

It's time for the US to delist the PKK — here's why | Part I

by Meghan Bodette - 23/10/2018 12:44



This November will mark 40 years since the founding of an organization that has gained greater geopolitical prominence than most non-state actors ever will. Millions of Kurds— the world’s largest nation without a state, oppressed by the autocratic states that occupy their lands— support it and consider it their political representation on the world stage. In the struggle against occupation and denial of Kurdish identity, it has evolved an ideology based on direct democracy, ecology, pluralism, and women’s liberation that poses answers to questions asked by political movements around the world for generations.

This is the PKK— Partiya Karkeren Kurdistan in Kurdish, or the Kurdistan Workers’ Party in English. Established on November 27th, 1978 by a small group of revolutionaries who felt that Turkish left movements did not adequately address the Kurdish national question, it grew into a movement comprised of armed groups and civil political organizations in the Kurdish regions of Iraq, Turkey, Iran, and Syria. Its

war against the Turkish state began on August 15th, 1984, a date still celebrated by Kurds around the world. The conflict grew throughout the 1980s and 1990s, as the Turkish state intensified its systemic oppression. In the name of “fighting terrorism,” Turkish forces razed villages, displaced hundreds of thousands of civilians, suffocated civil opposition and preserved bans on the Kurdish language and culture.

In 1999, PKK founder and leader Abdullah Ocalan was abducted from Nairobi, Kenya and forcibly returned to Turkey. His arrest and trial sparked international outrage from Kurdish communities— and continues to do so to this day. For ten years of his sentence, he was the sole prisoner on Imrali Island, and he has not been allowed to meet with his family or his lawyers since 2011.

The PKK, and the separate Kurdish organizations that share its ideology, fight on, struggling for what they call democratic autonomy in Turkey, Iraq, Iran, and Syria— a form of grassroots democracy and self-organization that protects the rights of peoples without nation-states and “overcomes” nation-state borders, based on Ocalan’s ideas. Despite facing existential threats from the region’s dictators and Islamists, they have achieved significant successes in this project.

The history of the PKK is a classic story of oppression and resistance— and like many liberation movements around the world, its resistance and struggle have been demonized as “terrorism” by powerful states who benefit from the status quo. The United States, which has historically seen Turkey as a strategic ally and important protector of American interests in the Middle East, designated the PKK as a Foreign Terrorist Organization (FTO) in 1997. At the time, US arms deals with Turkey were at a high point— a 1999 report from the Federation of American Scientists [found](#) that, from 1992 to 1998, US arms sales to Turkey were worth more than quadruple the value of all US arms sales to Turkey from 1950 to 1983.

Those arms were, without question, turned against Kurdish civilians. Human Rights Watch [found](#) that over 3,000 villages across majority-Kurdish provinces were destroyed and depopulated. Even the U.S. Department of State, in a 1994 document entitled Report on Allegations of Human Rights Abuses by the Turkish Military and on the Situation in Cyprus, admitted that U.S. weapons were ‘ubiquitous’ in the campaigns of forced displacement. Nearly all Turkish combat aircraft were, and still are, [purchased](#) from the United States, along with significant amounts of land-based military equipment and police equipment. If the decision to designate the PKK as a terrorist organization was at all related to these weapons sales, it is clear that its greatest immediate impact was to aid the Turkish state's war on Kurdish civilians and increase US complicity.

The Kurdish movement in Europe, where the PKK has been designated as a terrorist

organization by the European Union since 2002 and by individual states for years before, has called on its supporters to speak out against this designation, as it is used to demonize and criminalize all levels of Kurdish resistance and political participation. In these campaigns, many Kurdish activists have pointed out that the traditional justifications for terror designations rarely apply to the PKK, and that listing the PKK shows how these designations more often serve short-term political interests than real assessments of security and human rights. Dilar Dirik, an academic and activist of the Kurdish women's movement, [wrote](#) in 2015 that:

“In Europe, people don't need to actually commit offenses to be arrested for PKK-membership. In Germany, which pursues the most aggressive criminalization due to the long tradition of German-Turkish political and economic collaboration, the criteria for membership can be mere perceived sympathy, which is answered with phone tapping, psychological and physical violence at demonstrations, home raids, and closures of social and political institutions. Participation in social and political events, which are normally democratic rights protected under international agreements, suffice as membership criteria. Legally registered offices, student organizations, and community centers are under constant suspicion.”

Are the justifications for the PKK's terror designation any more legitimate in the United States than they are in Europe? An examination of the criteria under which the United States designates FTOs, the PKK's actions throughout its history, and the political landscape of the Middle East suggests that they are not. Once again, the designation is purely a political signal of support for Turkey, and a reminder to the Kurdish people that the US sees them as a disposable tool of foreign policy. Here, I will outline both the legal and political reasons why the designation is both incorrect and illegitimate— and what a path for overturning it would look like.

