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Via e-mail

Committee Secretary
Joint Committee on Intelligence and Security
Parliament House
CANBERRA ACT 2600
AUSTRALIA
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Dear Secretary,

Submission in relation to the proscription of the *Kurdistan Workers Party (PKK)*

We appreciate the opportunity to participate in the above review. The Freedom Socialist Party (FSP) is a socialist-feminist Marxist party founded in Australia in 1982. Our interest in this matter goes to freedom of speech and association and the right of the Kurdish people to self-determination.

The regulation to list the PKK under the criminal code will have a chilling effect on people in this country who hold sincere beliefs that the Kurdish struggle is just, and deserving of their support and material aid. This is because the listing has the effect of criminalising even indirect association with the PKK. It also leaves open the threat of criminal prosecution against those who voice support for the political positions and methods of the PKK, even though that support is only through words and even if there is no material action by PKK supporters or advocates in Australia.

At the same time, it conveniently switches off one more spotlight on the continuing military and judicial campaign by the Turkish authorities to smash all independent political organising amongst the large Kurdish population.

In order to preserve free speech and freedom of association on the one hand, and to deny comfort to the Turkish State for its continuing genocidal oppression of the Kurdish people, the regulation listing the PKK must be disallowed.

Terrorism, its effects and its causes.

We are concerned that the proscription power breaches a fundamental principle of criminal law, whereby guilt is attributed to individuals on the basis of their own individual actions in causing harm or damage. Instead, the proscription power relies on guilt by association, by imposing criminal liability on whole groups and on those who associate with them. It therefore imposes criminal liability on individuals who may have no proven or provable connection to any specific act. Indeed the recent Anti-Terrorism laws reinstate the medieval notion of guilt by association. This is not a law to defend a free, democratic society, but rather a law concerned with enhancing Executive power at the *expense* of democracy.

Terrorism as a tactic is not only objectionable because of its devastating effects on bystanders — ordinary working people going about their business. Marxists and other socialists have long argued against acts of individual terrorism because they inevitably lead to acts of repression by States. The recent barrage of Anti-Terrorism legislation in Australia is a case in point. The outrageous events of September 11, 2001 have given a sector of society the justification it has long sought for rolling back the gains of several decades of advances in civil and political freedoms. That sector is, of course, big business, for which democracy has always been a nuisance and a brake on profits.

Those who carried out those and subsequent acts of terrorism merely cocked the trigger on a weapon that was loaded and aimed. If it were not the “war on terror”, “political Islam” or “al Queda,” some other global bogey would have been amplified or invented to justify the current assault on civil freedoms in Western countries. Just as the capricious division of the Middle East by Western powers has thwarted the emergence

of robust, secular economies there, artificial divisions between working people, both internationally and domestically, serve those who rule.

Which leads back to the question of terrorism. In the case of the Kurdish people, there have been systematic acts of genocide and State terror almost since the creation of the Turkish State in 1921. Forced relocation, summary execution, often of those merely associated with wanted individuals (eg family members and village elders), the banning of the Kurdish language and the suppression of Kurdish culture have been the preferred method of dealing with the "Kurdish question" by both civilian and military governments. This repression, including acts of State terrorism at the local level, continues today. A very brief search on the World Wide Web reveals that 30,000 Kurds have been killed as a direct result of Turkish government repression

Where is the condemnation of the actions of the Turkish authorities? Why are the Turkish police and the Turkish military not the subjects of listing under the criminal code? Of note here is that one of the reasons why Turkey has consistently been refused membership of the European Union is precisely because of its brutal repression of human rights and dissent, particularly in relation to the Kurdish people and other minorities.

The answer is that the purpose of listing under the criminal code is not about "serious damage to property, the death of persons or endangerment of life." It is clearly the use of the law for political purposes, both domestically and in terms of foreign policy.

Partisan intervention.

While we do not support all of the tactics of the PKK, it is a political organisation with significant popular support both in Turkey and elsewhere, including Australia. The Kurds, including their diaspora, form the largest group of stateless people in the world. It is for them to determine the form of the political struggle for their right to make an act of self-determination. While this or that particular act of members or associates of the PKK may be criticised, even condemned, any attempt to proscribe a Kurdish political party is a direct, partisan intervention by the Australian government into a dispute which not at all its business.

Further, it's an intervention on the side of a State where successive governments have terrorised, repressed and murdered generations of Kurdish residents of Turkey.

The root cause of terrorist activities is the repression of the Kurds by the Turkish State. Although it's become something of a political cliché, the assertion of those opposed to the Iraq war and the "war on terror" is correct. If the Turkish government wishes to end terrorism it must cease terrorising the peoples of Turkey.

Freedom of association.

The committee will be unsurprised that such expedient, selective and, frankly, hypocritical moral outrage has come to be expected of this government by what conservatives like to call the silent majority. Why should any citizen take the word of an administration which lied about children thrown overboard, which invaded a sovereign country on the basis of another lie, and which adopts a "shoot first and ask questions later" attitude to the incarceration and deportation of vulnerable people, including residents and citizens?

