



Submission by Kurdish Lobby Australia (KLA) to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) in view of the Attorney General relisting the Kurdistan Workers Party (PKK) as a terrorist organisation on 13 August 2015, under Chapter 5 Part 5.3 Division 100 - 102 of the *Criminal Code Act 1995* (revised July 2015).

Attention:

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
Canberra ACT 2600

Phone: +61 2 6277 2360

Fax: +61 2 6277 2067

Date of submission: 1 September 2015

Submitting organisation: Kurdish Lobby Australia

Kurdish Lobby Australia (KLA) is a non-partisan group of Australian Kurds and non-Kurds wishing to raise awareness of the challenges faced by people living in the Kurdish regions of the Middle East, and to promote peaceful, sustainable democratic solutions.



Kurdish Lobby Australia



Introduction

On 13 August 2015, the Attorney General relisted the Kurdistan Workers Party (PKK) as a terrorist organisation, based on the definition of a terrorist organisation in Chapter 5 Part 5.3 Division 102.1 of the *Criminal Code Act 1995* (revised July 2015) that PKK, is 'directly or indirectly engaged in preparing, planning, assisting, or fostering the doing of a terrorist act or advocates the doing of a terrorist act'. A terrorist act is defined in Chapter 5 Part 5.3 Division 101.1 as:

Action falls within this subsection if it:

- (a) causes serious harm that is physical harm to a person; or
- (b) causes serious damage to property; or (c) causes a person's death; or
- (d) endangers a person's life, other than the life of the person taking the action; or
- (e) creates a serious risk to the health or safety of the public ...; or
- (f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to (i) an information system; or (ii) a telecommunications system; or (iii) a financial system; or (iv) a system used for the delivery of essential government services; or (v) a system used for, or by, an essential public utility; or (vi) a system used for, or by, a transport system.

KLA does not support any individual or organisation using violence other than for self-defence and the defence of civilians, or when an extraordinary emergency requires such a response. Hence, we see the need for militant, as well as political action, in confronting ISIS and others who employ violence on groups and communities. As a result we are deeply concerned about the situation PKK now finds itself in, which may have led it to being relisted as a terrorist organisation under the *Criminal Code Act 1995*.

We are also concerned that the definitions of a terrorist act and a terrorist organisation in the *Criminal Code Act 1995* do not distinguish between an act of terrorism and an act of war or armed struggle. Their interpretation does not appear to take into account context, as outlined in Chapter 2 Part 2.3 (Circumstances in which there is no criminal responsibility) Division 10 (Circumstances involving external factors). Without external factors being taken into account, an organisation may unfairly be listed as a terrorist organisation.

In reviewing the relisting of PKK as a terrorist organisation we ask the PJCIS to consider the following points:

- PKK is committed to the Turkish-Kurdish peace process;
- Insofar as PKK's actions are aimed against Turkish security forces, they are in response to a war imposed by President Recep Tayyip Erdogan for political gain, and unlike the Turkish state, PKK is not targeting civilians;
- Without thorough independent investigations, it is not self-evident that PKK is responsible for the violence in Turkey since 22 July 2015.
- Classifying PKK as a terrorist organisation impedes co-ordination between the US-led coalition air campaign and PKK fighting ISIS in Syria and Iraq.



Our points are consistent with John F. Kennedy's observation, made on 13 March 1962: 'Those who make peaceful revolution impossible will make violent revolution inevitable.'

I. PKK's commitment to the Turkish-Kurdish Peace Process

Since 1923, the Turkish state has been far more politically and culturally oppressive of its Kurdish citizens than Iraq, Syria or Iran. The oppression of Kurds in Turkey stems from a constitution and political culture rooted in a fierce form of nationalism. Until the enactment of reforms by the AKP government, using the word 'Kurd' could lead to imprisonment and torture. Kurdish regions remain economic backwaters with a heavy military and police presence.

Against state-sponsored oppression, since 1923, there have been four Kurdish uprisings in Turkey. The last began in 1984. This came after the 1980 military coup, when 650,000 people were detained; 517 received the death penalty; and hundreds more died in suspicious circumstances. In the armed struggle between PKK and the Turkish state, 40,000 people lost their lives. In 1999, the PKK leader, Abdullah Ocalan, was put in solitary confinement, where he remains.

