

**The Clerk
Foreign Affairs, Defence And Trade Select Committee
Parliament
Parliament Buildings
Wellington**

27 November 2001

Dear Sir

Terrorism (Bombing and Financing) Bill

1. I write this submission on behalf of the New Zealand Council for Civil Liberties. The Council wish to be heard orally on the submission.
2. I was originally approached prior to 11 September 2001 for a comment on the Bill by the media, read the bill and concluded that it was an enactment of an international convention it was unremarkable. The only point I felt and still feel worthy of comment is that the International Convention conferred at Article 9 (5) permitted the State to allow a International Red Cross member to communicate the with alleged offender provision absent from the proposed legislation, which given international history should be remedied. It should be included in the Bill.
3. The rushed mess of 45 pages of hurried amendments is another matter altogether. It is extremely hard even for experienced professionals to come to grips with.

This council was seriously concerned about the assault on democracy by a select group, including itself, being invited to make submissions to the exclusions of the public. Whether the Council would have finally decided it could make submissions in those circumstances is fortunately now no longer a live issue. It did give us grave concerns.

4. We are at a loss as to why this legislation needs such massive amendment, which is clearly ill considered, and potentially draconian and possibly unworkable. Resolution 1373 and 1368 do not require it.

5. Our very clear view is the proposed amendments should be withdrawn. Whatever best practice emerges from the UN together with any new proposed convention can then be considered in due course, with the benefit of other countries and international consideration to any further requirements, which may be required to assist the international fight against terrorism. There is no need for New Zealand to re-invent the wheel and certainly not such a wobbly one as this current proposal.
6. We refer the Committee to the enclosed "Time" article on the International Criminal Court. It is our view that a just response requires bringing t people who commit acts of international terrorism before such a Court rather than bombing civilian populations and perpetuating the dispute.
7. If War Criminals, in Yugoslavia, and Rwanda can be brought to justice so can those involved in the current dispute.
8. We note that the ministry is currently advertising for a Senior Legal Adviser to advise it on International Terrorism and the preparatory commission for the International Criminal Court, we commend this approach, and believe this is the way to go, not to embark on knee-jerk responses, which could have a massive impact on domestic civil rights. A Steamroller is not required to crack a walnut.
9. On matters specific to the Bill, we are naturally concerned with the definition of Terrorist Act as defined by section 5. It is our view that acts committed by what many in the International Community would consider not terrorist organisations but freedom fighters would be caught eg ANC.
10. It would seem the acts of the CIA and indeed the New Zealand government sending troops to countries it is not at war with, could fall within the definition. It is suggested that this is the effect rather the intent of a rushed job.
11. Likewise all forms of terrorist organisations except a corporate entity (Company) seemed to be liable to confiscation of funds but not for instance the funds of Terrorist Front Limited.
12. If there has to be any such prescription the organisations should be specifically named and proscribed by law as Terrorist Organisations, and not by this vague and secretive process.
13. Such activities as anti-springbok tour protests equally have the potential to be classified as terrorist acts, as does a protest on any matter, which becomes a little unpeaceful, where say persons are arrested for such minor

offences as trespass or breach of the peace. Such consequences are massively draconian, a serious threat to civil rights, and totally unnecessary.

14. The proposals to empower the Prime Minister to be free from judicial scrutiny and to proscribe organizations is reminiscent of martial law, and total overkill.
15. Whilst there may be need for that level of security in an emergency, a High Court judge can be entrusted with a review of this with powers for the Court to sit in camera if necessary. If the state were under martial law then perhaps the level of secrecy provided might be temporarily justified. The likely organisations to be proscribed are ones of serious international ill repute. Knowledge will be no doubt in the public arena in the world at large.
16. New Zealand is not at the forefront of international terrorism, and our only recent experience with French terrorists does not bode well for the international stamping out of such acts when the perpetrators are released for domestic and international economic considerations connected with lamb and butter.
17. Noting the penalties on those French terrorists we are at loss to see why the maximum penalty of Life is imposed here for property damage, we would prefer to see that penalty reserved for incidents where life is at threat or lost.
18. Once again we say the amendments should be withdrawn, and a more rational and balanced response should be considered in due course when an international convention is established and the UN requested member nations to act accordingly.

TONY ELLIS

CHAIRPERSON NEW ZEALAND COUNCIL FOR CIVIL LIBERTIES

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Time Article 10 September 2001

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