracy.

"Section 1. It is therefore permissible to restrict the rights of personal freedom [habeas corpus], freedom of opinion, including the freedom of the press, the freedom to organize and assemble, the privacy of postal, telegraphic and telephonic communications, and warrants for house searches, orders for confiscations as well as restrictions on property, are also permissible beyond the legal limits otherwise prescribed."

[http://en.wikipedia.org/wiki/Weimar_Republic#Hitler_appointed_Chancellor]

Beginning in 1933, anti-Jewish laws were passed: Law for the Restoration of the Professional Civil Service and the Nuremberg Laws.

And the rest is, shall we say, history.

7 December 1941, Hitler issued Nacht und Nebel - the Night and Fog Decree.

"Persons endangering German security" in the German-occupied territories of western Europe were to be arrested and either shot or spirited away under cover of "night and fog" (that is, clandestinely) to concentration camps."

Some 7,000 people were deported to concentration camps under the Night and Fog Decree.

[<http://www.britannica.com/eb/article-9055808>]

Reichsfuhrer Himmler issued the following instructions to the Gestapo:

"After lengthy consideration, it is the will of the Führer that the measures taken against those who are guilty of offenses against the Reich or against the occupation forces in occupied areas should be altered. The Führer is of the opinion that in such cases penal servitude or even a hard labor sentence for life will be regarded as a sign of weakness. An effective and lasting deterrent can be achieved only by the death penalty or by taking measures which will leave the family and the population uncertain as to the fate of the offender. Deportation to Germany serves this purpose."

[<http://www.historyplace.com/worldwar2/timeline/nacht.htm>]

Field Marshall Keitel issued a letter stating:

"Efficient and enduring intimidation can only be achieved either by capital punishment or by measures by which the relatives of the criminals do not know the fate of the criminal. The prisoners are, in future, to be transported to Germany secretly, and further treatment of the offenders will take place here; these measures will have a deterrent effect because - A. The prisoners will vanish without a trace. B. No information may be given as to their whereabouts or their fate."

[<http://www.historyplace.com/worldwar2/timeline/nacht.htm>]

We must learn from history, or we are doomed to repeat it. [George Santayana, paraphrased]

I fear we are repeating it with ATB2005.

WELL-KNOWN TERRORISTS - OR ARE THEY?

Far too many people and organisations have been labeled "terrorists" at one point in their lives, and ennobled at a later time. Well-known examples include: Nelson Mandela, Menachem Begin, and Yassir Arafat - all of whom spent significant time in prison; all of whom were branded "terrorists" by some government authority; and all of whom won the Nobel Peace Prize. Xanana Gusmao is another example of a one-time terrorist now regarded as a leader, peace activist, and hero.

The ATB2005 would cause me to be imprisoned had I associated with any of these men, decades ago, when they were labeled as terrorists. Even after they were "knighted" by the world as worthy of higher good, my previous associations with them could be used against me, even today.

Martin Luther King and Mahatma Gandhi were imprisoned for sedition; we now regard them as civil rights leaders and heroes.

It is not easy at all to identify who is a terrorist or a sedition-ist. And acts that were once determined to be terrorist acts or sedition change over time, and the person becomes freed from that definition, as in the case of Martin Luther King and Mahatma Gandhi.

WHERE ATB2005 FITS

Perhaps PM Howard, MP Ruddock, and the Government have only the best intentions in mind bringing forward the ATB2005. Perhaps they are truly alert and alarmed.

Perhaps the entire Government - Coalition and Opposition together - sincerely desire a common end - and that is the safety and security of the Australian people.

Still, even the most noble end does not exist in a vacuum.

We in Australia have a Constitution with which we must comply.

The ATB2005 is cited by numerous renown jurists, QCs, and other legal professionals as being UNconstitutional in many ways.

We have culture and conventions - including:

- Habeas corpus - the right to be informed of the charges against us fully, clearly, and completely at the time of being taken into custody; the requirement to have a warrant served at the time of being taken into custody (coming to us via the Magna Carta, 1215)
- The presumption of our innocence, with the burden of proof on those making the charges against us, with the record expunged if there are no grounds for the charges
- Charges being laid for an indictable offence, based on proof and evidence; not suspicion of maybe, possibly being involved with something that might perhaps eventuate into something ... or perhaps it might not eventuate at all
- Charges not being laid for something that actually or possibly occurred in the past
- Charges not being laid for something that was not a crime at the time it was done
- Having access to a lawyer of our choosing, and confidentiality in lawyer/client communications, to be able to mount a robust defence
- Being informed when information is provided about us by others
- The ability to refuse to provide information about others
- Freedom from "disappearing" and being held incommunicado
- Security of knowing our loved ones, family, friends, and employees will not suddenly "disappear" and be held incommunicado

The ATB2005 violates, destroys, and revokes each and every one of these.