The PKK has evolved, as did Sinn Fein and the PLO. Since the 1990s, PKK has declared eight unilateral ceasefires and no longer advocates independence from Turkey. Instead it supports decentralised democratic government throughout Turkey, for example by electing rather than appointing provincial governors. The last unilateral ceasefire lasted from April 2009 until February 2011, following Erdogan's promise to resolve the Kurdish question by democratic and economic development. In March 2013, a ceasefire was successfully negotiated between Abdullah Ocalan and the Turkish state (Erdogan claiming he took no part in negotiations). Afterwards, PKK announced an end to armed struggle and made a public commitment to the Turkish-Kurdish peace process, which was supported by 70% of people in Turkey. In May 2013, PKK militia remaining in Turkey moved to the Qandil mountains of Iraqi Kurdistan. The AKP government established a commission to oversee public opinion about the peace process. No body was established to include in-country or external Kurdish, Turkish and/or international organisations to embark on concrete steps towards peace. To move the peace process forward, in February 2015, Abdullah Ocalan issued a ten-point plan, which the PKK leadership ratified but the AKP government did not. Instead, the AKP government demanded the PKK disarm before any peace process could proceed, but failed to outline the terms of disarmament, and what would be offered in return. Despite the PKK leadership repeatedly calling for independent observers to monitor the peace process, Erdogan has refused any independent monitoring.

The peace process stagnated in the lead up to the general election on 7 June 2015. From October 2014, President Erdogan made many provocative statements including 'Turkey does not have a Kurdish question', and 'YPG/YPJ [Peoples' Protection Units fighting ISIS in Syria] are terrorists, and no different to ISIS', and 'In Kobani, YPG/YPJ have no chance of winning against ISIS'. In addition, Erdogan repeatedly demonised



the pro-Kurdish People's Democratic Party (HDP) that was fielding candidates for the election, claiming it was an arm of the PKK.

During the election campaign there were 250 attacks on HDP offices and supporters. Seven HDP sympathisers were killed, for which no one has been held accountable. For example, on 18 May 2015, HDP offices in Adana and Mersin were attacked with explosive devices. On 5 June, in a HDP rally in Diyarbakir, an explosion caused the deaths of two people, injuring others.

In the 7 June election, HDP won 80 seats. The CHP (Republican Peoples' Party) won 132 seats and MHP (Nationalist Movement Party) won 80 seats, reducing the AKP majority to 258 seats in the 550-member parliament. This meant AKP had to form a coalition. By 14 August, coalition talks had failed. President Erdogan announced another election would be held on 1 November. This time, the election campaign will be run in a climate of daily violence, where anybody speaking against the government is labelled a traitor. All observers consider Erdogan is gambling that AKP will gain an absolute majority in the next election. This would pave the way for constitutional reforms to give the president more powers and serve to block investigations into AKP corruption. However, a late August poll suggests AKP has declined in popularity since June.

The HDP has called on PKK to agree to an unconditional ceasefire. On 17 August, Cemil Bayik, one of three in the PKK interim leadership council, claimed that PKK would not accept a unilateral ceasefire but would accept a ceasefire under US mediation and guarantees. He also confirmed that violence would not resolve the Kurdish question. On 25 August, another senior PKK figure, Duran Kalkan, called for armed followers to avoid harming civilians and to refrain from all unprovoked attacks on Turkish security forces, saying, 'Absolutely no attacks should be made against soldiers who have not embarked on an operation, ... who are simply at the border to defend their country or standing at a post.'

PKK has a vital role to play in re-establishing a ceasefire and a peace process, as has HDP and other Kurdish and Turkish organisations in the region and diaspora.

II. Erdogan has gone to war with PKK for political gains

Erdogan has resorted to war against PKK ... to delegitimize the Kurdish political gains ... the violence will not decline without a third party intervention and international mediation

Dr. Amir Sharifi, President of Kurdish American Education Society, Los Angeles.

After years of talking peace and winning elections as a consequence, Erdogan has gone to war on PKK to win Turkish nationalist support and gain an AKP majority in the next election; to stop YPG/YPJ controlling a contiguous area in northern Syria; and to discredit PKK's increasingly favourable international profile as an organisation



promoting peace and fighting ISIS in Syria and Iraq, which may have led to some countries delisting PKK as a terrorist organisation. The following describes a timeline of events, some of which are not reported in mainstream media.

On 20 July 2015, a suicide bomber killed 32 mainly Kurdish youths and wounded 104 in Suruc, Turkey. These youths had gathered in preparation to take medical aid across the border into Kobani. Turkish authorities claimed a Kurdish man with ISIS connections was responsible. ISIS has not claimed responsibility.

On 22 July 2015, 117 kilometres away in Ceylanpinar, two policemen were killed. Individuals in a local youth group claimed responsibility. It was asserted that the two policemen had known links with ISIS and could have prevented the attack in Suruc. Later, PKK representatives announced the individuals were not affiliated with the PKK and were not acting on orders from the PKK leadership.

