

# AUSTRALIAN-TAMIL RIGHTS ADVOCACY COUNCIL

## Submission

### TO PARLIAMENTARY JOINT COMMITTEE ON INTELLIGENCE AND SECURITY

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**Review of the listing provisions of the *Criminal Code Act 1995* – the operation, effectiveness and implications of section 102.1(2), (2A), (4), (5), (6), (17) and (18).**

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January 2007

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## **1. ABOUT THE AUSTRALIAN-TAMIL RIGHTS ADVOCACY COUNCIL**

The Australian-Tamil Rights Advocacy Council (ATRAC) was formed to address the specific concerns of Victorian Tamils regarding the civil rights implications of the anti-terror legislation. There is a legitimate fear that the laws may erode political freedoms and expose Australian-Tamils to racial profiling and other forms of discrimination. ATRAC is an expression of the community's desire to take proactive measures to engage the legal and policy processes at both State and Federal levels to address the uncertainty surrounding these laws.

Our primary objectives include raising awareness about the above issues in the broader Victorian and Australian community, enhancing the capacity of the Tamil community to better understand and protect their civil rights and liberties, promoting an accurate, informed and positive understanding of the issues that affect Tamils in the public arena, identifying and implementing strategies to monitor the legislation and making submissions, participating in law reform campaigns and lobbying Members of Parliament.

We aim to engage with various bodies at both State and Federal levels, including, the Government, police, regulatory authorities, Members of Parliament, civil liberty groups, human rights lawyers and academics, community legal groups, the media and representatives of the Sri Lankan Government.

## **2. INTRODUCTION**

This submission relates to the operation, effectiveness and implications of the 'proscription regime' of the *Criminal Code*, specifically: sections 102.1(2), (2A), (4), (5), (6), (17) and (18).

ATRAC is gravely concerned about the operation and effectiveness of these provisions however this submission will focus on the draconian implications of the proscription regime at the community level.

This submission aims to use the hypothetical proscription of the Liberation Tigers of Tamil Eelam (LTTE) under the *Criminal Code* to highlight the disproportionate impact it will have on Australians by criminalising legitimate political views and activities. The regime's decision-making process is arbitrary, lacks transparency and does not deliver natural justice to Australians. This is compounded by ambiguous methodology and the absence of well-defined and certain criteria. There is further alarming concern that decisions may be based on furthering Australia's foreign policy considerations at the cost of the real domestic impact on Australian citizens.

## **3. BACKGROUND TO THE SRI LANKAN CONFLICT AND THE PROTRACTED PEACE PROCESS**

The history of Sri Lanka and the conflict is disputed. Our objective in this section is to provide a brief overview of the hostilities leading up to the conflict as it is understood by the Tamil community. This will enable the joint committee members to grasp a Tamil perspective of critical moments in the conflict and their real (or perceived) grievances. This background is important to understand how Australian-Tamils are inextricably and emotionally attached to the historical

grievances, the outcome of the conflict and the protracted peace process, and the cause of Tamil self-determination.

### **Overview of the Sri Lankan conflict**

The origins of the Sri Lankan conflict can be traced back to the country's independence from Britain in 1948. From the outset, there were tensions between the majority Sinhalese community - who are mostly Buddhist and make up approximately 75 percent of the population - and the various minority communities, including the Tamil community - who are mostly Hindu and make up approximately 15 percent. The post-colonial period has been distinctly marked by the rise of a Sinhalese-Buddhist national ideology where Sri Lanka is perceived as a special haven for both the Sinhala language and the Buddhist religion. This ideology emphasises the community's difference from various minority groups, especially the Tamils, who are seen as both inferior and age-old antagonists of the Sinhalese race. Sinhala grievances also centre around a perception that Tamils were favoured under British rule particularly in the areas of education and public employment.

The British granted Sri Lanka political independence under a unitary constitution and political power was vested in the majority Sinhalese with ineffective political or constitutional safeguards for minority communities. Soon thereafter, there was a significant erosion of minority rights with State administrative and legislative measures resulting in Tamils being disenfranchised and deprived of their language rights, equal rights to education and protection from arbitrary violence and abductions.

