

JOINT STATEMENT ON THE RENEWAL OF ANTI-TERRORISM PROVISIONS

International Civil Liberties Monitoring Group
and
La Ligue des droits et libertés

February 23, 2007

Dear Member of Parliament,

In light of the ongoing and intense debate over the renewal of controversial anti-terrorism provisions, the *International Civil Liberties Monitoring Group* (see annexed membership list) and la *Ligue des droits et libertés* (Québec) wish to reiterate their unequivocal opposition to the renewal of the “preventative detention” and “investigative hearings” provisions of the Anti-Terrorism Act. The House of Commons debate on this issue should be informed by a rational and knowledge-based examination of the legislation adopted in a hurry, in a climate of fear and under tremendous pressure from the United States following the tragic events of September 11, 2001.

Six years later, the terrorist threat remains real. However, it is not the only nor the biggest threat facing the world at the moment. Furthermore, it has become obvious that the provisions of the ATA about to expire are not necessary to confront terrorism. Robust and tested provisions of our Criminal code have proven much more useful in conducting police investigations in alleged terrorist plots. Dozens of briefs tabled during the two year parliamentary review of the ATA have affirmed that position.

The two provisions at the heart of the present debate **rest on the very broad definitions of what constitutes a terrorist activity** and of what constitutes participating in such an activity. As a result, they could allow for arresting and compelling to testify people involved in lawful activity and legitimate political dissent.

Under the first provision, a person can be ordered to appear before a judge to give evidence in an “investigative hearing” where the judge is satisfied that there are reasonable grounds to believe that a terrorism offence has been committed or will be committed. Refusal to submit can lead to arrest and imprisonment. **There are no exemptions for solicitor-client confidentiality or for journalists and their sources. Although the evidence obtained in the investigative hearing cannot be admitted or used against him in subsequent proceedings, there is nothing to prevent using this information to follow secondary leads that can incriminate him.**

Under the “preventive arrest” provision a police officer can arrest a person without a warrant if he has reason « **to suspect**», rather than reasonable grounds « **to believe** » as is

normally the case in the *Criminal Code*, that the detention of the person “is necessary in order to prevent a terrorist activity”. The person can be held for 72 hours before appearing before a judge. The judge can impose conditions in a recognizance for up to twelve months if he decides the police officer has reasonable grounds for “**suspicion**”. The person will have been **branded as a terrorist without having been found guilty by trial**, with all the consequences which ensue – just think of Maher Arar.

Canadians would be better served and protected by the use of existing criminal laws. Provisions relying on arbitrary powers and a low threshold of evidence cannot be allowed to replace good police work. On the other hand, they have the potential to become instruments to deny due process and stain reputations. They could lead to many more cases like that of Mr. Maher Arar.

We applaud the position adopted by the leaders of the three opposition parties not to support the renewal of the provisions. It is a position based on intellectual integrity and courageous political leadership that illustrates a genuine understanding of a long and tested tradition of fundamental justice.

Sincerely,

Gerry Barr
Co-Chair of the ICLMG and
President-CEO
Canadian Council for International
Co-operation

Nicole Filion
Présidente
Ligue des droits et libertés (Québec)

ANNEX I

ICLMG MEMBERSHIP LIST

The International Civil Liberties Monitoring Group is a multi-sector coalition that promotes respect for human rights and civil liberties. Positions expressed by ICLMG speak to common concerns of members but do not necessarily articulate the position of individual member organizations.

- Amnesty International
- Association québécoise des organismes de coopération internationale
- B.C. Freedom of Information and Privacy Association
- Canadian Arab Federation
- Canadian Association of University Teachers
- Canadian Auto Workers Union
- Canadian Council for International Co-operation
- Canadian Council for Refugees
- Canadian Council on American-Islamic Relations (CAIR-CAN)
- Canadian Federation of Students
- Canadian Friends Service Committee
- Canadian Labour Congress
- Canadian Muslim Lawyers Association
- Canadian Union of Postal Workers
- Canadian Unitarians for Social Justice
- CARE Canada
- Centre for Social Justice
- Communications Energy and Paperworkers Union
- Confederation of Canadian Unions
- Council of Canadians
- CUSO
- David Suzuki Foundation
- Development and Peace
- ETC Group
- Greenpeace
- Imagine Canada
- International Development and Relief Foundation
- Inter Pares
- KAIROS
- Ligue des droits et libertés
- National Anti-Racism Council of Canada
- Ontario Council of Agencies Serving Immigrants
- PEN Canada
- Primate's World Relief and Development Fund

- Public Service Alliance of Canada
- Rights & Democracy
- United Steelworkers of America
- World Vision Canada

Friends of the ICLMG

Hon. Warren Allmand; Mr. Allmand is a former solicitor general of Canada and the immediate past president of the International Centre for Human Rights and Democratic Development (Rights & Democracy).

Hon. Edward Broadbent; Mr. Broadbent is a former leader of Canada's New Democratic Party. He was the first president of the International Centre for Human Rights and Democratic Development.

Hon. Gordon Fairweather; Mr. Fairweather was the first chief commissioner of the Canadian Human Rights Commission. He is a former attorney general of New Brunswick and a member of the Canadian House of Commons.

Hon. David MacDonald; Mr. MacDonald is a former Canadian secretary of State and minister of communications. Mr. MacDonald is also an ex-Canadian ambassador to Ethiopia.

Hon. Flora MacDonald; Ms. MacDonald is a former Canadian minister of foreign affairs and a former minister of communications.

The Very Rev. Lois Wilson; Rev. Wilson is a former moderator of the United Church of Canada and retired recently from the Canadian Senate.