

# Australian Senate hearings reveal public opposition to "terrorism" laws

Mike Head  
27 April 2002

Hearings before a Senate committee have demonstrated considerable opposition among ordinary people, as well as a broad range of organisations, to the package of "counter-terrorism" legislation that the Howard government will attempt to push through parliament next month.

The unprecedented legislation has received virtually no coverage in the media and the Senate Legal and Constitutional Committee set a time limit of less than two weeks for comment on five major Bills. Nevertheless, the committee has received a near-record number of submissions expressing grave concerns about the undermining of political freedoms, basic democratic rights and civil liberties.

The government has seized upon the terrorist attacks in the United States last September 11 and the Bush administration's ongoing "war on terrorism" to bring forward the most far-reaching measures against free speech and political rights since World War II. The legislation imposes lengthy jail terms, including life imprisonment, for a wide range of terrorism, treason and espionage offences—all defined in vague and sweeping terms—and reverses the presumption of innocence for some of these new crimes.

The legislation will outlaw many traditional means of political protest. For example, mass pickets, blockades, sit-ins or other acts of civil disobedience—which may involve minor infringements of the law—can be defined as terrorism and become punishable by life imprisonment because they involve "a political, religious or ideological cause". A person who merely possesses a document or thing that has been used to prepare or commit an alleged terrorist act—perhaps a leaflet advertising a rally—can be jailed for life.

The Bills will empower the attorney general, without any parliamentary or judicial scrutiny, to ban political parties and other organisations that he considers "have endangered or are likely to endanger the security or integrity" of Australia or any other country. A person who in any way "assists" a proscribed body faces 25 years jail. Anyone who "assists" an organisation that has become involved in hostilities with the Australian armed forces can be charged with treason and sentenced to life imprisonment.

Another Bill, which initially has been shunted off to a separate committee, will enable the Australian Intelligence Security Organisation (ASIO) to detain people in police custody without charge, hold them incommunicado, deny access to legal advice, strip-search detainees and interrogate them in detention for at least six days, and possibly longer.

As many of the submissions have suggested, the laws have nothing to do with protecting the Australian people against terrorism. In the first place, the government has admitted repeatedly that it has no evidence of specific terrorist threats. But even if a threat existed, any

conceivable terrorist activity—such as a bombing, hijacking, kidnapping or assassination—is already a serious crime under existing law.

Senate hearings provide only a rarified, highly formal and somewhat intimidating forum for people to protest against the government's plans. Moreover, the committee process is designed to allow the major parties, the Liberal-National Coalition and Labor, to fine-tune their proposals in the hope of heading off broader unrest. Nevertheless, submissions have poured in. The committee's chairperson has so far publicly acknowledged the receipt of more than 350 submissions but an official said the total ran into the hundreds, with 20 arriving per day, well after the official April 5 deadline.

Among the organisations objecting to the laws, either in full or part, were Amnesty International, the NSW and Victorian Councils of Civil Liberties, the Uniting Church, the Islamic Council, the Ethnic Communities Council, the Australian Council of Trade Unions (ACTU), the Law Council of Australia (the legal profession's peak body), community legal centres, environmental groups, political parties and legal and other academics.

The Law Council warned that the attorney general could ban widely-supported groups, such as Amnesty International, Community Aid Abroad, the National Council of Churches and the Human Rights Council of Australia. It described the definition of terrorism as "unacceptably broad, imprecise and unwieldy". The lawyers' body condemned the introduction of "absolute liability" into determining guilt. Under the legislation, "it is no defence that the accused acted honestly and reasonably". Scholars, researchers and journalists could be jailed for innocently possessing documents relating to terrorism.

The Ethnic Communities Council of Victoria said there were "tremendous concerns" within immigrant communities that people could be jailed for "assisting" terrorists or an "enemy" by donating to help support widows, orphans and other victims of overseas conflicts. People who were called in for interrogation or charged with offences could lose all their family assets trying to defend themselves. The Islamic Council pointed to media vilification of Arab and Muslim people and expressed concern that the legislation could lead to the type of persecution and racial profiling already witnessed in the United States.

A Uniting Church branch voiced concern that "someone who simply expresses public support for a proscribed organisation would face imprisonment for their opinions... this provision has the potential to violate Australia's obligations as a State Party of the International Covenant on Civil and Political Rights with regard to the right to freedom of expression and association".

Liberty Victoria denounced the legislation for "proscribing

thought". Its representative, Julian Burnside QC, warned that pickets and public demonstrations against the use of attack dogs and thugs during the 1998 waterfront dispute could have been classed as terrorism, and that trade unions such as the Construction Forestry Mining and Energy Union (CFMEU) could be proscribed for involvement in the 1996 storming of federal parliament. A legal academic stated that people who blocked the entrances to Melbourne's Richmond Secondary College and defied police during the early 1990s campaign to halt the school's closure could have suffered similar consequences.