Although not intended to be an exhaustive list, these are some of the critical moments or phases in the recent history:

- In 1948, a million Tamils (of Indian origin) who worked the tea plantation land in central Sri Lanka for more than 300 years were legally deprived of their citizenship and right to vote.
- In 1956, the Government passed the *Sinhala Only Act* declaring that 'the Sinhala Language shall be the one official language of Sri Lanka'. As English had been the official language of education and employment, the implementation of the Sinhala Only policy deprived the Tamil people of any meaningful participation in the political process, denied or made it more difficult for Tamils to access public-sector employment and devalued their position to one of 'official illiterates'.
- The period between the early 1950s and late 1970s was marked by sporadic anti-Tamil riots in various parts of Sri Lanka, where mobs and security personnel attacked Tamil civilians and destroyed property owned by Tamils.
- Repeatedly frustrated by the Government's failure to act on negotiated political agreements to protect Tamil rights, Tamil politicians stepped up their campaign of civil disobedience and non-violent protest. In Colombo and the Tamil areas of the northern and eastern provinces, the civil disobedience campaigns were met with a growing security presence and increased threats to personal liberty.
- In 1976 after much internal debate within the Tamil polity, a Tamil political party, the

Tamil United Liberation Front (TULF), issued a public demand for a separate Tamil state citing it as the only way to safeguard the rights of Tamils in Sri Lanka. The TULF cited that all attempts to co-operate with the Sri Lankan Government had failed and that the creation of a separate state of Tamil Eelam in the northern and eastern provinces was the only way to meet the historical grievances of Tamils. The concept was supported in large numbers by the local Tamil community. This was evident by the parliamentary contest in 1977 where of the 22 seats that were populated by a Tamil majority, the TULF won 18 seats.

- In the late 1970s, the Liberation Tigers of Tamil Eelam (LTTE) formed citing their cause as a struggle for the rights of Tamils and independence from Sri Lanka claiming the northern and eastern provinces as the historical homeland of the Tamils.
- In 1981, it was reported that the Sri Lankan Police burned the Jaffna library which contained some 95,000 volumes and rare manuscripts of historic Tamil literature and considered to be the centrepiece of the cultural heritage of Tamil life.
- It is largely undisputed that the key turning point in the conflict came in July 1983, when the killing of 13 Sri Lankan soldiers in the north triggered anti-Tamil violence in Colombo and other parts of Sri Lanka on a scale never seen before. Over 8 days, more than 3,000 people were killed and thousands of homes and businesses destroyed leaving hundreds of thousands of people in refugee camps in Sri Lanka and India. Killings, abuse, torture, burning people alive, rape and abductions were common scenes and despite considerable evidence of official involvement in the violence, no Government investigations or commissions were held.
- In 1983, the '6th amendment' to the constitution outlawed the concept of 'separate state'. The TULF members of parliament refused to take an oath of allegiance made under the 6th amendment. Consequently, the TULF members of parliament lost their parliamentary representation and the Tamil population in the north and east became unrepresented.
- By 1985, arbitrary violence by the almost exclusively Sinhalese government forces led to a mounting toll of massacres and disappearances of Tamil civilians running into the thousands.
- During the 1990s the Sri Lankan Government imposed severe economic blockades to the Jaffna region and other parts of the north and east including essential medicines. There were also severe restrictions on fishing and rice cultivation.
- During the 1990s it has been observed that the struggle 'evolved' into an armed conflict between the Sri Lankan armed forces and the LTTE characterised by fighting over territory. Since that period, both parties have gained and lost control over territory in the northern and eastern provinces. Currently, the LTTE has an estimated 10,000 armed fighters including navy and air force wings.

### ***Human rights violations***

The rise of Tamil militancy responded to state violence and, in turn, provoked increasingly ferocious 'crackdowns'. Arbitrary and retaliatory killings of Tamil civilians became commonplace,

and from 1984, the disappearance of young Tamil men in custody became a regular occurrence. As Tamil youths became increasingly vulnerable to gross violations by the security forces due to their ethnicity, more and more took to arms.

Sri Lankan military spending grew ten-fold over a twenty year period, from 6 billion rupees in 1986 to a reported 61 billion rupees in 2006. In 2004 the Sri Lankan security apparatus comprised the 66,000-member police force, the 112,000-member Army, the 27,000-member Navy, the 20,000-member Air Force and 20,000 Home Guards, an armed militia drawn from local communities.

As is often the case with such conflicts the civilian population paid the heaviest price. The US State Department has repeatedly accused the Sri Lankan military and police of “extrajudicial killings”, “disappearances”, “rape” and “arbitrary detention”. Amnesty International, the United Nations Special Rapporteur, the Asian Human Rights Commission and other monitoring and observatory agencies have consistently reported on the human rights violations of the security forces.

