

Can a Muslim Organisation claim to act for the public interest?

By *Tamir Uddin*

Typically, a claim for ‘public interest’ by any organisation or individual may raise legitimacy questions. Specifically, a claim from the Muslim community can particularly raise ‘eyebrows’ in certain sections of society. This short essay aims to evaluate the public interest claim of the Australian Muslim Civil Rights Advocacy Network (AMCRAN). Of all topics that AMCRAN has chosen to focus on, counter terrorism legislation could not be a more controversial issue at such a politically sensitive time. Claiming to act in the public interest, civil rights advocacy groups such as Amnesty International¹ and the NSW Council for Civil Liberties² have been challenging certain aspects of the spate of counter-terrorism legislations. One the other hand, the federal and state governments, as representatives of the public, have enacted reforms also in the name of protecting and safeguarding Australia’s freedoms and security, i.e. the public interest. The most notable reforms after the initial introduction of laws after September the 11th were in 2005³ and 2009⁴. Hence, anyone challenging counter-terrorism laws are in a dubious position of having to

explain how a) laws designed to protect everyone’s security can be against their interest and b) in a climate of fear and ignorance, how such laws are not justified anyway because of the threat of ‘terrorism’. It is within this climate and area of legal analysis and social justice that AMCRAN has been operating as a civil rights advocacy organisation.

About ACMRAN

Just briefly, AMCRAN was formed in April 2004 with the mission to prevent the erosion of civil rights of all Australians. Furthermore, by drawing on the rich civil rights heritage of the Islamic faith, AMCRAN provides a Muslim perspective in the civil rights arena. AMCRAN has been working towards this goal through political lobbying, contributions to legislative reform by making submissions to government bodies, grassroots community education, and communication with and through the media.

The main challenge for AMCRAN in the work that they do is two-fold: the legitimisation of their purpose

and secondly, whether their work is in the ‘public interest’. As AMCRAN deals with very controversial issues that usually ignite charged ideologies and politicisation, the framework that AMCRAN operates in needs to be clarified. On the one hand, some sections of the Australian community, which wish to uphold what it considers universal civil liberties and rights (such as migrants communities and concerned sections of mainstream society), would consider AMCRAN’s work as promoting the public interest.

However, equally other sections of the community would view this work as hindering Australia’s national security and supporting groups that may be particularly suspected of wrongdoing. Within this discussion, one must address the situation where majoritarian views can sometimes dictate what the public interest is without any normative content of the public interest⁵. In such conflicting interests, I posit that two key principles need to be used as an objective measure of the public interest: (1) the democratic principles of dialogue, representation and community

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consultation and (2) the universal civil liberties and rights as codified through international legal instruments. If any one group compromises on these principles, then it can be argued that they are not working in the 'public interest'.

AMCRAN's work and how it directly relates to public interest

AMCRAN seeks to utilise Australia's governance and democratic processes to draw attention to its concerns regarding counter-terrorism legislation. It also seeks to create awareness about how existing laws and proposed laws surrounding anti-terrorism, search powers of federal agencies and personal freedoms of association have significant implications for one's civil liberties. There are several strategies employed

by AMCRAN to further this aspect of the public interest, such as community education and consultation and political and legal advocacy.

Community education and consultation

A principle project that AMCRAN has undertaken has been to write a publication titled 'Anti-Terrorism Laws: ASIO, the Police and You'. This booklet, currently in its 3rd edition, explains people's rights and responsibilities under Australia's current counter-terrorism legislation. This project was undertaken with the cooperation of the UTS Community Law Centre and the New South Wales Council for Civil Liberties. Furthermore, project funding was sought from the Law and Justice

Foundation, UTS Students Association and UTS Law Faculty. This level of support has allowed the series to be published including the latest edition which has been translated into three community languages: Arabic, Bahasa Indonesia and Urdu. The publication forms an integral part of the community education aspect of AMCRAN's work because following the legislative changes, many communities became uncertain as to how these laws would affect them.⁶ Naturally, there is a degree of mystification and misunderstanding which needs to be addressed along with legitimate civil rights concerns.

