



SUBMISSION

**by the Canadian Union of Public
Employees (CUPE)**

to the

**Standing Committee on Justice
and Human Rights**

**ON BILL C-36
THE ANTI-TERRORISM ACT**

We welcome this opportunity to present our views and concerns about Bill C-36, the Anti-terrorism Act, to the Standing Committee on Justice and Human Rights.

The Canadian Union of Public Employees is Canada's largest trade union representing half a million workers across this country. CUPE members are employed delivering a range of public services including health care, education (early childhood through to post-secondary), social services, municipal services, as well as in airlines, as flight attendants, broadcast and cable television and a variety of community organizations.

CUPE members, like other Canadians, were shocked by the events of September eleventh and understand that the government must take measures to effectively respond to terrorism. However some of the legislative changes contained in Bill C-36 go well beyond what is required as an appropriate response.

In particular, we call on this committee to recommend changes in the following areas:

- Narrow the definitions of terrorism and terrorist acts. Currently they are too broad and imprecise and thereby threaten civil liberties and legitimate political dissent in Canada. As well, they threaten our ability to provide international solidarity to organizations seeking democratic and economic change in other countries. Should the government insist on proceeding with this Bill, the definitions must be more carefully tailored to include only specified acts of serious violence, or intended serious violence, whose purpose is to cause extreme public fear.
- Protect civil liberties. Strengthen civil liberties in the areas of investigative hearings and preventative detention. Introduce a sunset clause to automatically end these extreme measures after no more than three years, preferably sooner.
- Maintain government transparency. Don't authorize new powers to the Attorney General to exempt ministries, departments or individuals from the Access to Information Act. Rather, continue to apply all of the existing provisions for judicial oversight.
- Protect against spying on Canadians. Don't empower the Minister of Justice to authorize the Canadian Security Establishment to intercept private communications. Rely instead on the existing protections and reviews of electronic eavesdropping.

- Encourage more democratic debate. Extend the period of time allocated to Second Reading of Bill C-36 to allow hearings be held across the country in order to give more Canadians an opportunity to review and comment on the many sections of this complex, omnibus legislation numbering over 170 pages.

Our comments in this submission focus primarily on our concerns about the broad definition of “terrorism” and “terrorist activity” in the Act since the key to this legislation lies in these definitions. They trigger many other troubling aspects of the Act such as detention without being charged or imprisonment for up to a year without a trial. Narrowing these definitions is essential to protect the civil liberties of Canadians and allow for legitimate dissent.

Definition of Terrorist Activity

The definition of “terrorist activity” in the Act is broad and imprecise. The definition encompasses a range of activity, inside and outside Canada that could capture the types of protest and activities that are key to the effective functioning of a democracy.

Bill C-36 would amend the Criminal Code by including as “terrorist activity” acts or threatened acts, inside or outside Canada, which meet the following criteria:

- an act done for a political, religious or ideological purpose;
- it is done with the intention of intimidating the public or a segment of the public, with regard to its security, or with the intention of compelling a person or a government to do or stop doing any act, and;
- it is also done with the intention of: causing death or serious bodily harm, endangering a person’s life; causing a serious risk to the health or safety of the public, or a segment of the public, or causing substantial property damage likely to result in serious harm, OR with the intention of causing serious interference with or serious disruption of an essential service, facility or system, other than for purposes of lawful advocacy, protest, dissent or work stoppage not intended to cause death, harm or risk.

This broad, encompassing definition is open to varying interpretations and could potentially capture activism that is not terrorist in nature. What is “lawful advocacy”? What is “essential service, facility or other system”? What constitutes a “serious risk to health and safety”? These terms are not defined.

This definition of "terrorist activity" could easily include the activities of our union. Members of CUPE have engaged in illegal work stoppages over the years as part of our efforts to achieve collective bargaining and legislative goals. Under the proposed definition this could be considered a terrorist act with far more repressive sanctions than currently exist.

Consider the impact of the proposed definition on CUPE members engaged in a strike that is illegal because it affects a service such as health care. As well, the definition could include participation in general strikes such as the *Days of Action* in Ontario where CUPE, other unions and a broad range of community organizations organized one-day, general strikes that shut down workplaces in a community to protest the Harris government's political agenda. These were illegal work stoppages intended to cause serious interference with and disruption of essential services, facilities and systems. Would they now be considered acts of terrorism?

Surely illegal strikes are not acts of terrorism. Yet under the current definition, there is nothing to stop the government from invoking the heavy-handed powers of the Act in these situations.

However, you might feel yourself about the activities of citizens engaged in peaceful political protest such as illegal strikes, you have a duty to protect the exercise of dissent. Do not allow legitimate concerns about safety and security to be used as a pretext to cast a net wide enough to close down any effective opposition to government policies and actions. History is rich with examples of illegal protest that are now hailed as heroic actions for democracy and equality.

Equally, the definition of terrorist act could be applied to an anti-globalization protest that seek to disrupt the parliamentary system through an unlawful sit-in in the House of Commons to stop a vote on a free trade agreement. Should the government have the right to preemptively detain key organizers without charging them and keep them in jail for up to a year without a trial? But it is precisely how it could be used to prevent, discourage and severely punish those who undertake such unlawful forms of protest.

As well, the international dimension of this legislation could seriously threaten important international solidarity work by trade unions such as CUPE, who support organizations in other countries seeking legitimate democratic change and economic justice.

In the past, our union supported the work of the African National Congress and the South African Congress of Trade Unions when they were forced to operate underground in their own country because the ANC was considered a terrorist threat to the South African government during apartheid. Today the Canadian

government recognizes that struggle was just and honours its leader, Nelson Mandela.

This Bill, through its definition of terrorism, could be used to sanction CUPE for providing financial support to other unions and popular organizations considered terrorist by their country. This could apply, for example, to support for Columbian workers and peasants who may be considered terrorists by their government but are seen by us to be legitimately fighting for their rights.

Bill C-36 as it currently stands is not required to combat terrorism. The Bill, hastily drafted, introduces sweeping powers that will be in effect indefinitely. It tramples on civil rights that CUPE and many Canadians highly value, in a hasty effort to appear tough on terrorism. Many of the provisions are not necessary since existing legislative provisions in the Criminal Code can be used. Terrorists who have committed violent acts, attempted to commit such acts or conspired to commit criminal acts can be charged and prosecuted under the existing Criminal Code. As well, the Immigration Act provides another tool for the Government to respond to terrorism.

Support for a sunset clause and more precise definitions come not only from unions and the groups we work with, but also from opposition parties and even within the government caucus. Instead of using the opportunity to clamp down on democratic dissent in its own party the government should use this moment to signal to Canadians that they are not allowing the security concerns to stifle dissent. There are legitimate concerns emanating from a considerable range of voices.

Canadians' civil liberties are too high a price to pay for the excessive powers contained in the current Anti-terrorist Act.

Not only is Bill C-36 not required to combat terrorism in Canada. It introduces tools that can be used to create terror for some Canadians. Should it become law, there is a real danger that certain minority groups such as Muslims could be targeted. There is also a danger that groups and individuals engaged in legitimate protest and activism, such as trade unionists, could be caught by the broadly worded definition of "terrorist activity". This definition, when coupled with the intrusive process for investigating terrorism and the severe sanctions for those convicted of terrorist offences, could have a chilling effect on legitimate dissent inside and outside Canada.

The government has not demonstrated the need for the far-reaching and intrusive measures contained in Bill C-36. For these reasons we urge the Standing Committee on Justice and Human Rights to support the changes we call for at the beginning of this submission.

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