U.S. legal justifications

While the delisting process is an inherently political one— it can be done by a Congressional vote, and reflects lobbying and changes in perceived national interests— it is important to first show that there is a legal argument for removing the PKK from the list of designated terror organizations. The explanations laid out in the second part of this piece relate to political considerations, and to proof of 'sufficiently different circumstances' that can figure into the US government's decision to revoke an FTO designation. The following points relate to the legal process and relevant definitions in the United States for designating— and delisting— an FTO, and how the PKK's activity relates to it.

According to the U.S. Department of State, the legal criteria for a foreign terrorist

organization [are](#):

“The organization must be a foreign organization; the organization engages in terrorist activity or terrorism or retains the capability and intent to engage in terrorist activity or terrorism; and the terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.”

In order to be listed as an FTO, the Secretary of State must find that a given organization meets all three of these conditions. If the Secretary of State wishes to revoke an FTO designation, they must find that the circumstances that were the basis for the designation under this definition have changed.

Did the PKK ever meet all three of these criteria? The greatest argument for delisting in strict U.S. government terms rests on the last clause— “and the terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.” The organization does neither of those things— nor did it do either of them in 1997. Paradoxically, the PKK today poses less of a threat to the security of Americans than the state that pushed for the US to list it, Turkey, does.

Just weeks ago, Turkish presidential spokesman Ibrahim Kalin [threatened](#) to kidnap individuals residing in the United States who oppose Erdogan, saying that “operations similar to the one conducted in Kosovo can be carried out in other countries.” This refers to an incident in which several Turks living in Kosovo were [kidnapped](#) and sent back to Turkey, their families left unaware of their fates. The PKK has never made such a threat against the United States or persons living there. In May of 2017, members of Erdogan’s security detail— some of them armed— [brutally beat](#) members of a peaceful pro-Kurdish demonstration just blocks from the White House, hospitalizing several people and leaving them with long-term injuries. Video footage of Erdogan [conferring](#) with his bodyguards before the attack [suggests](#) that he himself may have ordered it. The PKK, in its 40 years of existence, has never harmed a single person within the United States. As in the case of the fight against ISIS, any impartial observer must again confront that the state that pressured the US to list the PKK is far more destructive than the PKK itself is.

The United States has previously delisted organizations that have injured and killed American citizens— like Iran’s Mujahedin e-Kalq (MEK), which now [hosts](#) conferences attended by the Washington elite and enjoys a close [relationship](#) with National Security Advisor John Bolton. In its statement announcing the change in that organization’s status, the State Department [noted](#) that:

“With today’s actions, the Department does not overlook or forget the MEK’s

past acts of terrorism, including its involvement in the killing of U.S. citizens in Iran in the 1970s and an attack on U.S. soil in 1992. The Department also has serious concerns about the MEK as an organization, particularly with regard to allegations of abuse committed against its own members.”

The offenses mention here include the attempted assassination of a US ambassador to Iran, participation in the Iranian hostage crisis in the late 1970s, the successful killing of an American military comptroller, and an armed attack on the Iranian mission to the United Nations in New York City that injured several personnel. These constitute far greater threats to the security of Americans than anything the PKK has done.

There is even an argument to be made, referring again to the role of organizations that espouse democratic confederalist ideology in the fight against ISIS, that the PKK and other groups that share its ideology have in fact protected civilians in the US and around the world from terrorist attacks. According to the World Economic Forum, global terrorism has [declined](#) for the past three years in a row— the same three years during which democratic confederalist organizations cleared more of Syria from ISIS than any other actor in the conflict, liberating key cities like Raqqa and organizing vulnerable communities, like the Yezidis of Shingal, for self-defense. Defeating ISIS militarily and building up resilient societies that resist extremism without outside intervention makes the world safer. Democratic confederalist organizations, including the PKK, have done this.

It is clear that the clause related to targeting Americans is the most relevant part of the designation criteria to challenge in this case: it is something the organization simply has not done and does not threaten to do. Yet a strong case can also be made that the actions of the PKK do not constitute terrorism— but rather a struggle for national liberation and resistance to occupation, an insurgency, or the actions of a legitimate party to a civil war. Neither of these contexts are synonymous with terrorism, and many of non-state actors in both roles are not designated as FTOs by the United States.

A significant body of international legal literature and precedent, much of which refers to struggles in Palestine and South Africa, affirms and develops the right to armed resistance to occupation. UN Resolution 37/43, [adopted](#) by the General Assembly in 1982, says that the UN “[r]eaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle” and “[r]eaffirms the inalienable right of...all peoples under foreign and colonial domination to self-determination, national independence, territorial integrity,

national unity and sovereignty without outside interference.” The same resolution condemns Western states that had “political, economic, military, nuclear, strategic, cultural and sports relations” with the apartheid regime in South Africa, and called on all states to support an arms embargo against it. It also condemns Israeli war crimes, including its “expansionist” activities and the bombing of Palestinian civilians.