Throughout the periods of conflict the police, security forces and home guards were given wide powers of arrest and detention under draconian *Prevention of Terrorism* laws, which amongst other things enabled them to hold detainees incommunicado for long periods of time. These laws eroded the inherent protections of the common law criminal justice system. In addition, the emergency regulations in force permitted the security forces and the police to dispose of bodies without post-mortem examinations or inquests. It has also been observed that ministers of the Government and the police were given unofficial, or at certain periods official, immunity from prosecution in their complicity in riots.

### ***The protracted peace process***

Sri Lanka's recent peace process followed on the heels of four previous unsuccessful attempts at conflict resolution through negotiations: the Thimpu Talks in 1985, the Indo-Lanka Accord in 1987, the Premadasa-LTTE talks in 1989-90 and the Kumaratunga-LTTE talks in 1994-95.

Following the failure of the fourth peace process in 1995, an opportunity for a new peace process arose towards the end of 2000, when the LTTE leader Velupillai Pirapaharan announced in his Hero's Day speech in November that the LTTE was prepared for unconditional talks. At the same time, Norway had just taken up its role as facilitator at the invitation of President Kumaratunge.

The LTTE unilaterally declared a ceasefire in December 2000 and extended it up to April 2001, but the government was not prepared to reciprocate this gesture. On the contrary, the President declared on 24 April that the government was determined to pursue the military option.

However, by the latter half of 2001, the LTTE had won a series of major military victories, brought large (though not contiguous) areas under its control and restored a military balance of power. Having enhanced their bargaining position through these victories and through consolidation of their political and administrative structures in the captured areas and beyond, the Tigers once again announced that they were ready for unconditional talks.

The fifth peace process was characterised by four distinct features: (1) the existence of dual

power with a certain parity of status in the north and east; (2) the recognition of the LTTE as the representative of the Tamil people, (3) the internationalisation of the peace process, and (4) the sequencing of developmental, administrative and constitutional issues.

The peace process materialised in a conjuncture characterised by a combination of external imperatives and internal compulsions. The LTTE which had been fighting for a separate Tamil state in the north-east of the country since 1983 was now willing to consider a federal alternative to secession. The ceasefire was facilitated by the government of Norway, which also undertook the main responsibility of setting up a monitoring mission consisting of Nordic members. The peace process had the support of the US, Japan, India, the European Union and other countries which have provided development assistance to Sri Lanka. The World Bank and the IMF, whose development policy prescriptions successive Sri Lankan governments have been following since August 1977, also welcomed the peace process.

Peace talks were held between the government and the LTTE during the period September 2002 and April 2003. During this latter period, talks began to fail with negotiations on a political settlement not being seriously tackled. On 21 April 2003, the LTTE announced that it was temporarily withdrawing from the peace talks because of its exclusion from a donor conference in Washington in April 2003, the non-implementation of agreed upon measures and the continued suffering of the displaced Tamils.

Since then the Sri Lankan Government's rejection of the LTTE's proposal for an Interim Self Governing Authority, the dismissal of a joint-mechanism to share tsunami aid and the de-merger of the northern and eastern provinces have seen the political process fall into the background. Escalating violence in the east, kidnappings of prominent Tamils and the assassination of Tamil parliamentarians have all contributed to increased insecurity for the civilian population in the north and east.

Following the breakdown in talks, tension continued to exist between the government and the LTTE, but both sides largely kept to the ceasefire. Not until 2006 did the violence again escalate. In late 2006, peace talks resumed in Geneva but failed with the government not wanting to meet the LTTE's demand that they reopen a key highway to the Tamil-dominated Jaffna peninsula. The closure of the A9 highway made access to LTTE-controlled areas difficult for NGOs and international aid organisations.

Although the ceasefire holds officially, there is currently heaving fighting particularly in the east of Sri Lanka. The Tamil-dominated Jaffna peninsula has been subject to severe shortages of food and medical supplies due the Government closure of the only major highway (the A9) into that region. An official restriction on the movement of the press and non-governmental organisations into these areas and the tightening of humanitarian aid to assist the local civilian population, who are predominantly Tamil, has contributed heavily to the recent civilian death toll.