Those of us who live in the ACT have the ACT Human Rights Act.

*The ATB2005 does *NOT* comply with the ACT Human Rights Act in many places.*

Australia is bound by its obligations to the International Convention on Civil and Political Rights, to which Australia is a signatory.

*The ATB2005 does *NOT* comply with many articles of the ICCPR.*

The Government insists that they have legal advice that ensures them that the ATB2005 is: (a) constitutional; and (b) compliant with the ICCPR.

Many people - including legal experts - have requested to see this legal advice; the Government refuses to release it.

Why does the Government refuse to release its advice, if it is so clear that the ATB2005 complies? What does the Government fear could happen?

We often hear that "the end justifies the means."

However, the Government insists that its end - safety and security for Australians - must be achieved at all cost, regardless of the means. This argument cannot be supported no matter what laws are passed. There is absolutely no way to guarantee that Australia will always be safe and secure; that Australia will never have a terrorist attack on its soil; that I or my dear friends may not lose someone very close to us due to a terrorist attack.

There is no humanly possible way to guarantee this, and yet the Government would have believe that the draconian laws in the ATB2005 can achieve this.

A friend of mine observed:

"We have no control over the ends (no matter how much we might desire a particular one), but we can control the means we use to further progress towards that end. Therefore, as a matter of simple logic as well as morality, the ends cannot ever justify (dubious) means."

It is, thus, incumbent on all of us to ensure we use the most honourable and principled means to ensure the safety and security of the Australian people. The "draconian" laws in the ATB2005 are neither honourable nor principled.

CONTROL ORDERS, PREVENTATIVE DETENTION ORDERS, PROHIBITED CONTACT ORDERS

PM Howard, MP Ruddock, and many Cabinet members will not be in office when the five-year review of the ATB2005 laws will occur, or when the ten-year review-and-terminate opportunity arises. They will not be in a position to be held accountable for the "saves" or the "misses" - situations when the laws are mis-used, mis-applied, and destroy the lives of people in so doing.

Our politicians will walk away with clean hands.

Like Pontius Pilate, as he washed his hands before a well-known crucifixion.

However, the people directly affected by control orders, preventative detention orders, prohibited contact orders and the families so affected - these people will not be able to wash their hands. Ever. These people will have their lives changed drastically - even if the orders and charges have absolutely no basis in truth.

- The ATB2005 places the burden of proof on the individual charged, not on those making the charges.
- The ATB2005 limits the information provided to the person controlled, detained, or charged to a "summary," and one that does not have to be communicated in a clear, understandable way. Both provide insufficient grounds for an effective judicial review.
- The ATB2005 does not provide for any no judicial review of control orders, preventative detention orders, prohibited contact orders; the review is purely administrative - did we get the ticks in the boxes right. Having an order issued by a judge - perhaps a long-retired judge at that! - is not any type of judicial review.
- The ATB2005 limits the persons appeal only to administrative or ill-treatment grounds; the person may not appeal based on the background of the orders.
- The ATB2005 discusses continuing references to previous control orders, preventative detention orders, and prohibited contact orders; the person's record is never expunged,

even if the orders are found groundless and revoked; even if the orders are never served.

- The ATB2005 places no limits, no boundaries whatsoever, on what may be controlled or prohibited; no limits on detention.
- A person could be imprisoned in a local jail, or moved cross-country to another jail to prevent contact, or locked away in an off-shore detention camp, or sent to a foreign country or Guantanamo Bay.
- A person may be "disappeared" and unable to contact anyone, except to say, "I am safe and am not able to be contacted for the time being."
- Anybody who talks about the disappeared-person may be imprisoned for five years.

These people and their families, friends, and colleagues will have devastating, and likely permanent, effects on their lives ... even if they are demonstrably innocent.

STOP, QUESTION, SEARCH, SEIZURE

Every time I read this section, I am reminded of what life is like on the West Bank, Palestine, where I do volunteer work. These are the same humiliating, unjustified actions the occupying forces use with ordinary citizens "in the name of security."

Anyone who has not lived in a police state, an occupied country, or a war zone has no idea how dehumanising these actions are, even the threat of these actions.

I lack words to express my disgust to see Australia implementing such a regime.

The ATB2005 allows the police to lock down a geographic area for 28 days based on suspicion alone.

