

## Submission by ABC on 2021 Counter-Terrorism Legislation Bill 25 June 2021

The following submission is presented by the Anti-Bases Campaign [ABC] which is concerned about the influence of Five Eyes partners on Aotearoa/NZ, and the impact on civil liberties of the operations of the Government Communications Security Bureau [GCSB] and the Security Intelligence Service [SIS].

We are concerned that the current Counter-terrorism Bill is *another* manifestation of a reactionary [in both senses of the word] string of intelligence agency related laws. Legislation was pushed through in 2014, 2017 and 2019, and this bill will go through in 2021 even as a review of the 2017 law [probably followed by *more* legislation] is set to be carried out. This muddle of legislation has continually given the spies expanded powers with little evidence that their activities have in any way increased our security.

The progression of legal tinkering is clear evidence of the failure of an approach that avoids dealing with the 'systemic failure' [2019 Royal Commission] of the agencies. It should be noted that the GCSB and the SIS have had huge annual budget increases as well as extra funding that has not in any way made NZ/Aotearoa more secure.

We also note that Minister Faafoi has acknowledged new law would not have made any difference to the Christchurch massacre. Additionally SIS chief Kitteridge has said that a 'lone wolf' attack cannot be prevented.

*Given that any amendments to the current bill are just more patches on a broken system, the ABC offers the following comments because several proposed changes impinge directly on citizen's civil liberties and represent a totally unnecessary extension of surveillance and prosecutor powers.*

1. Planning/preparation amendments prescribe prosecutions with no specific location/target necessary, 6B(3) and even if no actual act occurred. In Section 5(A), planning and preparation sections fail to differentiate adequately between delusionists and 'real' terrorists. Neither of the amendments are acceptable. Note also the dangers of making offences for threats or acts 'whether carried out or not' [Clause 9, Sect 6B].
2. More potential offences are introduced where supply and funding support are made an offence in Clause 10. Section 8(1A) is a new offence about 'wilful provision of material support' with a sentence up to 14 years. Or 10 years for 'knowledge' or 'recklessness'. This is, firstly, potentially a catch-all law for family and friends of those designated as 'terrorists', and secondly, a law which will either put silly young men or women [think, eg, of various 'reckless' activities of youth] in prison or just become more useless legal baggage.

3. Travel related offences expand these catch-all situations. Travel for marriage, to visit family etc becomes suspicious if any family or friends can be associated with some 'terrorist' entity. Recent history, where literally hundreds of [now exonerated] middle eastern citizens were incarcerated in Guantanamo Bay, and SIS persecution of Ahmed Zooui in this country amply demonstrate why overseas 'evidence' is unreliable and laws such as this are too easily abused. [In 2004 the Prime Minister's office stated that Zaoui had links to overseas terrorists, but Helen Clark later had to withdraw the claim, saying that her "office had probably gone too far in making the link"].
4. Designations of 'terrorist entity'. A very big problem is that definition of a 'terrorist' is entirely dependent on the government of the day. The only solution is to prosecute on the basis of clearly harmful *actions* [and this bill does exactly the opposite]. In terms of offences which relate to such actions, current laws are adequate and trying to insert amendments to 'criminalise planning or preparation for a terrorist act (and apply warrantless powers of entry, search, and surveillance to that offence) is a dangerous infringement of long established civil liberties.
5. Because definition of a 'terrorist entity' is so debateable, prosecution for 'provision of material support' or 'knowledge' becomes extremely problematical.
6. 72(2) makes something an offence even when planning is "too remote to constitute an attempt to commit". This is a law which we would expect to find somewhere like 1930's Germany or Pinochet's Chile. Do we really want a law 6a(1) which says someone is guilty even though what they are accused of is not possible?

7. The expansion of criteria for warrantless searches – now for many more offences [punishable by imprisonment for a term not more than 7 years - down from 14 years] is another indication of expanding potentially repressive powers. [Subpart 1 of Search and Surveillance Act 2012]. Given that problems even *with* warrants are regularly questioned by both the GCSB/SIS IG, and the police IPCA, searches *without* warrants should be much more tightly circumscribed, not expanded.
7. Offences related to NZ ships [read in conjunction with redefined 'critical infrastructure' and with recent legislation related to protests on oil rigs etc] seems to make Greenpeace protestors 'terrorists'. Would the activities on NZ boats of the 1980-81 Auckland Peace Squadron now be designated 'terrorist' actions?
8. Other elements of the bill expand potentially repressive law enforcement by redefinition of previous statutes. In particular 'Introduction or release of a disease-bearing organism, if likely to "cause major damage to" which replaces

“devastate” the national economy of a country [Clause 6, Section 5], inducing just ‘fear’ in a population instead of ‘terror’, and introducing ‘coerce’ instead of ‘unduly compel’ [in Cl 6, Sect 5] are unnecessary and authoritarian amendments. They greatly broaden the range of ‘terrorist’ offences, increasing scope for transgressing on civil liberties and doing nothing to improve the ‘systemic failures’ of the security agencies.

9. Sect 8A of 2019 Terrorism Act, works in conjunction with the Films, Video and Publications Classification Act, to define as a terrorist offence any use of material which promotes or encourages acts of terrorism. But any statute making it an offence for material that ‘promotes or encourages’ acts of terrorism [how many thrillers involve individuals or small groups in conflict with government?] needs more careful scrutiny.