



Australian Society of Authors

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July 3, 2007

Jackie Morris
Committee Secretary
Legal and Constitutional Affairs Committee
The Senate
Parliament House
CANBERRA ACT 2600

Dear Ms Morris

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

Thank you for the opportunity to comment on the above proposed bill to ban Australian publication of material advocating terrorist acts. The ASA has matters of concern with regard to the paper.

The Australian Society of Authors (ASA) is the peak body for Australia's literary creators. The ASA was established in 1963 and represents biographers, historians, illustrators, academics, cartoonists, scientists, food and wine writers, children's writers, ghost writers, librettists, travel writers, romance writers, translators, computer programmers, journalists, poets and novelists.

Our members have not expressed any concern about material that supposedly advocates terrorist acts. Rather, they have expressed concern that this proposed legislation, along with the sedition provisions of the anti-terrorist legislation, further erodes their freedom of expression as writers.

We understand that this legislation has been proposed because it is not certain that the national classification scheme adequately captures material that "advocates acts of terrorism". The ASA begs to differ. Currently, the guidelines relating to the refusal of classification for publications include those publications that "promote, incite or instruct in matters of crime or violence". Terrorist acts are undoubtedly acts of violent crime. This current classification is perfectly adequate in dealing with crimes associated with terrorism. Given that, the ASA has further concerns with what exactly is meant in the proposed legislation by the advocacy of terrorist acts that is not already covered by "promoting, inciting or instructing in matters of crime and violence". It is our view that to go further and amend the National Classification Code by adding the requirement that

publications, films and computer games that “advocate terrorist acts” be refused classification adds an additional subjective criterion to the classification of works. The grave effect that we perceive with the proposed changes is that, despite allowances for public discussion, debate, entertainment and satire in the proposed Section 9A(3), legitimately held opinions would be suppressed. The proposed legislation is so broad in its wording that the ASA believes it will act as an unnecessary damper on freedom of expression.

We cannot comprehend why a liberal, democratic society would seek to ban the expression of ideas and opinions unless they expressly promote, incite or instruct in matters of crime or violence. One could equally argue – not that we do so – that the Reverend Fred Nile’s oft expressed comments on the immorality of the Sydney Gay and Lesbian Mardi Gras *might* incite violence against gays and lesbians and hence “advocate criminal acts”. Should the Rev. Nile and people of his ilk be forbidden from expressing their opinions as such advocacy *might* lead to hate crimes and physical violence? No, we do not seek to fetter the rights of Australian to hold and express opinions, as abhorrent as some of those opinions may be. We would argue, though, that anyone committing hate crimes and the like be subject to the full force of Australian law, even if they quote the will of God as their justification for committing such crimes. The Classification Guidelines currently allow such criminal acts to be considered under law and treated accordingly.

Further, we have a concern with what is labelled as terrorism, despite the reference to the Criminal Code in the proposed legislation. Terrorism itself is a subjective term and is defined so in the Criminal Code with the reference to “the intention of advancing a political, religious or ideological cause”.

Given such an intention, let us take the example of Jesus Christ. To the Jewish leaders of his time, Christ was a terrorist, actively opposing their doctrines and rules. They called on the Romans to judge and condemn him when their own laws forbade the taking of another’s life. Today, of course, Christ is not viewed as a terrorist, and his death is regarded by many as the ultimate sacrifice.

History is lettered with this type of subjectivity masquerading as the voice of reason. So-called terrorists have been criminals one day and revered leaders the next. For example, Nelson Mandela and Mahatma Ghandi were both labelled as terrorists in their pursuit of the freedom of their peoples. Ho Chi Minh, Mao Zedong and the Irgun who fought vigorously for the establishment of the state of Israel have also been labelled terrorists – labels that today would be a matter of diplomatic interpretation.

We should also remember that both fascists and communists in the 20th century burned books whose themes and ideas they disliked – and imprisoned and murdered their authors, often under the pretext that these authors were terrorists or enemies of the state. Hence, as what may be seen as advocacy of terrorism at one point of history may be seen quite differently at another we believe it would be unwise for the Australian Government to enshrine such subjectivity within classification guidelines.

There is no doubt that writers, film producers and other creators arguing in defence of what they see as injustice (and only history can attest to the truth of that) may put forward strong and passionate points of view. But, unless in doing so these writers “promote, incite or instruct in matters of crime or violence”, the ASA sees no reason why the works of these artists should be refused classification.

Because of our concerns outlined above, the ASA remains opposed to the proposed the classification guidelines since the addition of the subjective classification “advocacy of terrorism” opens a door for further censorship of freedom of expression.

We urge the Senate legal and Constitutional Committee to resist the extension the classification guidelines in the manner proposed.

Yours sincerely

Dr Jeremy Fisher
Executive Director