

From: Kendall Lovett
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Subject: Classification Inquiry 2007

Committee Secretary,
Senate Standing Committee on Legal and Constitutional Affairs,
Department of the Senate,
PO Box 6100,
Parliament House, Canberra A.C.T., 2600.
Email: legcon.sen@aph.gov.au

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SUBMISSION
to the Inquiry into the Classification
(Publications, Films and Computer Games)
Amendment (Terrorist Material) Bill 2007.

From Kendall Lovett
for Lesbian & Gay Solidarity Group (Melbourne),
PO Box 1675, Preston South, Vic. 3072.

The provisions of this Amendment Bill apparently are to enable the Classification Board or Review Board to outlaw any *publication, film or computer game* it considers advocates, directly or indirectly counsels or urges, or provides instruction on doing a *terrorist act* or by directly praising the doing of a *terrorist act* in circumstances where there is a risk that such praise might have the effect of leading a person to engage in a *terrorist act*.

Our feeling is that despite Schedule 1: Amendment 9A (3) a publication, film or computer game *does not advocate* the doing of a terrorist act *if it depicts or describes a terrorist act*, but the depiction could reasonably be considered to be done *merely as part of public discussion or debate or as entertainment or satire*, it is indeed open to interpretation depending upon who the person is in a public discussion or debate who is heard to be advocating what someone else interprets as a *terrorist act*.

An obvious example of this can be seen in an interview given by the Attorney-General to the media and published in the Daily Telegraph on Thursday, 21 June 2007. Mr Ruddock is quoted as saying: "The Commonwealth is going to legislate on it anyway. I have worked with the states to find a solution and all they are doing is frustrating it. This needs to be introduced before APEC. It needs to be introduced right away."

In his Second Reading address to Parliament (21 June 2007), the Attorney-General reiterates that where the treatment of a terrorist act could reasonably be considered to be done as part of public discussion or debate or as entertainment or satire, it is not to be refused classification. Mr Ruddock then goes on to say: "This protects material such as investigative journalists' work, historical analyses, material that might appear to glorify war or battle (including 'factional' or fictional accounts of war, insurgency or resistance), satirical pieces, and popular culture movies." (Refer to our submission to the Discussion Paper on proposed Amendments to the National Classification Code, available on the Classification Review website at

[http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(22D92C3251275720C801B3314F7A9BA2\)~Lesbian+and+Gay+Solidarity+Group.pdf/\\$file/Lesbian+and+Gay+Solidarity+Group.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(22D92C3251275720C801B3314F7A9BA2)~Lesbian+and+Gay+Solidarity+Group.pdf/$file/Lesbian+and+Gay+Solidarity+Group.pdf))

In the same vein in his Second Reading speech, Mr Ruddock explained that the term ‘terrorist act’ is given the same meaning as in section 100.1 of the Criminal Code but, and we quote: *“Action which is advocacy, protest, dissent or industrial action, not intended to cause serious harm, death, endangerment of life, or serious risk to health or safety of the public, is expressly excluded from being a ‘terrorist act’.”*

So, we have to wonder about Mr Ruddock’s reference to APEC (Asia Pacific Economic Cooperation Summit Meeting in Sydney on Saturday, 8 September 2007) reported in the Daily Telegraph before he made his Second Reading speech. We understand that a peaceful protest on the street outside the Summit Meeting is expected to take place so why should this legislation be applied to it? Unless, of course, his interpretation is as we have suggested above in paragraph 2.

In our opinion, with this kind of legislation it becomes easier than ever to declare a street protest to be a ‘terrorist act.’ An instruction to the police to expect violence and to present very visibly in riot gear is enough to ensure that they move in to hassle people for the smallest infringement such as straying on to a roadway. People who protest against unconscionable laws are intimidated when confronted by police wearing riot gear. It really worries us that politicians, public figures and the general public do not recognise how easy it is for police to disrupt a peaceful demonstration of dissent.

As lesbians and gay men, we know only too well from past experience of being arrested in a peaceful procession after trusting the word of police officers “to keep to the footpath.” Then discover there were, parked in side streets along the way, paddy-wagons and busloads of police who descended on us violently breaking up our procession from a Sydney gay conference and actually throwing over 70 of us into waiting paddy-wagons. At that time, they didn’t even have to declare a procession to be a terrorist action. If it is so easy to turn a peaceful protest, public dissent or industrial action into a ‘terrorist act’ the Classification Review Board surely has no need for its 1995 Act to be amended as required by this Bill.

We are mindful of something else the Attorney-General told the Daily Telegraph, 21.6.07, about “screening” technology to block recruiting websites. A software plan, he said, that’s still in its infancy –technology that detects hate publications and removes them. In his Second Reading speech, referring to the provisions of the Amendment Bill, he said: “I would prefer to see these provisions in the National Classification Code and guidelines, not in the classification act, but that requires the states’ and territories’ agreement.” Obviously, if they finally agree to his latest proposals contained in this bill, the bill will be withdrawn. He said as much in his speech. This will mean that his “screening” technology for internet sites is much more likely to be accepted by the states and territories when the technology reaches a more reliable stage. So, the Inquiry should be aware of the implications of such technology to any sites, not just terrorist ones, the government of the day may decide to block.

Furthermore, twelve months ago, the federal government-appointed Security Legislation Review Committee found that “the interference with human rights is disproportionate to anything that could be achieved by way of protection of the community” –a reference to the anti-terror laws since the 2001 September 11 attacks in New York and the further counter-

terrorism amendments following the London transport system attacks in July 2005. Now this past weekend, we have the car bombs discovered and disarmed in London and the Glasgow airport fire bomb all of which have probably scared enough of those in power here -- especially as there's a suspect in Brisbane being interrogated over his possible connection with people held in the UK over these latest events-- to want to add this Amendment Bill to compound that interference to human rights here. What a tangled web gets woven and so helpful in confusing an issue for some and very advantageous to others!

Signed: Kendall Lovett,
for Lesbian and Gay Solidarity (Melbourne).

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