Banning organisations on the basis of their political perspectives is profoundly anti-democratic and reflects the partisan interests of the Executive. That the listing of the PKK was made one week after the visit of the Turkish Prime Minister implies that this proscription serves mainly to strangle domestic support for the political opponents of an Australian ally. Many, many members of the Kurdish and Turkish community, many social activists, many leaders and members of trade unions have supported and donated to the Kurdish struggle in past years. The effect of the listing is to retrospectively criminalise this solidarity.

This, again is the mark of a police state. This proscription is inconsistent with Australia's international obligations under the *International Covenant on Civil and Political Rights*, most notably those obligations relating to freedom of association (Article 22). The committee is entitled to ask if this is, in fact, the intent of the listing. Criminal sanction is the ultimate threat to the free flow of ideas and the principle that, ultimately, citizens have the right to come together to criticise and, ultimately remove from office, a government that does not act in their interests.

The Executive government under this Prime Minister has more and more arrogated to itself the role of proponent, arbiter and executioner of the "National Interest." The Federal Opposition, whose leader has turned policy discussion on this issue into a sort of three-legged race towards the Right, is no advocate for

the people on issues of civil liberties, as shown by the recent draconian police powers enacted by the Lemna government in NSW. When governments (and oppositions) put the National Interest above the civil freedoms of the population it is then vital that freedom of association is robustly defended, rather than retrospectively weakened.

Assertions are not evidence

No legislation should be enacted on the basis of hearsay, or the assertions of government agencies. The background document submitted by the Attorney General would not stand up in a local magistrate's court. It should not be the foundation for the Federal Parliament to agree to regulations encroaching upon the fundamental civil rights of significant numbers of Australian citizens and residents. Yet this is precisely what the government expects the people and the Parliament to tolerate.

The background document (attachment A), after its enumeration of the various alternative designations for the PKK, opens with this statement: "The following information is based on publicly available details about the Kurdistan Workers Party (PKK). These details have been corroborated by material from intelligence investigations into the activities of the PKK and by official reporting. ASIO assesses that the details set out below are accurate and reliable." Perhaps there is a problem with the spell-checking software. Because surely, the sentence should read "ASIO asserts..."

In the very next paragraph contains the following misleading statement: "Ocalan was arrested by Turkish authorities in February 1999..." Members of the committee unfamiliar with the case might wish to follow [this link](#). As the New York Times reported, Turkish Special Forces in fact kidnapped Ocalan from Nairobi, after four months of active involvement by the CIA. The incident caused a major diplomatic row between Turkey and Greece at the time, much to the delight of the Turkish media, where it was, of course, front page news.

Given that the ASIO background document expediently glosses over this, the Australian people and the joint committee are entitled to ask what else ASIO is either withholding or misrepresenting.

Joint Committee members are directed to the list of names at the beginning of Attachment A. Here we are told that the PKK is "(Also known as...Kurdish Freedom Falcons...TeyrbazIn Azadiya Kurdistan, TAK.). Yet in the list of "terrorist acts" alleged/asserted to have been committed by the PKK we find this statement:

"• 10 July 2005 - A bomb in Cesme injured at least 15 people. Responsibility was claimed by the Kurdish Freedom Falcons (TAK), considered to be a front for PKK."

Joint committee members are entitled to ask ASIO and the Attorney General's department which of these mutually exclusive statements is correct. Either the PKK is "also known as" TAK or it is not. And the question must also be asked: "considered by whom?" Is ASIO's information publicly available from the Turkish Government? Is the Turkish government the source of the intelligence information? Because, to use common language, given the historic relationship between the Turkish State and the Kurds, they would say that, wouldn't they?

ASIO informs the Australian public and Parliament that: "The PKK is listed by the European Union for the purposes of its anti-terrorism measures." It asserts later: "PKK membership is estimated at approximately 5000, predominantly based in northern Iraq and south-eastern Turkey. There is also a large support base in Europe, particularly Germany." If both statements are true, then mass arrests in Germany should have been forthcoming. Indeed it would be expected that, if such arrests had occurred, then ASIO would have alluded to them to bolster its case. It has not because there have been none.

Then again, this may be because that the German government, remembering a thing or two about the consequences of unfettered Executive power, has taken a policy decision to tread far more lightly upon the rights of its citizens than the "winner-takes-all" approach of the Howard regime".

Under the heading "Terrorist Activities" ASIO asserts: "Recent terrorist activities ascribed to the PKK, or for which it has claimed responsibility, include..."

This arrogance is contemptible. The Parliament of Australia is expected to do the bidding of the Executive, circumscribe the civil rights of Australian citizens and residents and stick its nose in the domestic affairs of another country on the basis of an "ascription." **Who** has ascribed these attacks to the PKK? Where is the evidence and where are the references upon which these statements are based?

