

Dissenting Report

Australian Greens

The Australian Greens do not support the recommendation made in this report to pass the Defence Legislation (Miscellaneous Amendments) Bill 2008 without amendment.

The Greens do support two thirds of this Bill. There are good reasons for, and international consensus on, the establishment of the 'Red Crystal' as an alternative symbol to the Red Cross and Red Crescent because it does not have religious, cultural or political connotations. The Greens also support dental care being provided to ADF members and their families. However, amendments to the Defence (Special Undertakings) Act 1952 making Pine Gap a 'special Defence undertaking' and a 'prohibited area' are excessive, corrosive of democratic principles and should not be supported.

Neither the government nor the Committee make an adequate case as to why an enhanced ability to prosecute offenders is required. Adequate legislation already exists to protect Pine Gap from trespass or acts of aggression, in particular, the Crimes Act of 1914.

As noted in the Committee's report, the amendments related to Pine Gap were drafted in direct response to the failed attempt by the Howard government to use the Defence (Special Undertakings) Act for the first time against four Christian pacifists, who entered Pine Gap after informing the Defence Minister and the media of their intention to conduct a peaceful and nonviolent "citizens inspection" of the facility. Given this forewarning, it would appear that what this "core element of Australia's national security" lacks is not legislative protection, but perimeter patrols. If it is indeed such a sophisticated intelligence gathering facility, the capacity to gather intelligence about its immediate environment needs to be enhanced.

Despite engaging an army of QCs, at taxpayer's expense, to inflict the maximum punishment and to place maximum limitation on the court hearing the defence's justification and legal argument, the Northern Territory Court of Criminal Appeal quashed the convictions of the Christian pacifists. The court found that citizens had the right to challenge whether the 'prohibited area' was necessary for the purpose of the defence of Australia. While the Committee's report dismisses concerns made in submissions as unrelated to the amendments, the Australian Greens find that questions about whether the facility contributes to the defence of Australia as highly relevant, as did the Northern Territory Court of Criminal Appeal.

Given this series of events, the amendments proposed in this legislation can be accurately described as "retrospective revenge" that would "punish and frighten

those thinking about engaging in non-violent resistance against Pine Gap's role in war making," as several submissions stated. The amendments would inhibit citizens from ever challenging whether Pine Gap is necessary for Australia's defence in future, which is an erosion of the democratic rights of which Australians are proud.

It is ironic that the democratically elected members of the Australian Parliament are being asked to enact legislation on a facility about which Australian parliamentarians know so very little. In 1999 the government refused to provide information about Pine Gap to the Joint Standing Committee on Treaties – information that is made freely available to members of the US Congress. Nothing has changed since then. Although US Congress officials have visited Pine Gap and received classified briefings about its functions, elected representatives and Senators are "entrusted with less information than can be found in a public library".

The history of disinformation and misinformation about Pine Gap is long. In 1966, Australians were told the facility was to be a weather station. Later the official cover was a "Space Research Centre". Australians have the right to know what is happening on Australian soil at one of largest and most sophisticated satellite ground stations in the world. Information is still not forthcoming about who is being spied upon, and who is being targeted through this facility? Was it used to coordinate air strikes against Iraqi citizens in a war accurately described by the UN Secretary General and other leaders as an illegal war? How is it used to support US nuclear war fighting capabilities, and how is that consistent with our government's efforts towards nuclear disarmament?

If Pine Gap is indeed a 'core element' of Australia's national security, Australians have a right to know how and why. Rather than making the case for the proposed amendments, the government has described citizens exercising their democratic right to protest as "mischief makers" and have furnished the Committee with statements such as, "Pine Gap makes an important contribution to the security interests of both Australia and the United States of America...The methods used for collecting intelligence at the facility are sensitive..." which are not convincing or compelling, and neither are the arguments made in the Committee's report.

Rather than being convinced that Pine Gap does protect Australians, the Senate is being asked to enact legislation that would further shield Pine Gap *from* Australians. Such efforts to erode democratic rights are unsupportable and run directly counter to the kind of "security" we need.

SENATOR SCOTT LUDLAM