In this locked-down area, the ATB2005 requires me to:

- Carry my ID with me at all times (how else would I be able to produce it when stopped randomly?)
- Allow the police to stop me and search me and my possessions, just because I am in a "prescribed security zone" ... they do not have to have any type of search warrant; nor do I have to be suspected of anything and certainly not even accused of anything
- Allow the police to take anything from me that they merely suspect may be a "bad thing"; no proof of ill-intention is required for the police to confiscate my work computer and phone, or anything I have in my possession

OBTAINING INFORMATION AND DOCUMENTS

This section of the ATB2005 exceeds the stated purpose of the bill - anti-terrorism. Entire sections relating to obtaining documents and information has nothing whatsoever to do with terrorism. It should be removed from this bill.

Once again, Australian customs and values are violated, in that a person is forced to provide information and documents - even in violation of another law. The person is not allowed to discuss with anybody about the information the person has provided. The list of information that may be requested is extensive; the costs of providing that information to the person may be extreme.

The ATB2005 will compel us to provide information about another person. And, once again, the burden of proof is upon us to demonstrate that we do not have the requested information.

SEDITION

The proposed laws about sedition are so vague that it truly is "in the mind of the beholder" whether some things are sedition or demonstrate seditious intent or not. What causes me concern is not the obvious cries by an armed mob, seething at the doors of Parliament House, screaming, "let's blow up Parliament House" (and we know this is not a movie set) or the daily chit-chat about "what would you like for lunch, dear" that causes me concern. It is all the stuff that falls in the middle - which is most of life and living.

Which of these would be sedition:

- A white comedian joking about blowing up Parliament House?
- A Muslim comedian with the same joke?
- A political cartoonist with the same joke?
- A poem that asks us to pause and think about the advantages of blowing up Parliament House - what Australia might be like?
- A person with a criminal record talking about blowing up Parliament House?
- A person with a previous preventative detention order telling a joke about blowing up Parliament House?
- Burning an effigy of John Howard?
- Burning the Australian flag?
- The news media reporting on any/all of these?

While I don't have much of a sense of humour myself, the sedition laws could put a quick end to political parodies, poking fun at and showing how ridiculously stupid our politicians and the Government-of-the-day can be. There is no "good faith" defence in many of these parodies; their singular purpose is to raise contempt, encourage disaffection, and promote discomfort.

The ATB2005 laws about sedition are equally confusing about these cases:

- The Australian Republican movement is guilty of sedition, as it describes how little value Australia gets from the royal family, our Sovereigns, and encourages the virtual over-throw of the Sovereign.
- Our political cartoonists who lampoon Prince Charles are certainly guilty of sedition, bringing the Sovereign into contempt.
- The Government itself - both the Senate and the House - engages in seditious intention every day it holds Question Time. Whether staged or spontaneous, whether joking or serious, it is obvious that the Government and the Opposition are clearly intending to urge disaffection against each other. Strong disaffection.
- Our political cartoonists urge disaffection with the Government-of-the-day, various Parliamentarians, and both Houses of Parliament. They should; it is their role to make us think!

- Many of us write letters to the editor, equally seditious, urging disaffection with our Government, demonstrating contempt for the royals.
- Music, theatre, television shows, films, books, poems, intellectuals, debates, demonstrations ... even news reporting could be considered seditious for mockery, parodies, sarcasm.
- Right-wing radio "shock jocks" are constantly going "over the top" and clearly promoting feelings of ill-will and hostility among all kinds of groups, without any regard to peace, order, or good government.

Once again, the defendant bears an evidential burden to defend against a sedition charge; the defendant is assumed to have ill-intent, i.e., is guilty, vs being presumed innocent.

The anti-abortionist (political opinion) urging violence to prevent women entering an abortion clinic - this threatens peace, order, and good government. Equally, the fundamentalist Christian minister who preaches about the "evils" of homosexuality and homosexuals, calling the congregation to abhor, shun, and excommunicate them - these messages threaten peace, order, and good government. I am certain these people could be granted "good faith" for one reason or another.

But ... what about an Iraqi who calls for resistance against the occupiers of her/his country? Would the "good faith" umbrella be applied to that person?

Would an Iraqi be granted the same generosity of spirit as the others? I think not, not in this country, not at this time, and certainly not within the scope of these laws.

RETURNING TO GERMANY

I suggested earlier that there are parallels between the situation in Germany of the 1930s and 1940s and Australia today. Allow me to make some of them explicit:

Hermann Goering, at the Nuremberg Trials:

"All you have to do is tell them they are being attacked and denounce the pacifists for lack of patriotism and exposing the country to danger."

