

The violence of 'terrorist organisation' bans

Vicki Sentas explains how Britain's proscription regime forecloses rights to self determination, fuels conflicts, and facilitates state terror.

The British state has been banning 'terrorist' organisations since the 1998 listing of the IRA. Today, there are 46 militant non-state actors banned in the UK. Many of these organisations are engaged in armed struggle in self-defence against repressive regimes and are engaged in political claims for statehood, regional autonomy, or basic ethno-cultural rights. Proscription is not simply a domestic harm which inflicts criminalisation on residents and citizens of the UK. Banning organisations is a tool of British foreign policy which functions as a systemic state violence in three additional key ways: firstly by denying the application of international law and principles of self-determination; secondly, by foreclosing opportunities for peaceful settlement of conflict; and thirdly by legitimating and facilitating the state terror, ethnic cleansing, and genocide of other states.

In so far as proscription makes no distinction between armed conflicts and terrorism, it denies its targets some fundamental legal rights and protections relating to self-determination. In armed conflict, breaches of the laws of war are regulated by international humanitarian law, including the Geneva Conventions. Proscription criminalises an organisation and any individuals associated with that organisation. Proscription does not, and cannot, regulate the horrors of war and the atrocities that are committed by both sides to a conflict. Instead, by transforming non-state actors into *a priori* terrorists, proscription by the UK functions to valorise the state terror of others as 'counter-terrorism' and deny the right

to resist state violence and exercise self-determination. This effect has been described by international law theorist Antonio Cassese (1991) as institutionalised violence. Mark Muller QC discusses in detail the ways in which this institutionalised violence functions. Proscription has completely undermined the principle which prohibits the use of military force by oppressive states to suppress lawful self determination. Proscription has also delegitimated the license to use military force as a last resort as defence against oppressive regimes by peoples seeking self determination. Lastly, proscription has fundamentally reversed the principle that prohibits third states from supporting oppressive states in denying their right to self determination (Muller, 2008).

Britain undermines the principle of self-determination by criminalising diverse forms of solidarity for armed resistance against oppressive regimes. The UK Terrorism Act 2000 makes it an offence to 'belong' to, or fundraise for, a listed organisation. The Act also makes it illegal to wear or carry any item that would give rise to a reasonable suspicion that you support the organisation. Inviting any sort of support for an organisation (including non-material support) is criminalised. Helping to manage or arrange a meeting of three or more people which supports the organisation, or helps further its activities, or is addressed by a member of the organisation is also an offence.

Terrorist designation has serious consequences for many migrant diasporas – including Tamils, Kurds, Baluch, and Palestinians – who

remain connected to struggles for self-determination by virtue of being a people with a shared historical and political culture. Diaspora activists from Baluch, Tamil, and Kurdish communities have been subject to prosecutions in the UK under terrorist organisation offences. For example, in 2007 two Baluch human rights activists were prosecuted for supporting the Baluchistan Liberation Front, banned in the UK. The Baluch, one of the world's most unrecognised nations, have endured crimes against humanity perpetrated by the Pakistani military, police, and intelligence services. This includes indiscriminate bombing of civilian areas, extra-judicial killings, disappearances, torture, detention without trial and collective punishments such as the destruction of villages, crops and livestock. Baluchistan serves as a launching ground for the war in Afghanistan, and Britain has provided military support to Pakistan for its war against the Baluch. The trial revealed joint efforts by security agencies in the UK and Pakistan to quieten the defendants' dissent against Pakistani state terrorism. The evidence suggested the defendants were framed by the former Musharraf dictatorship and they were acquitted in February 2009 (Tatchell, 2010).

Prosecutions such as these give impetus to repressive campaigns against minority peoples. Not only is armed resistance labelled as terrorist, but any political action by minority peoples in furtherance of their human rights becomes prosecutable in the UK. In turn, Britain's criminalisation of solidarity for self-determination gives express support and authority to states who repress minority peoples in the name of counter-terrorism. In the context of allegations of systemic genocide and other war crimes committed by states such as Sri Lanka, Turkey, Israel and Pakistan for example, terrorist organisation prosecutions in Britain obscure and legitimate these state crimes. These prosecutions function as an institutionalised violence by supporting the repressive agenda of other states.