Constitutional law professor George Williams wrote: "The Terrorism Bill is similar in design to the Communist Party Dissolution Act 1950. That Act granted the Governor General an unfettered and unreviewable power to declare an organisation to be unlawful or a person to be a communist." The High Court held that Act to be unconstitutional and the Menzies government's 1951 referendum to amend the constitution was defeated, striking an important blow for free speech.

The NSW Council for Civil Liberties said the proposed definition of membership of an association was so broad that an organisation could be outlawed because of a violent act by an individual who falsely claimed to represent the organisation. This measure will create enormous scope for frame-ups and provocations, particularly by police and intelligence agents, although the Council did not make that point.

One of the first individual submissions came from a Sydney woman, who stated: "I am totally opposed to the ASIO Powers and Anti-Terrorism Legislation that the government has introduced to the Australian Parliament. I believe that this legislation poses a threat to civil liberties and violates international human rights conventions...

"The creation of new offences of terrorism which could encompass some union activities, civil disobedience and dissent provides the government with opportunities to misuse its powers. History shows that the Australian government has been adept in doing this in the past.

"The anti-terrorism legislation which allows ASIO to detain people incommunicado for up to 48 hours without charges without the right of silence and without access to a lawyer is quite draconian and reminiscent of Nazi Germany."

A NSW man protested against the short time given to citizens to examine the legislation and the lack of any public meetings to discuss it. He objected to many features of the legislation, including ASIO's detention power. "The right to legal representation and the right to silence are fundamental rights which should never be set aside for any purpose in a democratic society."

Another submission denounced the power to proscribe organisations, comparing it to the 1950-51 bid to ban the Communist Party. "This rehash of the failed 1950s process must astonish those with some knowledge of Australian history. And this in the face of NO particular threat to the country! Banning organisations by executive decree and with no need for proof must rank as one of the most vile ambit claims of the present federal government...

"The subsidiary proposed offence of 'assisting' a proscribed organisation is as appalling and objectionable as the original proposed offence. Why should a decent citizen NOT assist an organisation subject to such a vile, arbitrary and repressive law? The proposed law invites civil assistance to any such banned organisation as a matter of civil duty, to defend basic civil liberties. I certainly reserve my right to do so—but apparently the present government thinks this should incur a

penalty of 25 years imprisonment."

A Melbourne woman wrote: "It is my belief that the Bills being proposed are not really going to be used to defend Australia against terrorism, rather they will use the 'war against terrorism' against voices of dissent within the Australian community. I believe that terrorism, murder and all acts of violence are evil, however, the creation of new terrorist offences and the banning of any group 'likely to endanger the security or integrity of the Commonwealth or any other country' is liable to be applied to any number of community organisations that ensure social equality and environmental stability."

Another submission commented: "Basic safeguards of freedom from arbitrary arrest should not be compromised in this way, or the state itself becomes a terrorist. To quote Benjamin Franklin in his *Historical Review of Pennsylvania, 1759*: 'They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety'."

The government has made it plain that it will proceed with the legislation regardless of these concerns. At the committee's last hearing, in Canberra on April 19, top-ranking government, intelligence and law enforcement officials responded to the submissions by vehemently defending the legislation.

ASIO director-general Dennis Richardson insisted that the so-called war on terrorism required permanent changes to the legal structure. "11 September was not a blip on the security landscape which will simply fade into history," he declared. "It has changed the security environment, and those changes will be with us for some years. The US and its partners are engaged in a protracted war—or whatever word one wants to use."

Likewise, senior officers from the Attorney General's Department rejected criticism of the breadth and uncertainty of the language used in the Bill, insisting that they and the government must have full discretion to decide whether to prosecute for terrorism or treason offences.

The government is confident that it can push the Bills through parliament with the support of the Labor Party. One notable feature of the Senate committee hearings was Labor Senator Jim McKiernan's browbeating of witnesses and strident defence of key provisions in the legislation.

At one point, for example, McKiernan rounded on a Uniting Church representative for suggesting that if organisations were to be banned, it should require a parliamentary vote, rather than an executive decision by the attorney general. "If there was a need for some parliamentary action in the banning of an organisation that was clearly engaging in a terrorist-type activity, it would be a bit much to have to wait six months, four months or five months to do that, would it not?" he asked.

The Senate committee has been given until May 3 to report on the five Bills. Labor and Australian Democrat Senators may suggest minor amendments to placate opposition to the measures. Regardless of any token modifications, however, the essential purpose of the legislation will be to criminalise many forms of political dissent.



To contact the WSWS and the  
Socialist Equality Party visit:

**[wsws.org/contact](http://wsws.org/contact)**