Also on 22 July (13 month after ISIS took control of Mosul) the US-Turkish agreement was announced. It was heralded as a game changer. Turkey had agreed to play a greater role in the war against ISIS by arresting ISIS militants in Turkey, preventing ISIS using Turkey as a transit to and from Syria and allowing US-led coalition aircraft to fly from four Turkish air bases, including Incirlik and Diyarbakir. However, there was a lack of agreement about using these aircraft in support of YPG/YPJ forces in Syria, and no agreement about creating a safe haven along a 100-kilometre stretch of border between Azaz and Jarablus, north of Aleppo and west of the Euphrates River.

The safe haven is being pushed by Turkey as a way to enable some of the 1.8 million Syrian refugees in Turkey to return to Syria. On 18 August 2015, Ahmed Touma, president of the Syrian Interim Government, formed by the Syrian National Coalition and stationed in Turkey, claimed the safe haven would exclude ISIS, Al Nusra and YPG/YPJ. According to Touma, the interim government would move to the safe haven. This is in keeping with Turkish interests. Turkey wants to topple the Assad regime. Another priority highlighted by President Erdogan is that Turkey's security is threatened by the military and political successes of the Syrian Kurds. Their successes have enabled the establishment of multi-ethnic councils to administer three regions extending 500 kilometres along the 800-kilometre border. With the capture of Tel Abyad and surrounds in June, two regions were linked. President Erdogan has repeatedly warned that Turkey will not allow the regions to become contiguous.

On 23 July, a border skirmish resulted in the deaths of one Turkish soldier and one ISIS militant. Turkey's response was to arrest about 100 ISIS in Turkey and launch three air operations on 23 July and 28-29 of July against ISIS in Syria.

Turkey's response to the two policemen's deaths in Ceylanpinar was not to bring the Kurdish youths to justice. Instead, between 22 July and 14 August, 2,500 individuals were arrested, the vast majority being Kurds. Others were ISIS recruits and members of leftist parties including Revolutionary People's Liberation Party-Front (DHKP-C). Arrests continue but figures are no longer being released.



On 24 July Turkey also launched air and ground operations targeting PKK in Iraqi Kurdistan and eastern Turkey. YPG/YPJ forces also claim they were targeted four times by Turkish forces near Jarablus, Kobani and Tel Abyad between 27 July and early August.



Turkish security searching Kurdish youths in Diyarbakir, August 2015. (Usame Ari, AP)



Road checks by Turkish security forces in eastern Turkey, August 2015. (Reuters)



In early August, the HDP and CHP called for an investigation into who was responsible for the daily acts of violence allegedly carried out by PKK. The AKP blocked an investigation. Instead, Turkish prosecutors announced an investigation into Selahattin Demirtas and Figen Yuksekdag, the Kurdish co-chairs of the HDP, who had been elected to parliament. The prosecutors will investigate whether Demirtas and Yuksekdag incited people to take up arms on 6 October 2014, when they asked people to protest the Turkish government's policies of blocking supplies and anti-ISIS fighters at the border during the ISIS siege of Kobani, while turning a blind eye to ISIS recruits and weapons crossing into Syria. In three days of protests 33 civilians and two policemen died.

On 27 August, the Turkish state run Anatolia news agency announced that more than 400 air strikes against the PKK in Iraqi Kurdistan and eastern Turkey had killed 918 PKK fighters. In a single operation as many as 28, 30, 68 and 80 Turkish F-16s fly into Iraqi air space. These air operations are ongoing despite 9 Iraqi Kurdish civilians being killed by an air operation on 1 August, and despite the destruction of Iraqi Kurdish villages and farmlands. The Kurdistan Regional Government (KRG) and the Iraqi government have repeatedly called for the air operations to cease but Turkey considers it has international support in fighting PKK terrorists, given that in late July, the White House, NATO Secretary General Jens Stoltenberg and UN Secretary General Ban Ki-moon announced that Turkey's air operations were legitimate acts of self-defence. However, many spokespeople have called for a proportionate response and the revitalisation of the peace process.

Instead, Erdogan announced the war on PKK would continue until every PKK militant was killed or disarmed, and the Turkish cabinet is seeking parliamentary approval for a 12-month extension on military operations targeting PKK positions. One recent casualty was a female PKK militant, who was tortured, killed and dragged through the streets of Varto, before being stripped and photographed by Turkish police.

IMAGE REDACTED

Kevser Erturk, a PKK militant, brutally murdered by Turkish security police in Varto, 13 August 2015.