After the utterly bogus intelligence concerning "weapons of mass destruction" and the role of the security forces in promulgating the "children overboard" fabrication, Australian citizens — and their elected representatives — are entitled to demand that ASIO and the Attorney General provide evidence, not a shopping list of assertions.

Democracy should be organised around open debate, rather than the fiat of the Prime Minister and the rubber stamp of the viceroy. There is extensive evidence from human rights organisations that individuals associated with the PKK and organisations imputed as supporters of the PKK are subject to state surveillance, harassment, torture, disappearance, and extra judicial killings. In such a context of severe political repression, with a plethora of state security forces and armed actors it is extremely difficult to assess the veracity of reports of any 'terrorist' incidents with certainty. ASIO's unreferenced and unverified 3-page security assessment needs to be read in this context.

In the absence of evidence, the Joint Committee must do what any local magistrate would do when faced with a convenient "verbal" by the local police: dismiss the case.

Crushing dissent

The objective of advancing Kurdish rights is likely to be shared by a large number of Australians. Remembering that no link to any terrorist act is required, and the broad range of associated "terrorist" offences, virtually any support in relation to that objective leaves Australians open to prosecution. The security assessment provides no analysis of the nature of the relationship of Kurdish people or Kurdish organisations in Australia to the political objectives of the PKK. We consider that this is designed to have a devastating impact on the political activities of Kurdish/Turkish communities in Australia. We consider that is also designed to intimidate the many community activists, socialists and unionists who continue to support the right of the Kurdish people to their own territorial autonomy as a lesser proposition or to full territorial independence, should that be the decision of Kurdish nationals in Turkey.

Lastly, we consider that this regulation is designed to keep the Turkish government "on song" in the war on terror at a time when Turkish public opinion is opposed to government complicity in the war on terror, which is seen by Muslims as a crusade against Islam. It is indeed a crusade, and those who believe in the Islamic religion are indeed under fire. Many tens of thousands have died to suit the policy objectives of George W Bush, his British senior partner Tony Blair, and "deputy" John Howard.

It is clear that these issues are deadly serious.

However the war on terror is also directed squarely against the civil liberties of the working people of the West, just as McCarthyism was.

This, we submit, is the intention of the Executive: to place citizens and residents in fear of supporting a just cause, because a compliant population is more easily managed. Ten years ago, Fretilin, the liberation army of East Timor, would have been listed. Twenty years ago the ANC would have been listed. Xanana Gusmao and Nelson Mandela were defined by their oppressors as "terrorists." They engaged in armed struggle against a "legitimate" government.

Would any member of the joint committee make such an ahistorical, context-free judgement of "terrorism" as you are expected to make now, when considering those battles for self-determination? Would you retrospectively criminalise the political opinions of the overwhelming majority of Australians who supported and raised money for their struggles?

That is precisely what the Executive requires of you now.

The regulation must be disallowed

This listing, made in secret four weeks ago, needs much more scrutiny than a six-day semi-public review.

The Kurdish people divided by the cartographers of English and French imperialism and persecuted by generations of Turkish, Iraqi, Syrian and Iranian politicians must not be deprived of political leadership. Despite its mistakes and flaws, many Turkish Kurds look to the PKK for political leadership in their decades-long struggle for their homeland.

Boiled down to its essence, the government chooses to define as terrorism the Kurdish people's demand for a separate homeland in lands they have inhabited since they traded with the ancestors of ancient Greek

civilisations. It chooses to define the PKK as "terrorist" because the PKK has engaged the Turkish State on the same military basis as the Turkish State has used to murder generations of Kurds

It chooses *not* to define the actions of Turkish governments — over many decades — as terrorism.

That, in itself, is reason enough for the joint committee to recommend that the regulation be disallowed: no comfort should be given to the Turkish State in its attempted genocide of the Kurdish people.

But more than this, democratic debate and the right to freedom of association in Australia, should not be put at risk. Many thousands of Australian citizens and residents will continue to stand on the side of the Kurdish struggle for self-determination and so will be threatened with criminal sanctions for their political beliefs. As we have said, that is the hallmark of a police State, not a liberal democracy.

The civil rights of citizens must be upheld at all costs by the Parliament. The Executive Council wishes to make retrospectively (itself a travesty of the Common Law) a law criminalising citizen's support for the political struggle of an oppressed nation (another travesty). It falls to Parliament to assert the sovereignty of the Australian people by disallowing this abhorrent regulation

Requiring citizens to censor their words and modify their actions so that those words and actions accord with government policy is itself a form of State terrorism. Particularly when the requirement is backed with the draconian prison sentences out of all proportion to any offence. Free speech and free association are rights that should not be abridged. The joint committee must recommend that the regulation be disallowed and that the Parliament take a strong stand in defending the people against an Executive whose contempt for civil liberties becomes more obvious by the week.

Yours faithfully.

Peter Murray
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