



**Outline of the oral submission on  
The Anti-Terrorism Bill [B12-2003]**

1. Dangers inherent in enacting anti-terrorism legislation
  - AT laws tend to erode fundamental rights and freedoms
  - Violate long established rules and constitutional procedures
  - Among others stifle political dissent
2. Problems of defining terrorism (Section 1);
  - No universally accepted definition of “terrorism”
  - Tendency is to create broad, wide, over-reaching and all encompassing definitions
  - Definition in ATB reflects this difficulty
  - Has created a speculative offence.
  - Is concerned more with “likelihood” rather than reality.
3. Offences and penalties (Section 2)
  - The defective definition has roll-on consequences for the offences
  - Results in draconian punishment being imposed for an offence that is not properly defined
4. The problem of bail (section 5)
  - The very stringent bail conditions will effectively curtail suspects’/people’s right to liberty
  - Is tantamount to “judicial detention” without trial
5. Investigative hearings (Sections 8-13)
  - Has serious implications for media freedom in SA
  - Individuals have limited rights under this procedure
  - Though shielded from criminal liability, an individual may still be exposed to civil claims
  - Open to abuse by law enforcement agencies

6. The banning (blacklisting) of organisations (Section 14)

- Will affect the right to freedom of association
- Minister has very wide and arbitrary grounds to proscribe organisations
- Fails to recognise the existence of liberation struggles and liberation movements contrary to international law (e.g. the OAU's Algiers Convention of 1999).

7. Secret evidence in trials (Section 18)

- Persons making report to the Financial Intelligence Centre being "competent" but not "compellable" witnesses is a reintroduction of secret evidence

8. Why the ATB fails the constitutional test

- Does not meet the standard laid out by s36 of our country's constitution.
- Law has to be reasonable and justifiable
- There are other less restrictive means to achieve the objects sought by the ATB

9. Conclusion- whether there is a need for this law in South Africa

- No need for this particular legislation
- Tighten other laws relating to the country's security
- Address the structural problems in the country's criminal justice system

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