The public interest aspect of this project involves providing an opportunity for ordinary citizens of all backgrounds to better understand the laws. While only some communities may feel threatened by the laws, the extensive laws impact on all Australians. Ordinary Australians are directly affected by laws on sedition as well as indirectly through increased security measures in public spaces. Hence, there is a sense of generality where the audience includes the entire Australian public. Furthermore, the publication equips citizens with greater knowledge of the laws and their impacts in a very practical way (through the various examples and simple explanations) which empowers them to participate in debating their fairness.

Public education is a much needed aspect of AMCRAN's work because it informs community groups and leaders, who are involved with the community directly, about the laws and their impacts. Furthermore, it creates partnerships and linkages between a diverse range of community organisations both within the Muslim and non-Muslim communities. These unified networks are crucial as an effective 'community voice' which increases the chances for concerns about civil liberties to actually be noted by policy makers.

Political and legal advocacy

In the sphere of political and legal advocacy, AMCRAN makes representations to politicians, senior public servants and community leaders frequently. The organisation achieves this both through meetings and discussions and also formal means such as Parliamentary Inquiries. Following proposals to amend Australia's security legislation in 2005 and again in 2009, AMCRAN has made several submissions to senate committees. To date, AMCRAN has written more than 25 submissions to various inquiries since its establishment and has appeared before a number of these inquiries to give further evidence. Political and legal advocacy is an essential public interest aspect of AMCRAN's work. Through writing submissions and appearing before committees, AMCRAN is utilising existing mechanisms to showcase the

concern of certain sections of the community. This process also helps to raise the voice of communities (such as Muslims) which may feel unheard and under-represented.⁷ There will undoubtedly be groups that advocate the opposite view, such as for tougher laws and sanctions. However, within a democratic vision of the public interest as articulated by Feintuck, it is important for all views to be heard on a common platform. A democratic vision entails particularly preventing the majority from dictating what the 'public interest' should be and allowing rational discussion and debate to determine that. Thus, Feintuck argues this process will ensure that the public interest is not relegated to being "one of the spoils going to the victor of political struggle".⁸ This situation can easily occur where minority communities are sometimes subject to majoritarian will.

Ultimately, I concur with Feintuck's 'democratic vision of the public interest'. Without fully involving key stakeholders in a thorough discussion, key information, perspectives and potential ignorance are unlikely to be uncovered. As the numerous inquiries into counter-terrorism legislation revealed, the short consultation process on the government's behalf did not have the characteristics of a 'democratic process'. Without a clear understanding of the laws and their impacts, many Australians would rightly have supported new measures within a

climate of fear and uncertainty. Hence, organisations such as AMCRAN and other civil liberties groups are arguably working in the public interest, without necessarily making a claim to being 'right'. They are attempting to challenge the measures, creating community dialogue and consultation. Moreover, they are using democratic processes to bring information about the law to everyday people and lawmakers' attention.

Other Contentious Issues

There are several other issues related to the public interest work of Muslim organisations such as AMCRAN.

Firstly, it is often challenging for Muslim individuals and groups to highlight civil libertarian traditions in the Islamic faith when there are such appalling stories of human rights abuses in Muslim majority countries. Essentially, AMCRAN needed to establish itself as undertaking an activity that is essentially the same as the vernacular of the wider Australian public. That transmission and dialogue process was formed through joint campaigning along the lines of civil liberties and the promotion of equity. Whilst some may argue that Muslims should establish a more 'clean platform' to project ideas of human rights, the fact that an organisation such as AMCRAN is lobbying for reform that will benefit all Australians in very unique.

It is also inherently difficult to get away from the fact that the terror suspects in Australia and the majority of 'listed' terrorist organisations are Islamic. In a speech at the Australian Strategic Policy Institute, Attorney-General Robert McLelland made direct points on radical ideology as a cause for extremism and particularly the Muslim community through his proposals to tackle extremism.⁹ This places AMCRAN in a difficult position in front of the public when calling for the enhancement of civil liberties of the Muslim community. They have to simultaneously argue that the laws may unfairly target Muslim communities whilst also distance themselves from terrorist elements.