This remarkable document shows that even the United Nations— not exactly a bastion of radicalism— defended the right to armed struggle two years before the PKK fired its first shots against Turkish forces. It is not hard to find commonalities between the behavior of the regimes the resolution condemns and the behavior of the Turkish state towards its own Kurdish minority and towards Kurdish populations in Iraq and Syria— examples of denials of basic rights based on ethnicity, forced assimilation, military attacks on civilian populations, and expansionism can be found throughout the history of the Turkish relationship with the Kurdish people. The UN, in fact, does not list the PKK as a terrorist organization, and two UN Security Council members— Russia and China— do not list it either.

Richard Falk, who served for six years as the UN Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, wrote an international legal defense of armed Palestinian resistance to Israeli occupation that also has relevant implications when considering what is and is not terrorism. Falk [found](#) that:

“Israel's failures to abide by international law, as a belligerent occupant, amounted to a fundamental denial of the right of self-determination, and more generally of respect for the framework of belligerent occupation -- giving rise to a Palestinian right of resistance. In essence, we argued that the first intifada was a valid expression of this right of resistance -- not illegal or criminal behavior on the part of the Palestinians, although specific Palestinian acts were still subject to applicable standards of international humanitarian law.”

What Turkey has done to the Kurdish people throughout the history of its existence as a state has violated international law, cannot be described as anything other than “a fundamental denial of the right to self-determination”— and so could be interpreted to give rise to a Kurdish right of resistance.

The PKK’s armed struggle could also be construed as the actions of an insurgent group or a party to a civil war— neither of which are automatically designated as terrorists. The US, in fact, refuses to list insurgent groups that fit the criteria for a terror designation far better than the PKK does. The Afghan Taliban, notably, is [not a designated FTO](#)— despite its consistent attacks on US nationals and [support](#) for the deadliest terror attack in US history— because the US feels that such a designation

would hinder negotiations with the group. Former U.S. Special Representative for Afghanistan and Pakistan James Dobbins said in a 2017 interview with Voice of America that “[t]here is no doubt that the Taliban occasionally attacks civilians intentionally, not accidentally, and that’s the definition of terrorism. And, thus, the designation would be accurate enough. The question is whether or not it would serve the U.S. and Afghan government purposes for that step to be taken.”

The US lists [only 67](#) entities as FTOs, a fraction of the number of non-state actors participating in armed conflicts around the world today. The PKK is not a uniquely bad actor— in fact, it has [signed on to the Geneva Conventions](#), repeatedly expressed its willingness to participate in peace negotiations with the Turkish state, and, as referenced before, was instrumental in the defeat of perhaps the worst actor in the Syrian conflict and saving a vulnerable religious minority. Considering the organization as an insurgent organization or party to an intrastate armed conflict would not be out of line with its behavior.

How could it be done?

Currently, there are two ways for an FTO to be delisted. US law stipulates that a terror designation can either be revoked by Congress, or removed if a review by the Secretary of State [finds](#) that “the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation.” The designated organization itself can petition for review; if five years have passed without a review, the Secretary of State must conduct one. Section 219 of the Immigration and Nationality Act, which governs this process, [says](#) that the organization petitioning a review must “provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the organization is warranted.”

There are pros and cons to each possible method. US governing institutions are not created equal— Congress as a whole is more open to radical change on foreign policy than the State Department, which shows a preference for established allies like Turkey, is. A bill can take months, if not years, to pass Congress, and then must be signed by the President— a time-consuming process that must secure the approval of many people. A review by the Secretary of State would be faster and involve fewer sources of input. The partisan makeup and specific personalities involved also play a factor— divisions within the current Congress and administration over the US-Turkey relationship illustrate this. Department of Defense officials and Special Envoy to the Global Coalition to Defeat ISIS Brett McGurk, for example, are more willing to support the YPG, SDF, and Democratic Autonomous Administration of Northeast Syria at the

expense of Turkish preferences than individuals affiliated with the Department of State and CIA are. Such divisions even exist within individual agencies themselves. Secretary of State Mike Pompeo is more confrontational with Turkey than former Secretary of State Rex Tillerson was— as the case of Andrew Brunson shows. A petition for reconsideration would have to come directly from the organization itself— while pressure for a Congressional revocation would rely on lobbying from non-proscribed individuals and groups within the United States.

It is beyond the scope or intention of this article to suggest which route would be most conducive to an effective delisting process. However, that both routes have benefits and drawbacks that must be considered is important to note for anyone considering all practical aspects of the process.

It is also important to note that, for both process, there must be proof that circumstances today are “sufficiently different” from the circumstances under which the PKK was designated as a terrorist organization in 1997, and there must be political will for delisting— US politicians must be able to say why they are making this choice. There are several arguments that would likely meet and surpass this standard. They will be presented in the second part of this piece.

[Read Part II](#)