

Committee Secretary  
Senate Legal and Constitutional Committee  
Department of the Senate  
Parliament House  
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Australia  
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Dear Secretary,

Re: Anti-Terrorism Bill 2005

I would like to raise some very serious concerns about the Anti-Terrorism Bill 2005 and I request that if and when the Bill is referred to this Committee that this correspondence be regarded as a formal submission to the Inquiry. In any event I would like my letter to be distributed to all members of the Committee.

I share the same concerns as legal, community and civil rights groups, as well as 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.

Insufficient time for consultation and debate

I strongly oppose the Bill because it affects some of the most fundamental freedoms that any civilised society is built on, such as the presumption of innocence, freedom of speech, due process and the right to a fair trial. Such drastic measures must not be introduced without proper community consultation and debate. It is therefore inconceivable that the Government is intending to rush the Bill through Parliament, allowing the Opposition only 10 minutes to review it, and the Senate only one day to scrutinise it, if at all. Concerned citizens will not have the opportunity to analyse, digest, or even understand these attacks on our fundamental freedoms before they become a part of Australia's legal landscape.

No case has been made for their necessity

I do not believe the Government has put forward their case as to why such new destructive measures are necessary. They have failed to explain how such measures will help to fight terrorism, particularly in view of the already draconian existing anti-terror laws that allow ASIO to question and detain a person for up to seven days. There should be no further increases to the anti-terror laws unless the review of the existing legislation is complete.

There is also no guarantee that these laws will be effective. Similar laws in the UK did not stop the July 7 bombings in London. In fact, it is possible that these laws would be counter-productive, since they might lead to a worsening of relationships between the authorities and the community.

Muslim community concerns

I am also concerned that the laws will have a particular impact on the Muslim community. Although the Muslim community has unequivocally denounced terrorism in its many forms, there is still a very real possibility that members of the community would be subject to increased surveillance and suspicion as a consequence of these laws.

Impact of control orders

I strongly object 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". The subject of the order isn't even there at the time the decision is made. When these two factors are combined, there is the 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. 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 are punished without a fair trial.

I 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", but this seems to be a backdoor way to limit the freedoms of people who can't be found guilty of a crime.

#### Impact of preventative detention

I strongly believe that every person has the right to be free from arbitrary detention. I am concerned that preventative detention measures allow a person to be detained for up to 2 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, because of secrecy, we don't know how many were detained, but some estimates are as high as 1200.

#### Impact of random stop and search powers

Under the random stop and search powers, police can stop you and ask you questions, as well as search you, your vehicle or anything under your control, if they think that you "might have just committed, might be committing, or might be about to commit a terrorist act."

In addition, the Attorney General can declare an area to be a "security zone" for up to 28 days. This declaration of a security zone, on the grounds of "preventing a terrorist act occurring", or "in responding to a terrorist act that has occurred", means that police don't have to have suspicion that the person has actually committed a crime for them to search that person.

This opens a huge door for racial profiling -- it is more likely that Muslims will be searched. 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) or niqaab (face scarf) who might be requested to remove their hijab as part of a search. There is no requirement that the search be conducted in private.

#### Impact of Incitement, Seditious and "Advocating Terrorism"

I 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.

#### Impact of "Financing Terrorism"

It is unjustifiable that 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.

#### Impact on privacy

I 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. I also object to other proposed measures, such as removing phone-tapping safeguards and allowing ASIO and the police access to information such as flight information.

#### Conclusion

There must be no further erosion of our freedoms and indeed our human rights, at least until a strong case is made for their necessity and the laws are considered very carefully. These laws as they stand are very open to abuse. I urge the Committee to reject this Bill in its entirety.

Yours sincerely,