Violence since 2006 has claimed almost 4000 lives and displaced over 200,000 civilians. There are currently a total of over 650,000 internally displaced persons in the north and east, of which 150,000 still remain in temporary shelters as a result of the 2004 Tsunami and 300,000 war displaced who remain displaced from the pre-2002 ceasefire period.

### ***The evolution of a parallel system of administration***

At the time of signing the latest peace accord in 2002, the LTTE had gained military control of large regions comprising approximately two-thirds of the northern and eastern provinces. During the ceasefire period, the LTTE consolidated on its civil administration and planning objectives, with improvements in educational, health, social and infrastructure development services; the implementation of a local legal system, judiciary and police services; administering customs and immigration; providing banking institutions for local civilians and a taxation system. In effect, a parallel administration or 'defacto State' is maintained in these parts. The Sri Lankan Government has restricted access to these areas and entry into these regions is governed by 'visas' issued by the LTTE at checkpoints dividing the Government-administered territory from the LTTE-administered territory.

It was in recognition of this ground reality, that Norway facilitated a ceasefire agreement in February 2002 between the parties. As a confidence building measure, the LTTE was to continue administering the areas under its control whilst engaging in the peace process. Functioning under its political division, is a Peace Secretariat which engages in the peace process. The Planning and Development Secretariat coordinates various international humanitarian agencies and local civil society groups in the delivery of humanitarian aid.

#### **4. TAMIL DIASPORA COMMUNITY IN AUSTRALIA**

As a direct consequence of the violence in Sri Lanka, over a million Tamils left the country in search of safer environments. Today, Canada is home to the largest Tamil Diaspora population outside Sri Lanka, followed by the United Kingdom and various other European nations. Many Tamils also fled and continue to flee to India being accommodated in refugee camps. Tamils also reside in the United States, South Africa and other African nations, Malaysia, Singapore, the Middle East, New Zealand and Australia.

Although it is difficult to confirm, it is estimated that there are approximately 30,000 Tamils in Australia, the majority of the community residing in New South Wales and Victoria. Tamils started settling in Australia during the 1970s with the main migration periods being the 1980s, when hostilities ignited in Sri Lanka, and the 1990s, during the intensified periods of fighting between the LTTE and the Sri Lankan Government.

Tamils migrated to Australia through various refugee programs and as humanitarian entrants. Migration also occurred through the family reunion and skilled migration programs. Australian-Tamils are generally well integrated citizens who value education and the right to education and employment. A large percentage of Tamil migrants (57% in 2001) held some form of educational or occupational qualification and their participation rate in the Australian labour force is quite high.

Australian-Tamils, much like their compatriots in other countries, are inextricably and emotionally attached to the plight of Tamils in Sri Lanka. Although they desire for peace and conflict resolution in Sri Lanka they remain sceptical and concerned about the motives, intentions and policies of the Sri Lankan Government which seems to be incapable of putting forward genuine power-sharing measures that meet the aspirations of the Tamil population.



Although not always supportive of the means employed by the LTTE, Australian-Tamils are supportive of its broad aims and aspirations of state building. It is the LTTE's state-like functions that complicate the relationship between Australian-Tamils and the LTTE when viewed through the lens of terrorism-funding.

It has been opined that one can perhaps best understand the LTTE as a non-state actor attempting to become a state actor - in many respects they appear to think and act like a state. For the LTTE, the peace process has involved a rebalancing of strategies and tactics, with a stronger emphasis being placed on the political sphere. The ceasefire has, in some respects, solidified the *de facto* state and, in the eyes of the LTTE and their supporters, has moved them closer toward a *de jure* state. Australian-Tamils (and indeed all foreigners) who interact with relatives, NGOs or other civil society institutions in LTTE controlled areas must treat them as the sovereign power.

Many Australian-Tamils continue to make contributions to the well-being and rehabilitation of Tamils in Sri Lanka, the north and east of Sri Lanka, choosing to remain attached to the conflict in many ways. Although not intended to be exhaustive, they:

- directly support or are sympathetic towards the broad aims and aspirations of the LTTE, including its military, political, civil administration, social and infrastructure development sectors;
- directly assist or are sympathetic towards the rehabilitation of Tamils affected and displaced by war;
- support or are sympathetic towards Tamil demands for the right to self-determination;
- frequently travel in and out of LTTE-administered territory to visit their previous home and relatives or as a way of engaging with their cultural and historical heritage;
- contribute or undertake various humanitarian and development projects in LTTE-administered territory such as supporting orphanages, nutrition centres, the livelihood of families and children, educational and vocational training centres, re-settlement programs and the provision of medical care;
- assist or donate to humanitarian organisations or civil society groups (recognised under Sri Lankan law) operating in LTTE-administered territory; and
- support relatives and friends who reside in LTTE-administered territory.