The Government and the media have been rattling the sabres and beating the drums of terror, terror, terror, terror ... so much so that Labor is trying to "me too" and be even tougher on terrorism than the Liberals. All one needs to do is look at the front pages of the newspapers these past few days ... huge headlines talking about terrorists and terror threats and terrorist acts and terror-this and terror-that crawling across page after page.

27 February 1933, the Reichstag Fire Decree, suspending human rights:

"Section 1. It is therefore permissible to restrict the rights of personal freedom [habeas corpus], freedom of opinion, including the freedom of the press, the freedom to organize and assemble, the privacy of postal, telegraphic and telephonic communications, and warrants for house searches, orders for confiscations as well as restrictions on property, are also permissible beyond the legal limits otherwise prescribed."

The control orders, preventative detention orders, and prohibited contact orders all restrict personal freedom - the person subject to any of these orders is not informed of the charges; a person may be taken into custody without presenting the person with the preventative detention order.

The sedition laws restrain freedom of expression; and where not restrained, enough people are now afraid that they will self-censor. Information - be it postal, telephonic, financial or more - is no longer private. Anything and any person may be searched in a prescribed security zone. Numerous records can be demanded - based on suspicion of something that might possibly occur.

It is unclear what kind of effect the ATB2005 will have on the media. So far, for the most part, many media outlets have seemed willing participants in the Government's fear-mongering rush to terrorise its citizens. While the media published/presented some alternate views to the Government's position on the war in Iraq, I saw no truly investigative journalism into the quality (or lack thereof) of the intelligence that became our justification for invading Iraq.

Our media "goes along with" the Government overall; we have lost that part of the check-and-balance. The ATB2005 places even stronger pressure on the media to comply and be quiet.

The new laws in the ATB2005 could put reporters in jail simply for reporting the news or for pointing out to the citizens of Australia how corrupt, bankrupt, and contemptuous the policies of the Government are, the Parliamentarians themselves are. These same laws could put political cartoonists in jail for showing the Prime Minister as a "frig magnet" or as George Bush's lap dog and MP Downer in a dress and fishnet stockings - all aimed to urge disaffection. I expect to see even fewer challenges of our Government by the media.

7 December 1941, the Night and Fog Decree.

"Persons endangering German security" in the German-occupied territories of western Europe were to be arrested and either shot or spirited away under cover of 'night and fog' (that is, clandestinely) to concentration camps."

The control orders, preventative detention orders, and prohibited contact ensure that people - guilty or innocent - may be "spirited away under cover of 'night and fog'."

Reichsfuhrer Himmler's instructions to the Gestapo:

"An effective and lasting deterrent can be achieved only by the death penalty or by taking measures which will leave the family and the population uncertain as to the fate of the offender. Deportation to Germany serves this purpose."

The silence imposed on the families, friends, and colleagues of those under preventative detention orders achieves this deterrent. Silence ... or the penalty of five years in prison.

Field Marshall Keitel's letter:

"Efficient and enduring intimidation can only be achieved either by capital punishment or by measures by which the relatives of the criminals do not know the fate of the criminal. ... The prisoners will vanish without a trace. B. No information may be given as to their whereabouts or their fate."

Again, control orders, preventative detention orders, and prohibited contact orders achieve this effect. And there are other, more insidious effects ...

I have some dear friends originally from a Middle Eastern country. They have already decided to silence themselves - out of fear - what do they know about us, they wonder? Worse, what do they imagine about us? What might they do to us? And these are the most beautiful, loving, intellectual, hard-working, tax-paying, fun, warm, generous (so generous!) people I can imagine anywhere on this planet. Yet, from their experience growing up on one "police state"

country and living for some time in another, they see in the ATB2005 signs of impending danger to the citizens of Australia, and they have become quiet. Silenced. They have asked me to speak for them as best I can; me, a single little person, just one voice, somewhere in the wilderness.

SUMMARY

The ATB2005 is rife with flaws, let alone illegalities. The ATB2005 violates our obligations under many international agreements. Moreover, the ATB2005 changes the fibre of Australian life, values, and culture in ways we do not yet understand fully.

Is saving the life of one person worth the massive social change forced upon us by possibly, perhaps, maybe, perchance using these laws to prevent a terrorist act? I believe not. Is saving the lives of potentially hundreds of people worth the massive social change? I believe not. Is saving my life worth the massive social change? I absolutely believe not.

In all cases, society will go on without the person, the people ... even without me.

The question remains - will it be a society that I value? Or will it be a society like Iraq under Saddam Hussein? Or like the society under which some of the terrorists wish to enslave us.

