



International Commission of Jurists Australia
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16 March 2006

ICJ Eminent Jurists Panel: Terrorism, Counter-Terrorism and Human Rights

Submission by Combined Community Legal Centres Group (NSW) Inc.

Thank you for the opportunity to make a submission to the ICJ Eminent Jurists Panel: Terrorism, Counter-Terrorism and Human Rights.

The Combined Community Legal Centres Group (NSW) Inc. (CCLCG) is providing this submission, in addition to the submissions already made by other community legal centres, namely the Public Interest Advocacy Centre and the Federation of Community Legal Centres (Victoria), whose submissions we fully endorse.

NSW Community Legal Centres work for the public interest, particularly for disadvantaged and marginalised people and communities. We promote human rights, social justice, and a better environment by advocating for access to justice and equitable laws and legal systems, and through the provision of legal services including strategic case work, community legal education and law reform campaigns. Community Legal Centres are independent, non-profit community organisations providing free legal advice, information and referrals for individuals and communities across New South Wales.

This submission will focus on the impact of the enactment of anti-terrorism laws on the community, which we noted was an area the panel was interested to receive information on, during its hearing in Sydney, Australia on 15 March 2006. The following four issues highlight the negative impacts of the anti-terrorism legislation on the Australian community:

- Informal questioning
There is anecdotal evidence of informal questioning by ASIO and the Federal police that has targeted Muslim and Arabic communities – in some cases ultimatums have been given for people to cooperate with the informal questioning or risk being detained under the anti-terrorism legislation. However, due to the silencing provisions in the anti-

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terrorism legislation and the heavy penalties associated with them, most people, whether approached informally or formally, are fearful to speak publicly about such incidents.

There have been some efforts by community groups to document such incidents, however, these have been inhibited for two reasons. Firstly, members of Muslim and Arabic groups feel they are subjected to a heightened level of surveillance and are targeted as suspects under the legislation. This has made them very fearful to speak publicly. This has occurred to the extent that members of these communities are even reluctant to speak with lawyers at community legal centres. Secondly, even where incidents are documented these are not publicly distributed for fear of further questioning and detention and, critically, for fear of contravening the silencing provisions in the legislation. The risk of contravening the silencing provisions also presents a barrier to lawyers, journalists, religious leaders, and others who normally operate within an understood sphere of confidentiality, from receiving such information.

- Impact of questioning and detention on family members
Where people have been detained and questioned, there is a direct and consequent impact on their families. Firstly the lack of information provided to family members about the whereabouts and status of the detainee, places stress and trauma on the detainee's family members. Secondly, where the detainee is the main provider for the family, there is a direct impact on the detainee's family in terms of accessing income, food, shelter and other basic rights. Where a detainee's spouse is pregnant, their ability to meet the basic needs of the family becomes even more difficult. Most concerning, family members can become fearful and reluctant to deal with any government authority, whether it be in relation to social security, school authorities or rental issues. This limits their access to a range of services necessary for daily life.
- Listing of the Kurdistan Workers Party (PKK) as a 'terrorist' organization
The practice of listing organisations is undemocratic and a departure from fundamental principles of criminal law. Proscription is inconsistent with Australia's international obligations under the *International Covenant on Civil and Political Rights*, most notably those obligations relating to freedom of association (Article 22). The proscription regime applied in Australia is arbitrary and undemocratic, and once proscribed, there are severe consequences for the organisation and its members.

The potential impacts on the community are illustrated in the example of the listing of the PKK, which potentially targets members of the Turkish community, particularly Kurdish members of the Turkish community who came to Australia as refugees. Given PKK has a long history of advocating for the rights to Kurdish people in Turkey, it is possible that members of the Turkish community may have past links with the organisation, which would place them at risk of contravening the *Criminal Code* and face penalties of up to twenty-five years in prison. Members of this community, feel particularly vulnerable to being targeted under this legislation.

This is especially serious given that Australian refugee determination bodies have found many Turkish Kurds to be refugees on the basis of a well founded fear of persecution due

to the Turkish authorities imputed political belief that they support the PKK. For refugees granted protection in Australia there are fears that once again they will face harm for an imputed association with the PKK.

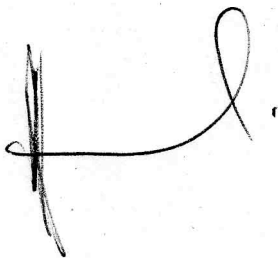
- The arrest and deportation of Scott Parkin in 2005
Scott Parkin is a peace activist from the United States of America who visited Australia in 2005 for recreational purposes and to conduct anti-violence workshops in Australia. While the Australian government posited that Scott Parkin posed a security threat, there was no evidence of this provided to the public. There were media reports that suggested that he was going to advocate violence in his workshops, but this is not supported by evidence of previous workshops conducted by Mr Parkin. Mr Parkin was approached by officials while he was enjoying a coffee at an outdoor café in Melbourne. He was held in detention for an extended period and had significant difficulty accessing appropriate legal support given his status as a relatively short-term visitor to Australia. Mr Parkin was deported and has been issued a bill for the cost of his deportation (approximately AU\$11,000) by the Australian Government that he is required to pay if he ever seeks a visa to visit Australia in the future.

What this incidence signified to the Australian community was that peaceful activists and human rights defenders in Australia are being monitored and are at risk of being detained for conducting peaceful activities of protest. The broad recognition of what constitutes an act of terrorism in the legislation leaves human rights defenders, political activists and others vulnerable to being detained under these provisions. This heightened the censorship on political dissidence within Australia, which has been further heightened with the introduction of the sedition law in November 2005.

These issues demonstrates some of the significant negative impacts the anti-terrorism legislation has had on Muslim and Arabic communities, as well as activists, human rights advocates, and the broader community at large.

We hope this information will prove useful in your consideration of these matters. Should you require any further information please do not hesitate to contact us.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Agnes Chong', written in a cursive style.

(for) Agnes Chong
Co-Convenor, Law Reform and Policy Sub-Committee