

Dr Hanna Jaireth
Inquiry Secretary - *Terrorism (Extraordinary Temporary Powers) Bill 2005*
Standing Committee on Legal Affairs
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

via email: committees@parliament.act.gov.au

20 January 2006

Dear Dr Jaireth

Inquiry into the Exposure Draft Terrorism (Extraordinary Temporary Powers) Bill 2005

The Women's Legal Centre (ACT & Region) has been working to improve women's access to justice since 1996. We provide legal advice and assistance to women, the majority of whom are on low incomes, in a range of areas. We also work to raise awareness in the community about the law and the legal system as it affects women and to identify and challenge barriers to women's access to justice.

We are pleased to make the following comments to the Standing Committee on Legal Affairs inquiry into the exposure draft of the Terrorism (Extraordinary Temporary Powers) Bill 2005.

We have had the opportunity to read a draft version of a submission by Australian Lawyers for Human Rights (ALHR) on the Bill and we would like to endorse that submission.

In particular, we are concerned that the need for legislation enabling preventive detention of this kind has not been established. Powers such as these are warranted only in extreme circumstances because they infringe upon the rights to liberty and security of person. We do not believe that there is sufficient evidence that these powers are proportionate to the threat faced. Using preventive detention orders where there is insufficient evidence to bring criminal charges or as an alternative to prosecution is contrary to the principles on which our criminal justice system is based.

We agree with ALHR that, if the Bill goes ahead, it would be preferable to raise the onus of proof required for a court to issue a preventive detention order or prohibited contact order to the standard of beyond reasonable doubt.

We believe that overall the Bill is more acceptable than the legislation recently passed by the Federal Government because the Bill includes a wide range of measures to safeguard human rights.

For example, we applaud the clear statement in cl 93 of the Bill about the inadmissibility of evidence obtained through torture. We welcome the absence of disclosure offences in the Bill.

We are pleased to see that particular attention has been paid to regulating the conduct of personal searches. Personal searches, and strip searches in particular, have the potential to significantly infringe on the human rights of women.

We also support the requirement in cl 90 that police officers be adequately trained in human rights obligations laid out in human rights legislation in the ACT. We would suggest that this clause could be broadened to include training on the full range of human rights obligations. We would particularly like to see an increased awareness of obligations under the Convention on the Elimination of All Forms of Discrimination Against Women.

We appreciate that the ACT Government's commitment to fostering a culture of respect for human rights provides some reassurance about the future operation of the legislation. We would hope that this same commitment will enable the Legislative Assembly to consider whether the case for legislation such as this has truly been made out.

Yours sincerely

SENT VIA EMAIL

Belinda Barnard
Solicitor