On several occasions, the media had approached AMCRAN about their thoughts on laying charges on certain individuals or their sentencing.¹⁰ In response, AMCRAN has taken a more balanced approach where they solely focus on the policy aspects of the laws. They leave judicial processes to the judiciary and the social processes and community outcry to other Islamic organisations such as Islamic Council of NSW and the Australian Federation of Islamic Councils. AMCRAN investigates civil liberties concerns and examines the way that the laws impact on the wider public as well.

Nonetheless, it is quite clear that these challenges do not have easy solutions. AMCRAN needs to be accommodating of different perspectives and approaches and continue to build partnerships within both the Muslim and other communities. Simultaneously, AMCRAN must remain focused on its goal of advancing civil liberties. AMCRAN has a crucial role to play in the process of resolving disputes through open discussion, consultation and negotiation. The only way to move forward is to continue to enhance community consultation on such critical matters and to listen to key stakeholders.

Conclusion

Ultimately, the public interest legitimacy of a Muslim organisation such as AMCRAN will depend on a number of factors. Inadvertently, what can determine the acceptance of one person or group's claim to be working in the public interest are perspectives on the public interest and what one considers to be more or less valuable to society. For some sectors of Australian society, the ability and freedom to lead a secular lifestyle is supreme. Hence, 'bending' the rules in favour of diversity and accommodating minority experiences are seen as problematic. Unfortunately, this perspective views an essentially homogenous Australian society and world which is clearly not the case.

Thankfully, we don't quite live in that world. Hence, taking a broad 'democratic vision' of the public interest is crucial to overcome these challenges. Democracy, though in its imperfect and fractured state, still values minority opinions and acknowledges alternative views. I would argue that this is not ideological but rather a key human attribute. At school we always relaxed the rules for the kid who couldn't bat well by making the boundary smaller for him. Whilst considering the civil rights of other communities is not exactly the same in terms of relaxing laws and regulations, it is about a deep human curiosity to understand others, their feelings, thoughts and inclinations. Through dialogue and education, brittle ignorance can break away for partnerships and mutual undertaking to collectively enhance Australia's securities and freedoms.

Though in its infancy, AMCRAN has taken on these steps through forming far-reaching networks in government, civil society and the Muslim community. Although there is much left to do in establishing its significant public interest position to the ranks of Conservation Australian or Greenpeace, the foundations are definitely there for AMCRAN to grow and develop. ■

References

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- [2] New South Wales Council for Civil Liberties, Terrorism and Civil Liberties (2009) <<http://www.nswccl.org.au/issues/terrorism/index.php>> at 31 July 2010.
- Also see AMCRAN, Laws for Insecurity Report and the Government's 12-point plan (2005) <http://amcran.org/index.php?option=com_content&task=view&id=24&Itemid=31> at 31 July 2010. This document is a commentary by various community lawyers, policy workers, advocates and legal academics to outline concerns regarding the government proposals. Despite their efforts, the Howard Government did not absorb a number of concerns about privacy and greater transparency when the new laws were passed.
- [3] *Anti-Terrorism Act 2005* (Cth).
- [4] *Anti-Terrorism Laws Reform Bill 2009* (Cth).
- [5] Mike Feintuck, 'The Public Interest in Regulation' (2004), 33.
- [6] AMCRAN, Survey of the Australian Muslim community on their experience with, and perception of ASIO, the Police and counter-terrorism laws (2005) <http://amcran.org/images/stories/amcran_survey_report_final.pdf> at 31 August 2010. The comprehensive survey and analysis evidenced the existence of confusion and anxiety of such communities.
- [7] AMCRAN, Survey of the Australian Muslim community on their experience with, and perception of ASIO, the Police and counter-terrorism laws (2005) <http://amcran.org/images/stories/amcran_survey_report_final.pdf> at 31 August 2010.
- [8] Mike Feintuck, 'The Public Interest in Regulation' (2004), 60.
- [9] Sarah Sharples, 'A-G announces terror reforms' (2009) <http://www.lawyersweekly.com.au/blogs/top_stories/archive/2009/08/12/a-g-announces-terror-reforms.aspx> at 31 August 2010.
- [10] The co-convenors of AMCRAN, Waleed Kadous and Agnes Chong, described their experiences with the media (2004-2007) to me in an interview in August last year.

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