

## Law Council calls for robust Parliamentary Debate on Foreign Fighters Bill

The Law Council of Australia welcomes the report of the Parliamentary Joint Committee on Intelligence and Security in relation to the Crimes Legislation Amendment (Foreign Fighters) Bill 2014.

Law Council of Australia President, Mr Michael Colbran QC, said the Foreign Fighters Bill contains significant measures which seek to protect Australians and the security of our nation.

“The Law Council supports the Government’s resolve to provide a strong legislative regime to criminalise acts of terrorism and protect Australians from the threat of those who travel overseas, participate in hostile activity and return to Australia.

“It is important to react appropriately to the terrorist threat but to do so in a way that supports and manifests the principles of individual freedom that underpin our society.

“The Parliamentary Committee’s recommendations will help to ensure the fundamental freedoms we value in Australia continue to be protected under these new measures,” Mr Colbran said.

The Law Council notes that the Committee report reflects many of the Law Council’s recommendations relating to the Bill, including ensuring that information obtained from a foreign country under torture or duress, directly or indirectly, will not be admissible in an Australian court; clarifying the meaning of the terms ‘encourage’, ‘promotion’ and ‘advocacy’ with regard to the proposed ‘advocacy of terrorism’ offences; and introducing certain safeguards in respect of Customs’ expanded detention powers.

The Law Council also supports the Committee’s additional recommendation that its oversight functions be expanded to include the Australian Federal Police’s counter-terrorism activities.

However, the Law Council considers there remain measures in the Bill which would benefit from closer scrutiny.

“The Law Council particularly draws to the Parliament’s attention the need for careful drafting with respect to the proposed ‘declared area’ offence, including consideration of whether the range of legitimate purposes is sufficiently well-described.

“It is difficult to prescribe in legislation the range of legitimate reasons a person may travel to a ‘declared area’ and there is the potential for uncertainty to arise by adopting such an approach before the travel has been undertaken and all the facts and circumstances are known.

“In the Law Council’s view, judicial discretion should be permitted to determine whether a defendant’s travel was for a legitimate purpose,” Mr Colbran said.

While the Law Council recognises there is urgency in enacting the Bill, robust Parliamentary scrutiny of its measures will aid a proportionate response.

“The Law Council encourages the Parliament to pay close regard to the Committee’s recommendations as it debates the Bill’s provisions.

“Careful scrutiny and demonstrated need – rather than a rushed response – is vital to preserving our liberties,” Mr Colbran said.

The Law Council’s submission is available [online](#).

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