

with the interception of communications or the obtaining of information, records, documents or things, are not available to carry out the other elements of CSIS's mandate. Judicial control of the Service's activities by the Federal Court will be considered at greater length later in the Report.

## 2.6 Limits on the Service's Mandates

As indicated earlier in this chapter, a proviso at the end of the definition of threats to the security of Canada says that this definition does not include lawful advocacy, protest or dissent, unless it is carried on in conjunction with any of the activities set out in paragraphs (a) to (d). Both the Canadian Jewish Congress and the British Columbia Law Union expressed concern that this proviso inadequately limited the exercise by the Service of its primary mandate. The Committee agrees.

Both organizations recommended that section 12 be amended to restrict CSIS activities. The Canadian Jewish Congress recommended the following amendment as new subsection 12(2):

The Service is prohibited from investigating the affairs or activities of or engaging in surveillance of any person or group of persons solely on the basis of the participation by that person or group of persons in lawful advocacy, protest or dissent.

The British Columbia Law Union proposed the following amendment to the *CSIS Act* as new section 12.1:

Nothing in this Act is intended in any way to limit, abridge or infringe fundamental human rights and freedoms and, in particular, advocacy, protest and dissent are hereby recognized as inviolate elements of an open, free and democratic society in Canada.

Both the proviso at the end of the section 2 definition of threats to the security of Canada and the amendments proposed by the Canadian Jewish Congress and the British Columbia Law Union deal only with the Service's primary mandate. They do not set out the limits that would also apply to the Service's secondary mandates. The Committee realizes that the Service and the *CSIS Act* are conscious of and subject to the *Canadian Charter of Rights and Freedoms* in their daily operations. No obvious violations of rights and freedoms have come to the attention of the Committee in the conduct of this review.

Nevertheless, the Committee finds it somewhat unusual that there is a direct statutory limitation on CSIS's primary mandate, but no equivalent restraint on its secondary mandates. This gap in the *CSIS Act* must be filled.

Section 17A of the *Australian Security Intelligence Organization Act* reads as follows:

This Act shall not limit the right of persons to engage in lawful advocacy, protest or dissent and the exercise of that right shall not, by itself, be regarded as