

PUBLIC STATEMENT

03 December 2014

Don't rush through unnecessary counter-terror laws that erode democratic rights and freedoms

Joint statement on the Countering Terrorist Fighters (Foreign Fighters) Bill 2014

The New Zealand government has an important duty to protect the community from terrorism. At times, laws can legitimately limit the rights of individuals for the purpose of countering this threat, provided the limitations are necessary and proportionate.

However, any measures taken to ensure such protection must also comply with all of the state's other human rights obligations, including those relating to fair trials and due process and the rights to privacy, freedom of expression, and freedom of movement.

The Countering Terrorist Fighters Legislation Bill 2014 currently before the New Zealand Parliament proposes many significant changes to New Zealand's counter-terrorism laws. The stated aim is to address the threat posed by foreign terrorist fighters both at home and internationally by enhancing powers to monitor and investigate and to restrict and disrupt travel of foreign terrorist fighters and other violent extremists.

The Government is seeking to rush this law through Parliament by the end of this month. Doing so will deny our elected representatives and the community the opportunity to fully debate the proposed changes.

By failing to provide adequate time for consultation by experts and others, the Government is not allowing the opportunity for proper scrutiny and the ability to robustly discuss whether the proposals are indeed consistent with New Zealand's obligations under international law.

Countering terrorism strategies will not be successful if human rights are not respected and protected. Human rights are an essential component of the rule of law and have been recognised by the UN Global Counter-Terrorism Strategy as the "fundamental basis of the fight against terrorism."

The below points outline key concerns with the Bill, however without sufficient time a comprehensive assessment of the human rights implications of the Bill has not been able to be undertaken.

- The Government's justification that the legislation is being introduced to meet obligations as set out by a United Nations Security Council resolution 2178 to address foreign fighters is unfounded as the same resolution also clearly states that governments must comply with their obligations under international law - including international human rights law - and that failure to do so contributes to radicalisation.

- The speed at which this Bill is being rushed through the legislative process is of grave concern. While the Government has stressed the purported need for urgency, there seems to be no justifiable basis for the legislation to be fast tracked with such extremely limited scope for consultation.
- Changes to the Passport Act 1992 to allow the Minister to refuse to issue a passport on the grounds of national security or a threat to a country other than New Zealand, may have serious human rights implications for a person left outside New Zealand without valid travel or identification documents. These provisions have a significant impact on the right to freedom of movement which is guaranteed under international law.
- Amendments to the Customs and Excise Act 1996 give the power to allow authorised persons from the NZSIS and the Police to have direct access to Customs databases to search for information for counter-terrorism investigation purposes. Concern is raised over whether sufficient safeguards are in place over the sharing of information between agencies to ensure that Government agencies don't use the information in a way that can put individuals at risk.
- Expanding the NZSIS surveillance powers to include visual surveillance on private property with a warrant and, in situations of emergencies or urgency, without a warrant may constitute an interference with a range of human rights, including in particular the rights to privacy and has a chilling effect on freedom of expression.

The strong public pressure has already mobilised an incredible 600 voices at extremely short notice, which has caused the Government to adapt some of the clauses. If it is possible to achieve this impact within such a short period of time, the need to extend the consultation period to allow further scrutiny is without doubt.

Given the extraordinary and complicated nature of this Bill, the undersigned call on the New Zealand government not to pass the Bill without a more comprehensive public consultation on the necessity of the laws and their compliance with domestic and international human rights obligations.

This statement has been endorsed by the following experts, academics and religious, community, legal and human rights organisations:

1. ActionStation
2. Amnesty International Aotearoa New Zealand
3. Barry Coates
4. Deborah Manning
5. The Federation of Islamic Associations of New Zealand Inc
6. Human Rights Foundation of Aotearoa New Zealand
7. Human Rights Lawyers Association Aotearoa New Zealand
8. Jeff Sluka
9. Joan Macdonald
10. Keith Locke

11. Kevin McBride
12. Maire Leadbeater
13. Margaret Bedggood
14. New Zealand Council for Civil Liberties
15. New Zealand Council of Trade Unions - Te Kauae Kaimahi
16. Oliver Hoffmann
17. Pax Christi Aotearoa-New Zealand
18. Peace Movement Aotearoa
19. Refugee Council of New Zealand
20. Riemke Ensing
21. Richard Jackson
22. Tech Liberty
23. West Papua Action Auckland