

## **Submission to the Senate Legal and Constitutional Affairs Committee concerning the Independent Reviewer of Terrorism Laws Bill 2008-09-11**

The New South Wales Council for Civil Liberties (CCL) thanks the Senate Committee for the invitation to comment on this bill. We should be happy to comment further, should the Senate Committee so desire.

The New South Wales Council for Civil Liberties (CCL) is committed to protecting and promoting civil liberties and human rights in Australia.

CCL is a non-government organisation in special consultative status with the Economic and Social Council of the United Nations, by resolution 2006/221 (21 July 2006).

CCL was established in 1963, and is one of Australia's leading human rights and civil liberties organisations. Our aim is to ensure the equal rights of everyone in Australia and to oppose any abuse or excessive power by the State against its people.

1. CCL has argued over some years that there is no need for special legislation to criminalise terrorist actions. The ordinary criminal law is sufficient. We have argued that legislation which permits the Attorney General to ban an organisation is open to serious abuse; that giving ASIO the power to detain people without charge is an affront to civil liberties; that the definition of 'terrorist act' used in Federal and State legislation is too broad; that the telecommunications powers are too broad and are being abused; that much of the legislation severely violates civil rights, but targets crimes other than terrorist ones; that the laws on sedition should be repealed; and we have argued in particular against the use of control orders and preventative detention orders.

2. The legislation which has been passed is open to serious abuse. We have argued that until it is repealed there should be substantial additional safeguards, including the provision of a federal public interest monitor, with powers and duties parallel to those of the Queensland monitor, and an enhanced role for the courts.

We can furnish the Senate Committee with a summary of these objections and proposals, if that is desired.

3. Much of the anti-terrorism legislation which has been passed is inconsistent with Australia's international obligations, including the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.

4. CCL believes that a general review of the laws is necessary to make clear the faults that they have, and, above all, to determine whether they ever were or continue to be necessary. A reviewer must be able to recommend repeal of the laws.

5. An independent reviewer, confined to examining the operations, effectiveness and implications of the laws, will not achieve this. Further, the existence of such limited reviews is likely to inhibit the instigation of the wide scale review that is necessary.

6. We note that the Australian Law Reform Commission recommended the repeal of the law on sedition. That has not happened. Nor have its concerns been addressed in any other way.

7. Were the bill to proceed, it would be improved by the amendments proposed by Senator Bob Brown. But even with those changes, the scope of the proposed reviews makes the reports more likely to be used as excuses to perpetuate the laws, with all their faults, instead leading to their repeal.

8. It is not likely that the reviewer would be adequately funded make any difference.

**Recommendation:** Accordingly the CCL recommends that the Senate Committee find that the proposed legislation is counter-productive, and that it recommend that it be rejected.

Martin Bibby  
Convenor, Civil Rights Subcommittee  
September 12, 2008.