In eastern Turkey, security forces are not only targeting suspected PKK militants. HDP supporters and other civilians are being arrested. Civilians, including children, are being killed and wounded in clashes or cold blood. Kurdish villages have been bombed. Other villages, forests and orchards have been burnt to the ground. Turkish security forces are telling people to leave their villages before military operations commence. Such actions are reminiscent of the 1990s, when Turkish security forces destroyed 3,000 Kurdish villages.

IMAGE REDACTED

Turkish security forces killed a Kurdish man in front of his wife, August 2015. Photo supplied by International Brigades of Rojava.

In late August, the Turkish government declared 127 security zones. Civilians are banned from entering these zones. States of emergency have been called in the towns of Varto, Semdinli, Farqin, Yuksekova, Nusaybin, Lice and Silvan, involving curfews, extrajudicial killings of civilians, arbitrary arrests, cuts to water and electricity supplies, destruction of property, displacement of civilians and no-one being allowed to enter or exit the towns, including injured civilians in need of medical attention. In reaction to this, Kurdish administrations in Tunceli/Dersim and several other districts announced they would establish democratic self-rule. As a consequence, on 23 August it was reported that five mayors and two municipal officers have been imprisoned on the charge of breaking the unity of the state.

While Erdogan and other government officials call dead soldiers 'martyrs', and promise there will be many more martyrs in the war on PKK, a growing number of Turkish military personnel, their families and other citizens question the path taken by the AKP government. Most dead soldiers are from poor regions, unable to buy



their way out of military service. At some funerals, government officials are being heckled and people are speaking out. For example, at the funeral of Captain Ali Alkan on 23 August 2015, his brother, Lieutenant Colonel Mehmet Alkan, cried, 'Who has killed him? ... It's those who said there would be a solution who now only talk of war.' Alkan and others like him are accused of being disloyal to Turkey.



Clashes between Kurds and Turkish soldiers, August 2015. (ANF)



Armed clashes between Turkish soldiers and PKK in Lice, August 2015. (European Pressphoto Agency)



Aftermath of clashes in Silvan, near Diyarbakir, between Turkish security forces and the PKK youth wing, 18 August 2015. (Reuters/S. Kayar)

III PKK and non-PKK violence in Turkey

Since 22 July 2015, there have been daily reports of violence in the provinces of Diyarbakir, Hakkari, Mardin, Sirnak, Tunceli (Dersim), Van and elsewhere, allegedly committed by PKK against Turkish police and soldiers. As there are so many political groups in Turkey, without thorough independent investigations, it is not possible to confirm or deny who is to blame - whether those responsible are Kurds acting independently of the PKK leadership; militants acting under PKK orders, or unrelated organisations or individuals. Nor is it possible to confirm or deny the numbers of Turkish security forces, PKK militants, sympathisers, HDP members and other civilians who have been arrested, killed and wounded, or the contextual details of each event.

With Erdogan and others discrediting the HDP and saying the peace process is dead, and with Kurdish forces gaining an international profile fighting ISIS, Kurdish youth in Turkey are becoming more militant. For instance, PKK is accused of sabotaging three oil/gas pipelines on 28 and 29 July and 4 August. The sabotage in Sirnak of the Kirkuk-Ceyhan pipeline and subsequent oil thefts impact Iraqi Kurdistan as the KRG has been exporting oil independently of Baghdad since June 2015, following Baghdad's refusal to pay the KRG its allocated revenue since January 2014. The KRG is under huge financial pressure fighting a war against ISIS and hosting two million refugees and internally displaced people. Since the pipeline's sabotage, PKK leaders have apologised to the KRG, claiming those responsible were not acting under orders and



did not know it was the KRG pipeline. Unidentified individuals are responsible for the subsequent sabotage and thefts.

Between 24 July and 28 August, PKK claim they have killed 417 Turkish security force personnel, and that 42 PKK militants having been killed. These statistics are in contrast to official figures published by the state-run Anatolia news agency. It is possible that the statistical discrepancies relate to policemen not being included in official statistics, and official statistics including individuals not associated with PKK.

In regards to deaths caused by PKK, the PKK leadership claim all incidents for which the PKK are responsible have been in retaliation to actions by Turkish security forces, that is, they have been in self-defence or in defence of civilians. For instance, on 18 August, in defending themselves against an air and ground attack in Hakkari, PKK militants killed 32 Turkish security forces, and lost five of their own. The PKK claim no military action has targeted civilians, or has been conducted in a town or village where civilians could be endangered. Nor are their military actions furthering their political and ideological aims of democratic federalism within Turkey.