We still have time to make that choice - and we can do that by rejecting the ATB2005.

The International Convention for Civil and Political Rights (ICCPR) notes that:

- Every human being has the inherent right to life. [Article 6(1)]

This is truly a laudable goal, and one that my Government should advocate, as they sometimes do.

No Government anywhere in the world is going to be able to prevent all murderous acts and lunatic behaviours and keep everybody alive, no matter how civil or draconian the legislation.

So we have a choice: Do we support the basic rights of all people, everywhere, or not?

The following portions of the ICCPR are violated by the ATB2005:

Violated by control orders, preventative detention orders, and prohibited contact orders - all based on suspicion; not evidence, not proof, not conviction:

- The right to liberty and security of person. [Article 9(1)]
- The right to be informed, at the time of arrest, reasons for the arrest and the charges against the person. [Article 9(2)]
- A victim of unlawful arrest or detention has a right to compensation. [Article 9(5)]
- The right to liberty of movement. [Article 12(1)]
- The right to leave the country. [Article 12(2)]
- The right to a fair and public hearing. [Article 14(1)]
- The right to be informed in detail of the charges against the person. [Article 14(3)(a)]
- The right to counsel of the person's own choosing. [Article 14(3)(b)]
- Right to freedom of association. [Article 22(1)]

Violated by prescribed security zones and stop, search, and seizure provisions"

- No one shall be subjected to arbitrary interference one's privacy, family, home or correspondence. [Article 17(1)]

Violated by sedition laws:

- Freedom of expression, including to seek, receive, and impart information and ideas of all kinds, through all media. [Article 19(2)]

Violated by virtually everything within the ATB2005:

- The right to be presumed innocent until proven guilty. [Article 14(2)]

It makes sense that some of these rights are subject to other laws ensuring national security, public safety, public order, public health, and the protection, rights, and freedoms of others.

The issue is that *a person falls afoul of the ATB2005 laws based on suspicion alone. This violates the basic presumption of being presumed innocent until proven guilty* - itself a key component of the ICCPR.

I would like to close with three quotes.

"Those who give up liberty for the sake of security deserve neither liberty nor security."

(Benjamin Franklin, USA patriot, 1700s)

Our Government is asking us to make this choice. Benjamin Franklin notes clearly that once we lose our liberty, the loss of our security is not far behind.

If Australia truly believes in civil liberties, then Australia ***must*** reject the ATB2005.

"What I cannot understand is how we can say, given the strength of the terrorist threat that we face, that the civil liberties of a small number of terrorist suspects come before the fundamental civil liberty in this country of protection from terrorism."

(UK PM Tony Blair, 10 November 2005)

What PM Blair does not seem to understand is that it is not just deprivation of civil liberties from "a small number of really really bad guys" that is the issue. Given the open-endedness of the UK terrorist laws, and equivalently the ATB2005, ***any one of us at any time could inadvertently become a terrorist suspect - and then it is our own very precious civil liberties that are deprived!***

If Australia truly believes that we are all, equally, entitled to civil liberties, including the presumption of innocence, then Australia ***must*** reject the ATB2005.

*In Germany they came first for the Communists,
and I didn't speak up because I wasn't a Communist.*

*Then they came for the Jews,
and I didn't speak up because I wasn't a Jew.*

*Then they came for the trade unionists,
and I didn't speak up because I wasn't a trade unionist.*

*Then they came for the Catholics,
and I didn't speak up because I was a Protestant.*

*Then they came for me,
and by that time no one was left to speak up.*

(Martin Niemoller, Protestant Pastor, Germany, 1940s)

It is imperative that each and every one of us stand up and protect the civil liberties of each and every other one of us, because, as I illustrated above, any one of us at any time could inadvertently become a terrorist suspect - especially since the presumption of innocence would no longer exist under the ATB2005.

Moreover, once we lose something as precious as our civil liberties, it is extremely difficult to reclaim them. One just needs to look at any dispossessed, disenfranchised people to understand this - the blacks in Australia; the blacks in the USA; the Palestinians in Israel.

Finally, there is no guarantee that the "well-meaning-ness" of the Government of today will continue into the future. The Government of tomorrow may have fewer scruples, lower morals, and an even higher desire for power, authority, and control. It is not that far from laws like the ATB2005 - losing a few civil liberties here and there and instituting "draconian" controls - to the slide that leads us into totalitarianism. The case of Germany in the 1930s makes this clear.

The end does not justify the means.

If Australia believes in freedom, justice, liberty, democracy, and "a fair go," then Australia must reject the ATB2005.