The collective criminalisation of communities however, also occurs

beyond formal prosecution. Diaspora communities have reported being routinely harassed by police and intelligence agencies in the UK without charge. Kurds and Tamils have been threatened with terrorist offences for carrying their respective national flags at demonstrations. The purpose of these laws is to disrupt diverse diaspora claims for self-determination, which are understood to give non-state actors legitimacy. This disruption functions through the collective punishment of street policing, and broader government agendas on migrant integration and 'national belonging', which are increasingly tied to counter-terrorism agendas. For example, continued links between migrants and their country of origin have been understood in British integration policy to present as a danger of 'divided loyalties'. Proscription is a state violence which seeks to sever migrants' legitimate links with their country of origin by expressly criminalising diverse forms of transnational affiliation and support.

The British proscription regime impedes the political resolution of intractable conflicts by labelling non-state actors as 'terrorist' and obscuring the violence of states. Proscription also erases British complicity in its colonial occupation of many states which resulted in displacing people of their homelands. For example, the origins of the bloody war between the Liberation Tigers of Tamil Eelam (LTTE) and Sri Lanka lies in the British merging of the separate Tamil and Sinhala nations into one in 1833 for the convenience of its rule. The horrific events in Sri Lanka in May 2009 where tens of thousands of Tamil civilians were killed by Sri Lankan troops in the annihilation of the LTTE were aided by the international community's banning of the LTTE as terrorist. The Permanent People's Tribunal on Sri Lanka found that in listing the LTTE as a terrorist organisation, the EU engaged in conduct which undermined the 2002 ceasefire agreement, 'in spite of being aware of the detrimental consequences to a peace process in the making' (Permanent People's Tribunal, 2010).

After the listing of the LTTE by the EU, and then the UK, Sri Lanka increased its military offensive against the LTTE. While the causes for the breakdown of the ceasefire are complex and multifaceted, proscription of the LTTE by the international community played a key role in the return to war.

The UK however has flatly denied that proscription escalates military conflict. Former Home Secretary Alan Johnson stated in 2009 that the banning of the Kurdistan Workers' Party (PKK) has had absolutely no impact on its inclusion in negotiations for peace. And yet, today the military conflict between the PKK and Turkey has escalated. A key factor in this escalation has been the refusal by Turkey to enter into talks with the PKK for peaceful resolution on the grounds that they are a terrorist organisation.

In recent years the PKK have sought to open negotiations to resolve the conflict, including offering disarmament in return for basic Kurdish rights. Abandoning its objective of secession, the PKK's main agenda is constitutional recognition of Kurdish identity and 'regional autonomy' for the Kurdish south-east. The ruling AKP party, while gesturing towards a 'democratic initiative' in 2009 has consistently refused to negotiate with the PKK on the grounds that it is a terrorist organisation. Instead, Kurdish parliamentary parties have been banned, and over 1,500 Kurdish politicians arrested and imprisoned since the announcement of the democratic initiative. Finding all avenues for political dialogue closed off, the PKK called off its unilateral ceasefire in June 2010 and has resumed its military conflict, escalating attacks against Turkish soldiers.

In 2006 Turkey amended its terrorism laws with draconian provisions that have resulted in mass deterioration in relation to freedoms of expression and association, used to collectively punish Kurds in particular. Among those frequently prosecuted are writers, journalists, Kurdish political activists, parliamentarians, and human rights defenders. Thousands of Kurdish

children have been arrested and imprisoned in adult prisons for 'supporting' terrorism, by either throwing stones or simply being in the vicinity of a pro-Kurdish demonstration. The nature and extent of repressions and violent assimilations cannot be detailed here. There remains however, no public recognition in reports by either the UK or EU of the escalated repression of the Kurds.

The denial of any political status for the PKK illustrates how proscription by Western states legitimates and extends Turkish state terror against the Kurdish people. Proscription of the PKK by the UK directly supports Turkey's strategy of non-negotiation with the PKK. Instead, the labelling of the PKK as terrorist by the UK allows Turkey to escalate repression against the Kurds as part of its 'war on terror'.

More broadly, the proscription regime as it is constituted globally means that G8 states claiming democratic credentials give impetus to state violence by less powerful nations. Proscription creates an international atmosphere in which some states are empowered to use more repressive tactics against movements for self-determination. The British state, among other states who proscribe armed conflict, deserves sustained attention for its culpability in repressing migrant diasporas and legitimating and therefore extending state violence elsewhere. ■

Dr Vicki Sentas is a postdoctoral fellow at the School of Law at King's College London.

References

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