It is spurious to blame PKK for all the violence after 24 July, when there are a large number of radical leftist, anarchist and Islamic groups inside Turkey objecting to the increasingly authoritarian and erratic rule of President Erdogan. For instance, on 10 August 2015, there were five separate incidents. In Ankara, DHCP-C claimed responsibility for killing security personnel and an Islamic group that supports ISIS attacked the US embassy.

IV PKK has proved an effective, reliable ally in fighting ISIS in Iraq and Syria

In fighting ISIS in Syria and Iraq, PKK has proved a highly effective, reliable ally, alongside Kurdish forces from Iraqi Kurdistan, Syria and Iran. PKK has made a vital contribution in:

1. Makhmur, south of Erbil, and in Kirkuk province, since August 2014;
2. Mount Sinjar in northern Iraq in August 2014, rescuing thousands of Yezidi from a siege by ISIS;
3. Diyala province in northern Iraq, alongside Kurdish Peshmerga and Shia militia from Iraq and Iran, since August 2014;
4. ISIS siege of Kobani in northern Syria between October 2014 and January 2015;
5. Tel Abyad, Hasaka and elsewhere in northern Syria since February 2015, alongside YPG/YPJ and other forces, cutting supply routes into Raqqa.

An unknown number of PKK militants have been killed or wounded fighting ISIS. ISIS benefits from PKK being listed as a terrorist organisation as this inhibits the US-led coalition from co-ordinating with PKK soldiers. Turkey's arrests and killing of PKK also benefits ISIS, especially in Syria, where YPG/YPJ have been advantaged by having a large number of veteran PKK soldiers join them in their fight against ISIS.



Consequences

ISIS gains many strategic and tactical advantages if Turkey continues its war with PKK, as Turkey and PKK will be preoccupied with fighting each other rather than fighting ISIS, and if Turkey sidelines YPG/YPJ forces in Syria. Certainly, ISIS was uncharacteristically silent about the attack in Suruc and ISIS arrests in Turkey, Turkey's air operations against ISIS in Syria, and the proposed safe haven north of Aleppo, at present under ISIS control. It was not until 17 August, that ISIS released a poor quality video calling for a war on Erdogan and PKK.

Iran may also wish to influence outcomes. Iranian political and military leaders have become more vocal in their support for Kurds fighting ISIS and their wish to protect Kurdish civilians from ISIS, and have made some conciliatory steps towards their own Kurdish population. If Iran was to support PKK and Syrian Kurdish military and political activity, for instance, in forming or consolidating regions of democratic self-rule in Turkey and Syria, it would have a significant impact on Turkey.

Conclusion

We recognise the legal framework within which decisions are made about listing an organisation as a terrorist organisation. However, laws are open to interpretation. Given that the relevant definitions in the *Criminal Code Act 1995* do not appear to distinguish between an act of terrorism and an act of war, we suggest Chapter 2 Part 2.3 (Circumstances in which there is no criminal responsibility), Division 10 (Circumstances involving external factors), Subsection 10.1 (when a person has no control over the physical element causing the action); 10.2 (acting under duress); 10.3 (responding to an extraordinary emergency) and 10.4 (acting in self-defence) are relevant in reviewing the relisting of PKK.

We ask the PJCIS to take into account what is happening in Turkey, Iraq and Syria. People in the region and diaspora were initially divided about how to respond to Erdogan's war on PKK. Most did not want Turkey to descend into civil war, which has catastrophic implications for Turkey, the region and the international community, including the war on ISIS. With the AKP government's betrayal of the peace process and launch of military campaigns against PKK and Kurdish civilians in Turkey and Iraqi Kurdistan; with President Erdogan and the AKP not respecting the June election results and not heeding the HDP and CHP's repeated calls for a ceasefire; and with elements among Kurdish and non-Kurdish youths acting independently of PKK, PKK decided to act in self-defence and defence of Kurds in Turkey. Even the Australian government describes PKK as a nationalist organisation that defends the rights of an ethnic minority. Unlike the other four organisations listed as terrorist organisations, PKK is not described as extremist or a threat to democratic processes.

To defeat ISIS and stop the civil war in Turkey, the international community needs to apply all available means and resources. Support for a bilateral ceasefire and transparent peace process in Turkey will require liaising with the Turkish state, PKK and others. Given Erdogan's repeated claim he will not talk to or negotiate with terrorists, and given PKK's critical role in negotiations and its effectiveness in fighting ISIS, we ask you to consider the merits of delisting PKK as a terrorist organisation.