

---

Submission to:  
Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Concerning the

## **Inquiry into the Independent Reviewer of Terrorism Laws Bill 2008 [No. 2]**

Dear Secretary,

The Bill attempts to implement a highly desirable policy of reviewing Terrorism laws. It is desirable for the reasons explained by Petro Georgiou in his article in *Lawyers Weekly* 28 March 2008 and also in *The Age* 17 March 2008.

Internal to the Bill, we see a frailty – the Independent Reviewer, in performing his or her tasks under section 8 the Act, is not guided by, much less obliged to follow, any particular standards or principles. (“*The Independent Reviewer shall be free to determine priorities as he or she thinks fit.*”) Thus the effectiveness of the Act will depend entirely upon the quality and characteristics of the Reviewer appointed. Thus, were a government minded to marginalize this regime, it could easily do so by appointing a person completely disinterested in (or perhaps opposed to) human rights. Indeed, the Reviewer could adopt a “priority” in assessing a law which prioritizes security to the exclusion of all human rights – quite the reverse of the obvious policy underlying the introduction of this Bill. Nothing could be done about that. No court could review such a decision.

This problem could be eradicated or reduced by installing in the Bill principles or standards to be applied by the Reviewer in the performance of his or her tasks. Such principles could be drafted from scratch, modified from existing human rights charters such as exist in Victoria and ACT or incorporated from existing well known international instruments such as the *Geneva Conventions* or the *International Covenant on Civil and Political Rights*.

Such standards or principles would be all the more easily applied if Australia had some (any) existing human rights structures federally to apply – there is a complete absence of any federal charter of human rights. (See the campaign for such a charter which has been conducted now for quite some time by New Matilda: <http://www.newmatilda.com/policytoolkit/policydetail.asp?PolicyID=143> and <http://www.humanrightsact.com.au/> ). Of course such a federal charter might eliminate the need for this Bill in the first place.

**GLENN MCGOWAN SC**  
**Barrister**  
**Chair, ICJ(Vic)**

---

---