

Summary Evaluation of the Anti-Terrorism Bill 2005

What the Bill does

The Anti-Terrorism Bill significantly expands police and intelligence powers in order to combat the perceived threat of “home-grown” terrorism. Many of the provisions were inspired by reflection on the 2005 London tube/bus bombings.

The Bill amends various federal laws with the stated aim of improving existing offences and powers targeting terrorist acts and terrorist organisations. Key features of the Bill include: a new regime to allow for ‘control orders’ to authorise the overt close monitoring of terrorist suspects; a new police preventative detention regime to allow detention without charge where reasonably necessary to prevent a terrorist act or to preserve evidence of such an act; updated sedition offences; new questioning, search and seize powers exercisable at airports and other Commonwealth places; and amendments to information gathering powers available to law enforcement and security agencies.

Problems with the Bill

Many people were concerned the Bill contravenes the basic principles of the rule of law, violating fundamental human rights including the right to a fair trial, the presumption of innocence, freedom of speech, and freedom from arbitrary detention. Every single submission by legal and human rights experts condemned the Bill, with the President of the Human Rights & Equal Opportunity Commission declaring the law creates a “police state”. The primary concern is that innocent people will be detained without any evidence, and they will be denied key rights (including communication with family and employers) while so detained. Furthermore, the sedition provisions limit freedom of speech, including the right to criticize the government.

What churches said

Submissions to the Senate Inquiry were made by the Uniting Church in Australia national assembly, the Vic/Tas Synod of the Uniting Church, the Australian Catholic Social Justice Council, the Columban Centre for Peace Ecology & Justice, the Mary McKillop Institute for East Timor, the Conference of Leaders of Religious Institutes (NSW), and Religious Society of Friends Justice and Peace Committees in Canberra, NSW, SA and WA. Some Catholic and Anglican Bishops also made personal comments to the media.

These submissions were consistent in their opposition to both the specific measures of the Bill and the underlying logic of the Government’s approach to terrorism in which it systematically erodes human rights in order to protect “national security”. Many also mentioned concern at the apparent intent to target the Muslim communities with the new powers, effectively branding all Muslims potential terrorists.

What changes were won by civil society advocacy

Despite the Government’s initial stance that no meaningful amendments would be considered, a number of small but significant improvements were won by the weight of civil society advocacy.

Most notably, the idea of sedition laws came under sustained attack in the media, forcing the Attorney-General to accept an immediate review of the relevance of sedition in the modern era. Improvements were also made to protect reasonable political expression that does not promote violence. A specific example was an amendment suggested by the Uniting Church that protects nonviolent civil disobedience in the tradition of Martin Luther King Jr, which under the proposed laws would have constituted 'seditious intention' (leading to the dissolution of the promoting organization, gaol terms for all officials, and forfeiture of all assets).

Some improvements to the mechanics of preventative detention and control orders were also won, including defendants gaining access to the 'evidence' behind their detention in order to challenge it, children being able to contact both parents to inform them of their detention, and improved (but still inadequate) judicial review. Additionally, language in the Bill about 'advocating terrorism' has been tightened to ensure general praise of freedom movements such as the anti-apartheid struggle and the East Timorese independence movement are not caught in the definition.

In summary, the Bill still represents a troubling trend of western governments (and citizens themselves) being far too willing to sacrifice human rights won over the last few centuries in the name of defending ourselves from terrorism. Some improvements have been won, and the churches played a small but important part in these. But in the end, the final Bill still attracts the criticism made by the President of the Uniting Church after seeing the initial draft: "Far from 'getting the balance right', many of these laws threaten the very democratic values of our society that they aim to protect."

Links to further information

- The [original Bill](#)
- The [Senate Committee Report](#)
- The [schedule of amendments](#) (see also a [plain English summary](#)) agreed to by the government
- [List of submissions](#) received by the Senate Committee
- [Uniting Church in Australia submission](#) (prepared by UnitingCare NSW.ACT staff)
- [Summary of submissions](#) by legal and religious bodies
- [Media statement](#) by the President of the Uniting Church in Australia on 18 October
- [Human Rights Defender special issue](#) – an excellent backgrounder to the terrorism legislation, explaining in reasonable English what it's about, what it means, and the wider context of terrorism law and human rights, published by the Australian Human Rights Centre at the University of NSW)

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