In the last few years of peace, many Australian high school and university students have visited the north and east of Sri Lanka to establish links with what they view as their cultural and historical heritage. Many have stayed for varying periods of time teaching English at schools and orphanages, volunteering with humanitarian organisations or assisting with other development projects.

This connection is maintained through various Australian organisations and affiliations and links to the north and east of Sri Lanka. There are over ten Tamil community organisations representing the majority of Australian-Tamils nationally and supporting their links to Tamil culture and rights to self-determination.

## 5. COMMUNITY IMPACT OF LISTING THE LTTE

The LTTE has been in existence for over twenty-five years and has a large support base in the Diaspora community. The majority of Australian-Tamils and Australian-Tamil organisations and societies are either supportive or sympathetic of the broad aspirations and objectives of the LTTE.

The offences under the *Criminal Code* do not require a direct link between the actions of a person and actual terrorism. The objective of advancing Tamils' right to self-determination is shared by a large number of Australians. The listing of the LTTE would produce a harsh and disproportionate outcome. As no link to any direct act of violence is required, and given the broad range of associated offences, virtually any support in relation to these objectives leaves Australians open to prosecution. Thus the proscription of the LTTE will have a potentially devastating and disproportionately negative impact on Australians of Tamil origin.

As the identity of Tamils is inextricably linked to the conflict and racial profiling already takes place to some extent, there is a deep rooted fear in the Tamil community that proscription of the LTTE and the intended criminalisation of the aspirations of Tamils will be perpetuated in Australian society.

Below are some specific and real examples of how Australians can be affected:

- i. Eroding free speech by effectively silencing Tamils from speaking out against the policies and actions of the Sri Lankan government and the human rights violations of the security forces.
- ii. Eroding freedom of association by creating a wedge between Tamils and the various organisations that support or are sympathetic to the LTTE. This will perpetuate division in a relatively small community.
- iii. Preventing the Tamil Diaspora from engaging positively with the LTTE towards a peaceful resolution to the conflict and successful re-integration into society. Australian-Tamils have in the past engaged with the LTTE in a constructive manner as negotiators.
- iv. Destabilising numerous rehabilitation and development projects in LTTE-administered territory supported by Australians.
- v. Perpetuating a strong perception within the Tamil community that by criminalising the LTTE (and directly and indirectly supporting the Sri Lankan Government) Australia is "taking a side" that is harmful to Tamil civilians and playing their part in crushing a 30-year struggle for self-determination.
- vi. Further dislocating the Tamil community from the north and east of Sri Lanka by criminalising their shared history and identity.
- vii. Perpetuating the racial profiling of the Tamil community and isolating them from mainstream Australian society.

- viii. Perpetuating fear and anxiety about the safety of Tamil relatives, friends and civilians in Sri Lanka.

## 6. LACK OF NATURAL JUSTICE

This fear is compounded by the apparent arbitrariness and lack of transparency of the proscription process and the lack of natural justice afforded to those affected. To mention the standout examples:

- i. There is no avenue to present or hear evidence prior to a decision to proscribe.

There is also no avenue to present or hear views on the impact of any decision at the community level.

The Sheller Committee report agreed (at 85) that the process of proscription must be reformed so that, 'in all but exceptional circumstances, a proposal to proscribe an organisation should be made public and an opportunity given for interested parties to make comment. If practicable the organisation and its members, or persons affected, or interested persons, should be notified and have the opportunity to be heard before an organisation is proscribed. It is probable that this obligation is implicit in the statutory scheme under the common law doctrine of natural justice. It would be better if it were spelled out in the legislation.'

Such a process would be in the best interests of all Australians and in relation to the Australian-Tamil community, there are several community leaders, elders and younger members who would like the opportunity to table evidence and views on the Australian impact of listing the LTTE. Such a process would allow those making critical high level decisions to consider some pertinent local community factors, and given that the LTTE is not a threat to Australia or Australian interests it would be practicable.

