

QUAKER PEACE AND LEGISLATION COMMITTEE

Material that Advocates Terrorist Acts: Discussion Paper

Comments to Australian Attorney-General's Department

A. Background.

1. The Discussion Paper has arisen from a desire on the part of the Federal Government to amend the National Classification Code to include the requirement that publications, films and computer games that 'advocate terrorist acts' be refused classification. The Paper speaks of "community concerns about the public availability of material that advocates people commit terrorist acts".

2. This set of comments has been prepared by the national Quaker Peace and Legislation Committee in response to the Discussion Paper. It represents the views of the Committee and is consistent with the general approach by the Religious Society of Friends (Quakers) in Australia to the issues raised.

3. Quakers have a strong commitment to affirming the divine and humane impulses that influence all people, and seek to build a society where acceptance and mutual support are extended, and where everyone including those who are minorities are able to realise their hopes.

4. As a general principle, the Committee regards it as essential for individual Australians to enjoy the greatest possible freedom of expression compatible with the needs of others. Any move that reduces that freedom needs to be examined carefully in order to ensure that it does not undermine democratic rights and responsibilities.

B. Detailed Comments.

1. The proposed amendments to the classification guidelines must be seen in the context of the anti-terrorism legislation that has been greatly strengthened in recent years, including through the expansion of offences under the Criminal Code. Many in the Australian community regard those laws as going a long way already in terms of the restraints they place on individual freedom.

2. Evidence of the strength of provisions today can be found in the following – (a) it is now an offence to have links with proscribed organisations, (b) penalties range from 10 years to life imprisonment for directing, joining, training and funding such organisations, (c) there are now over 20 proscribed organisations in Australia. The Attorney-General has significant power to proscribe, and the level of Parliamentary scrutiny is limited.

3. The United Nations has a substantial set of resolutions and policies on anti-terrorism, which focus especially on removing the conditions conducive to terrorist acts, supporting member states in denying financial and operational havens for terrorists, and strengthening civil society. The United Nations offers guidance to member states on their implementation. A search of the relevant UN websites reveals no mention of the kinds of provisions now being contemplated by the Australian Government against publications, films and games. Given that Australia has been an active party to the negotiations within the UN system, it raises the question of whether Australia is proceeding along a path that other nations are not.

4. The Discussion Paper does not appear to indicate whether any other democratic countries are taking the same approach. It would be interesting to know whether there are similar moves afoot elsewhere, or whether this is an Australian-grown solution.

5. Given that Australia has no Human Rights Act, the safeguards available to individuals affected by the anti-terrorism provisions are limited. There is little to prevent officious authorities from using such provisions to clamp down on freedom of expression.

6. In this context it is worth noting that the issue of protection of freedom of speech has caused major media companies in Australia to join together in Australia's Right to Know Coalition. Their spokesman, John Hartigan (CEO of News Ltd) drew attention to the "more than 500 legal prohibitions that limit the release of public information". He referred to the press freedom index, issued by Reporters without Borders, which ranked Australia "behind Bosnia and Bolivia and just in front of El Salvador".

7. Richard Ackland, in an article in the *Sydney Morning Herald* on 11 May, points out that there is no mention in the proposed classification amendments of any exception to be made for the work of investigative journalists, film makers or authors in relation to satirical pieces or contentious subject matter. This is alarming, and Government assurances need to be backed up by clear statements in such provisions.

8. There are already codes and guidelines that allow censors to ban material that 'promotes, incites or instructs in matters of crime and violence'. It is disturbing that the Government feels it necessary to respond to expressions of public concern about particular cases by enshrining more heavy-handed legislative provisions, rather than allow the established agency to interpret the classification code and guidelines as they always have, taking into account the sensibilities of the Australian community.

9. Recent examples of accusations against individual Tamils and Kurds for

supporting so-called terrorist organisations through the donation of funds for humanitarian purposes indicate how broad the definition of 'terrorism' can become.

10. The Joint Parliamentary Committee on Intelligence and Security has recommended that there be an Independent Reviewer of Terrorism, and this seems an important way for Australians to have confidence in the provisions that are being made by the Government.

C. Conclusion.

1. Acts of terror are unacceptable in our world, and everyone has a responsibility to reject a violent approach to life. This can be done best through defusing terrorism rather than by enacting broad-brush legislation and regulations. The Government can assist this through positive policies and programs that enhance community and build relationships among people of different backgrounds and belief systems.
2. Freedom of expression remains a vital part of the Australian democratic process. It needs to be maintained in a manner consistent with Australia's international obligations to protect human rights.
3. Australian approaches to terrorism should be guided by the framework set by the United Nations, and should pay particular attention to the UN resolutions on ensuring human rights are protected when acting against the threat of terrorist acts.
4. An Independent Reviewer of Terrorism should be appointed to monitor the operation of legislation and guidelines and report regularly to Parliament.
5. The proposed amendments to the national Classification Code and guidelines for publications, films and computer games should not be implemented.

Canberra
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