

MEDIA RELEASE

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New evidence laws to make fair trials harder

The Federal Government's proposed changes to the rules of evidence will make it easier for false evidence to be accepted in Commonwealth criminal matters and are similar to the rules of evidence used in the Guantanamo Bay Military Commissions.

Mr Stephen Blanks, secretary of the NSW Council for Civil Liberties, said today The Foreign Evidence Amendment Bill 2008, which was introduced into the Federal Parliament in December, is inconsistent with due process and a major infringement on civil liberties.

"The changes mean the accused will have to prove a foreign business document is not reliable, otherwise it will automatically go into evidence," Mr Blanks said.

The Senate Standing Committee on Constitutional and Legal Affairs will hear submissions on the amendment this Friday, 20 February, 2009 at 1pm. The hearings will be by teleconference.

Foreign business documents could include file notes, any hand written notes and e-mails from any business, big or small, anywhere in the world.

The changes relate to Commonwealth criminal cases such as money laundering, customs offences, cyber crime and copyright infringements.

The changes open up the very real possibility of false and misleading evidence being accepted by the Commonwealth Courts and will have a significant impact on the trial of anyone accused of a criminal offence involving any overseas activity.

Mr Blanks said the changes mean a file note from a Zimbabwe business would be easier to get into evidence than a bank statement from Westpac. "No where else in the world are similar rules of evidence currently operating."

"The Government routinely rejects as unreliable documents from asylum seekers demonstrating the dangers they face in their own countries but insists that similar material can now be admissible in Commonwealth criminal prosecutions.

"If these new rules were in effect in 2007 it would have been easier to launch a prosecution against Dr. Haneef and he would have had to disprove questionable foreign evidence against him making it much harder for him to win his freedom.

"The changes are the latest in a long line of oppressive laws, claimed to be justified by the fight against terrorism, that have seriously infringed on hard won civil liberties," he said.

The proposed changes demonstrate the need for better protection of human rights in Australia. Australia is the only western democracy without a Bill of Rights which would ensure a fair trial. The changes are opposed by the Law Council of Australia, the Law Society of NSW and the NSW Council for Civil Liberties.

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