- ii. The proscription regime and the Attorney-General's listing criteria are overly vague and do not provide any certainty for those who are actively involved in the community. Further, ASIO has commented that the criteria are a guide only and that they are to be applied flexibly, and not all elements of the criteria are necessary before a decision might be taken to list an organisation. The decision to list an organisation and the inevitable community impact is based on an apparent 'judgement' by the Attorney-General's office on vaguely defined factors with little or no consistency in their application. There is no evidence in past listings of a systematic or unambiguous application of the criteria or any clear definition of the meaning of some of them.

Transparency in the proscription process is essential for confidence building at the community level. The listing process has created a perception within the Tamil community that listing decisions are arbitrary, motivated by foreign policy considerations and not by a robust, independent and critical assessment of the impact on Australian interests and Australian citizens. Further, there is a perception that evidence utilised by ASIO is collected or sourced from the Sri Lankan Government (a party with a vested interest in the international proscription of the LTTE).

## **7. BALANCING FOREIGN POLICY CONSIDERATIONS WITH COMMUNITY IMPACT**

There is widespread support or sympathy for the objectives and aspirations of the LTTE within the Australian-Tamil community. The community maintains a deep connection to the struggle for Tamils' self-determination in Sri Lanka and is emotionally attached to the plight of "their" people which inevitably includes the men and women of the LTTE.

To compound the fear perpetuated by the arbitrary listing process, there is a growing perception that Australia's foreign policy considerations dictate domestic decisions to proscribe.

There is no evidence to suggest that the LTTE has previously affected, or is a present threat to, Australia or Australian interests overseas.

In a long-running civil conflict like that in Sri Lanka, where each side has used violence and where each side perceives itself to be both motivated and justified (at least in part) by the wrongs that it has suffered at the hands of the other side, it is counterproductive, and unjust, to criminalise one side only. It may be that some of these perceptions (on one or both sides) are mistaken, or shaped by interests as well as by an objective consideration of events and circumstances. But this is true of nearly all political opinion. It does not disqualify such opinions, especially in a democracy.

Further, the Sri Lankan Government has a vested interest in denying the existence of an 'armed struggle' and labelling the conflict as a 'fight against terrorism'. It has been observed that the LTTE is an organised armed group under responsible command and exercising exclusive military, political and administrative control over large parts of the northern and eastern provinces. There is reasonable grounds to conclude that the conflict in Sri Lanka is not an 'internal disturbance' but rather an armed conflict regulated by the *Geneva Convention*.

It is well-known that the Sri Lankan Government has been actively strengthening diplomatic relations with other states to proscribe the LTTE. This will ultimately shift the political balance in a domestic and localised conflict in their favour. There is legitimate concern that the Sri Lankan Government's moves to proscribe the LTTE internationally is not driven by genuine concerns for human rights but a desire to quash any movement for Tamils' self-determination and destabilise a peaceful resolution to the conflict, one addressing the historical grievances of a substantial minority community. Information provided to ASIO or the AFP in this context and relied upon is likely to be tainted by this underlying political agenda.

The offences that are enlivened by a listing are not trivial, regulatory offences. They are some of the most serious indictable offences in the *Criminal Code*. To use the threat of prosecution for these offences to try and crush the expression of a particular Australian community's most deeply-held political convictions would be inconsistent with the basic principles of a pluralist democracy. The criminal law should not be used as a tool to penalise the legitimate political views and activities of Australians for foreign policy determinations.

## **8. RECOMMENDATIONS**

In light of the above concerns, we strongly urge the Committee to recommend that the listing provisions be repealed from the *Criminal Code*. The listing of an organisation like the LTTE, in

the context of Australia's Tamil community and the Sri Lankan conflict, will only have the effect of perpetuating a domestic fear of political persecution and prosecution, furthering the criminalisation of Australians' legitimate political views and activities, with no real bearing on protecting Australia's national interest.

Alternatively:

- A listing only takes effect *after* the Committee has conducted its inquiry, not immediately upon the tabling of the legislation;
- The inquiry process expressly include a requirement that the views of individuals and communities who will be affected by the listing be heard (as outlined in the Sheller Committee report);
- That a listing may only be made if it can be shown that an organisation to be listed poses a real threat to Australia and Australians; and
- That, if a listing is to go ahead, detailed evidence be provided by ASIO and the AFP as to how the listing will actually assist them in protecting Australia and Australians from the threat of physical harm or property damage.

**End of submission**