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21 November 2005

Chairperson
Senate Legal and Constitutional
References Committee
Department of Senate, The Parliament House
Canberra ACT 2600
Facsimile: 02 6277 5794

re: Anti-Terrorism Bill (No. 2) 2005

Dear Sir/Madam

I, Mr. U Ne Oo, 18 Shannon Place, Adelaide, South Australia, submit the enclosed letters and email-notes for your committee's attention. With this submission, I particularly wish to draw the Honourable members of Senate Committee's attention to the two provisions in the Bill, i.e. Control Orders regime and Preventative Detention Orders.

As has been outlined in attached 10-Nov-2005 email-note, on issuing the control orders, the definition of 'terrorist training' in this bill should be set clearly. A clear distinction should be made between participating in the ordinary training exercises and that of the training for highly destructive purposes, such as making of explosive materials.

In addition, a person who simply possesses the knowledge for destruction must not automatically be considered as a potential terrorist. The court must be satisfied 'beyond any reasonable doubt' that that person indeed has the track record and being capable of committing the terrorist act and that person is prone to commit further terrorist actions.

I am very concerned about the potential for the Commonwealth Government abusing the control order regime. I fear that the government may unfairly use such control orders to silence the individuals who may have legitimate cause for claiming reparation for their grievances. As such, the government might misuse the control order provisions to protect itself from the individuals. Therefore, I recommend the creation for appropriate parliamentary committee to oversee the control order processes as well as conducting a frequent review on entire process.

Regarding with the preventative detention orders, I am encouraged by the improved standard of safeguards that have been put in place in the Anti-Terrorism Bill (No. 2). However, I believe the preventative detention of 14 days period for any suspected terrorists has been an unnecessary. Therefore Commonwealth Government should withdraw such a suggestion for 14 days preventative detention.

Yours respectfully



(U Ne Oo)

Dated: 10-Nov-2005

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WWW: <http://netipr.org/sa/terrorlaw/>

ANTI-TERRORISM BILL:CONTROL ORDER PROVISIONS

written by uneoo@netipr.org on 10-Nov-2005

Another new measures introduced by the government's anti-terrorism legislation is the control orders. Under this provision, a control order for a person can be issued by court if the court is satisfied on the "balance of probabilities" that (1) the order would substantially assist in preventing terrorist act or (2) the person has been trained by or provided training to terrorist organisations. The period of the order can be 12months and may extend further if required. The person under control order will not be allowed to use e-mail or internet, and can be confined to home and his/her activities and contact will be restricted. One just wondered what sort of person/persons the government is targetting by this legislation.

CONTROL ORDERS FOR WHOM ?

Thus far, the control orders is the most peculiar element in the new anti-terrorism legislation. For an un-questioning minds, such control orders may well need to be applied upon the 'terrorist sleepers' [informant, i.e], or the 'high ranking terrorist' who might be capable of calling shots.

In closer inspection, however, the government proposed control orders aren't quite aiming at the aforementioned types of terrorists (or terrorist sympathisers). The control orders are specifically made for people like Mumdouh Habib and David Hicks.(By the way, David Hicks is more likely to be sent home soon by Americans without any charges since the trial by military commission seems falling apart, as we speak.) Should David Hicks comes back, the government's priority is to put his case under the carpet, and put him well away from the public attention. To this assertion, we can just examined the types of restrictions that may be applied under the control orders [check page 21 of Anti-Terrorism Bill (No 2) 2005] and see what's in here.

The Control Order Restrictions:

- (a) a prohibition or restriction on the person being at specified areas or places; (*David Hicks won't be allowed to speak at public rallies!!*)
- (b) a prohibition or restriction on the person leaving Australia; (*Mumdoub Habib--ring a bell??*)
- (c) requirement that the person remain at specified premises between specified times each day, or on specified days;
- (d) a requirement that the person wear a tracking device;
- (e) a prohibition or restriction on the person communicating or associating with specified individuals; [*the members and supporters of the Fair Go for David Group in Adelaide,*

perhaps. You too - Amnesty members!!]

(f) a prohibition or restriction on the person accessing or using specified forms of telecommunication or other technology (including the Internet); *(The government doesn't need to be worry about the Newspapers and Television, but it has to be worry about the Internet!!)*

(i) a requirement that the person participate in specified counselling or education.

WHY URGENT CONTROL ORDERS?

More curiously, the control orders (see section 104.6 the Bill) may be issued in urgent circumstances at the request of a senior AFP member by phone, fax, email or other electronic means. What kind of "urgent circumstances" the government is anticipating ?

In fact, there could have been no such "urgent circumstances" that possibly be arising when the government need to issue control orders for any of 'home-grown terrorists', 'a terrorist sleeper' or 'high ranking terrorist chief'. Nor someone police has nabbed under the 'preventative detention order' being upgraded to 'control order regimes' will ever require to match such "urgent circumstances".

One incident that fit such a description on "urgent circumstances" is early this year American repatriation of Mumtaz Habib from Guantanamo Bay. How, then, in case, if the American government gets fed-up with David Hicks and put on a plane to arrive Australia in next few hours ? In such circumstances, the government will need to issue the 'control order with an email', I'd reckoned.

THE BALANCE OF PROBABILITY

The control orders need to be approved by the court on the 'balance of probability'. This requirement is less strict than to prove 'beyond reasonable doubt' that the person indeed is dangerous. On the one hand, receiving 'training from a terrorist organisation' is a very vague term. What does constitute by the term 'terrorist training'?

Reading Koran and doing meditation will hardly fit into the 'terrorist training'. Participating in exercises with the use of small arms, or reading map and using compass cannot possibly be called a 'terrorist training'. Or is it that making of bomb and explosive, or advise on mixing chemical cocktails? Definition get closer. But then, any interested individual could acquire such knowledge or expertise reasonably easily without joining the so-called 'terrorist organisations'. Unless the term 'terrorist training' is properly defined, this law will be very vague law.

In fact, it will become totally unfair process if a member of a 'terrorist' organisation be automatically charged as 'a terrorist' and apply the control orders. Some restrictions placed under control order are more severe than that of normal prisoners --which call for more stricter standard of proof -- beyond reasonable doubt -- to the court when the control order can be applied.

----- Regards, U Ne Oo. \end-note