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31 October 2005

Hon. Mike Rann MP
Premier of South Australia
Facsimile: 8463-3168

Re: Preventative Detention in the (Draft) Anti-Terrorism Law

Dear Mr Rann,

I am writing to express concerns about the Commonwealth Government's proposed anti-terrorism law. I believe the proposed Anti-Terrorism law in several aspects has the potential to criminalise day-to-day activities of ordinary Australians. This law will violate the freedom of speech and association and, in certain aspects, has the potential to curtail Economic, Social and Cultural rights of some minority groups. The law will also violate the Australian people's right to be free from an arbitrary detention.

The provision for preventative detention in particular is considered to be authorising a system of arbitrary detention. According to this provision:

1. Any Australian Federal Police who ranked above super-intendent can issue an order for initial preventative detention of 14 days period; the AFP is not required to disclose in full about the facts as to why he or she has been detained;
2. A judge appointed by the minister (not the full court) can issue the order for a further 14 days of detention without making any hearing from the detained person;
3. In the case of a wrongful detention order is made, the detained person can only put complaint to Commonwealth Ombudsman who has no power to overturn the detention order;
4. In case of seeking compensation for a wrongful detention, the government will not provide legal assistance.

I believe the provision for 14 days preventative detention has a wide-opened channel for abuse by the governmental powers. As has been expressed in the attached note, this 14 days preventative detention provision will not positively contribute to the fight against terrorism.

Also, in the case of an innocent person being detained for 14 days, he or she is more likely to seek remedial measures, such as compensation from the government.

I therefore ask the South Australian parliament to reject the provision of 14 days preventative detention order in the Anti-Terrorism legislation.

Yours respectfully



(U NE OO)

Copy:

1. **All State Premiers.**

Email:Copy:Web: <http://netipr.org/~uneoo>

Subject: 27/9/05: ANTI-TERROR LAW: WHO WILL BE THE LOSER ?

AUSTRALIA: PROPOSED ANTI-TERROR LAW: WHO WILL BE LOSER ?
written by U Ne Oo (uneoo@netipr.org)

On early September 2005, the Commonwealth Government of Australia proposed strengthening of its anti-terrorism law, including measures such as a terrorist 'suspects' may be held without charges for 14 days. The Commonwealth is seeking cooperation from the State Governments for this legislation to proceed. If the legislation is passed, a person whom authorities 'suspected' of committing terrorist act may be held at least for 14 days. The legislation violates basic standard of human rights, including a person's right to fair trial and not be subjected to arbitrary detentions.

THE COMMON PURPOSE OF STATE SECURITY LAWS

Comparing with the experience from repressive states like Burma and North Korea, the purpose of state security laws such as these are mainly used for suppressing political dissent. In those countries, a person whom the authorities considered as threat to 'peace and stability' of the country may be detained without trial. In Burma for example, Aung San Suu Kyi, a nobel prize winning peace activist, has been detained several times using such law.

Likewise in Australia, the proposed anti-terrorism law will be useful ONLY for suppressing political dissent. In this communication, I will argue that such anti-terror laws are un-necessary in the combat againstterrorism. Further, I shall argue that if such laws is passed, the only looser will be the ordinary and innocent persons.

To put things in perspective, let assume three persons (A, B & C) whom authorities have 'suspected' of engaging in terrorist activities. Here, again, we only need to talk about the 'suspects' and not of the 'terrorist' per se. We can make a scenario that the authorities have arrested these three persons, and see if there is any advantage for having the anti-terrorism law.

Person (A) is a totally innocent, no connection with terrorists whatsoever;

Person (B) is a terrorist sympathiser, and has connection with terrorists;

Person (C) is a terrorist, and has already armed with weapons and explosives etc.

THE ARREST AND DETENTION UNDER THE LAW:

- Authorities arresting of persons A & B will encounter no resistance.
- Authorities arresting of person C will make no difference. Whether the arrest is lawful or unlawful, only 'C' will decide whether to resist.

THE DETENTION AND QUESTIONING UNDER THE LAW:

- Person A: authorities will found nothing.

Person B: For any planned terrorist attacks, the 14 days detention and questioning of, supposedly, an informant will not make a difference.

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THE AFTERMATH OF ARREST AND DETENTION:

- Person A has most to lose. 'A' cannot seek remedial measures against unnecessary arrest and detention by the government, such as claims for compensation etc...
- For person B, the arrest makes no difference. For him, 14 day detention cannot anyway deter planning for future attacks.

CIVIL LIBERTIES MOST TO LOSE

It is clear from above scenario that, by 'anti-terror' law, the government can get away with any wrongful arrest and detention of person 'A', an innocent person.

In dealing with person 'B', having the anti-terror law and detention of suspects will give no advantage whatsoever for the law enforcement. The premature arrest of 'B' will make the surveillance of terrorist activities even more difficult.

In cases like person 'C', obviously, normal police search warrant is adequate. No new laws are required.

CONCLUSION:

The proposed anti-terror law is designed to give the government the power to arbitrarily arrest and detained an innocent person. The law will prevent an innocent person from seeking remedial measures against the government's unjust-arbitrary arrest and detention. The law will not contribute positively to the fight against terrorism. Once passed through the parliament, this law will be useful ONLY -- and the government will use it -- against suppressing political dissent.

\END-TEXT