



## Zionist Federation of Australia submission to the Parliamentary Joint Committee on Intelligence and Security inquiry into extremist movements and radicalism in Australia

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### Introduction

This submission will focus on the following term of reference:

Changes that could be made to the Commonwealth's terrorist organisation listing laws to ensure they are fit for purpose, address current and emerging terrorist threats, reflect international best-practice, and provide a barrier to those who may seek to promote an extremist ideology in Australia.

The threat to Australian nationals and Australia's national security by terrorism and extremism is evolving. The Australian Government approach to the threat of extremism and terrorism needs to be holistic, in order to maintain and grow its suite of tactics that restrict the operational environment of—and ease of recruitment for—terrorist organisations and violent extremist movements.

### Recommendations

1. The Australian Government and its agencies should further utilise a holistic approach to combating terrorism, bringing it into line with international best practice.
2. S. 102.1(2) of the Criminal Code should be amended to include, "or has an organisational association with a listed terrorist organisation" (with 'organisational association' appropriately defined).
3. ASIO should be directed, either in legislation or regulation, as to the criteria it must consider (at minimum) when determining whether to recommend that an organisation be proscribed.
4. In determining whether to recommend that an organisation be proscribed, ASIO should consider whether an organisation's activities threaten an international partner.
5. In determining whether to recommend that an organisation be proscribed, ASIO should consider whether an organisation willingly and knowingly associates with a listed terrorist organisation.

### A holistic approach

The Australian Government, as well as state and territory governments, already approach terrorism with a holistic mindset. For instance, state and federal police forces work with local communities, academics and other relevant parties to help prevent radicalisation and limit the influence of violent extremists. The sound logic of this

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#### REPRESENTATION. ADVOCACY. CONNECTION.

• President Jeremy Leibler • Chief Executive Officer Ginette Searle •

• Constituent Organisations State Zionist Councils of: ACT • New South Wales • Queensland • South Australia • Victoria • Western Australia

• Affiliated Organisations: Ameinu • ARZA • Australian Forum of Russian Jewry • Australasian Union of Jewish Students • Australian Zionist Youth Council • Friends of Likud • Jewish National Fund Australia  
• Maccabi Australia • Maccabi Masorti Australasia • Mizrahi Organisation • National Council of Jewish Women Australia • Union for Progressive Judaism • United Israel Appeal Australia  
• Women's International Zionist Organisation •

approach is aimed at preventing impressionable people from being radicalised and, thereafter, supporting or committing terrorist acts.

However, there remain two gaps in Australia's approach. The first is allowing a grey area for organisations to legally, knowingly associate with terrorist groups. The second is a lack of care for our international partners. The point of closing these gaps is to make the operational environment of terrorist organisations harder to navigate, and also to make starker the difference and distance between legal free speech on the one hand and support for violent extremism and terrorism on the other.

## A grey area

Terrorism is a coercive or intimidatory action or threat of action intended to advance a political, religious or ideological cause.<sup>1</sup> There are many legal actions individuals or organisations might take in order to advance the same political, religious or ideological cause, and almost all of these do not and should fall afoul of Australian terrorism legislation. However, there exists a grey area, where organisations may undertake legal actions specifically aimed at making the operational and recruitment environment for terrorist organisations easier.

This grey area needs to be the subject of careful consideration to prevent ease of operation for terrorists, whilst ensuring the fundamental rights of Australian nationals are maintained.

The wide net that Australian legislation casts to prohibit actions individuals might take in support of terrorism prevents Australian individuals from operating in such a grey area. In short, individuals may not commit or attempt to commit a terrorist act; provide or receive training associated with terrorist acts; possess a thing connected with a terrorist act; collect or make documents likely to facilitate terrorist acts; prepare for or plan a terrorist act; direct the activities of a terrorist organisation; be a member of a terrorist organisation; recruit for a terrorist organisation; provide or receive training for or from a terrorist organisation; provide, collect or receive funds for or from a terrorist organisation; provide support or resources to a terrorist organisation; associate with a terrorist organisation; finance terrorism or a terrorist; or contravene a control order.<sup>2</sup>

However, the prohibitions in the legislation apply far more narrowly to organisations than they do to individuals. Organisations are listed as terrorist organisations only if they engage in, prepare, plan, assist in, foster or advocate the doing of a terrorist act.<sup>3</sup>

Australian Governments have to date interpreted this narrowly. For instance, in its listing of Hezbollah's External Security Organisation (ESO), the Australian Government notes,

The broader goals of Hizballah are the 'liberation' of Jerusalem, the destruction of Israel, and the establishment of a Shia-led Islamic state in Lebanon.

The ESO sits under the military wing of Hizballah: alongside, but distinct from, Hizballah's formal militia and military activity. The ESO operates as a discrete branch or entity within Hizballah. ESO operations include procurement, intelligence, counter intelligence, surveillance, planning, coordination and execution of terrorist attacks against Hizballah's enemies outside of Lebanon.<sup>4</sup>

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<sup>1</sup> See definition of 'terrorist act' in Criminal Code 1995, s. 100.1 (1)

<sup>2</sup> Criminal Code 1995, ss. 101.1, 101.2, 101.4, 101.5, 101.6, 102.2, 102.3, 102.4, 102.5, 102.6, 102.7, 102.8, 103.1, 103.2, 104.27, 104.27A

<sup>3</sup> Criminal Code 1995, s. 102.1(2)

<sup>4</sup> Australian Government, n.d. (accessed 4 January 2021),

<https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/HizballahsExternalSecurityOrganisationESO.aspx>

Despite the facts that the ESO sits under the military wing of Hezbollah, that Hezbollah has a formal militia (which has engaged, *inter alia*, in ethnic cleansing in Syria since 2011<sup>5</sup>), and that among Hezbollah's goals are the destruction of Israel and the establishment of a Shia-led Islamic state in Lebanon, Hezbollah itself isn't proscribed by the Australian Government.

Numerous public sources have made clear that all Hezbollah decision-making, including in regards to its violent activities, are made by its seven-member Majlis a-Shura (Shura Council, Consultative Council), which includes a subordinate Majlis al-Jihad (Jihad Council).<sup>6</sup> According to Matthew Levitt, a former US Treasury deputy assistant secretary, FBI counter-terrorism analyst and US State Department counter-terrorism adviser,

The Jihad Council is responsible not only for Hezbollah's formal militia activity (the Islamic Resistance) but also for its covert activity—at home and abroad—under the auspices of the IJO [i.e. Islamic Jihad Organisation, the External Security Organisation]. To accomplish its mission the Jihad Council is divided into several smaller units in charge of protecting the leadership, carrying out internal and external surveillance, and overseas operations.<sup>7</sup>

Indeed, Hezbollah's long-serving Deputy Secretary-General Na'im Qassem said in 2009,

Hezbollah has a single leadership as represented in the Shura and at its head, the secretary general [Hassan Nasrallah]. All political, social and jihadi work is tied to the decisions of this leadership. The same leadership that directs the parliamentary and government work also leads jihadi actions in the struggle against Israel. There is one decision that has a mechanism and structure for implementation. That is how Hezbollah is even if other parties need to picture it otherwise in order to justify their actions..."<sup>8</sup>

Whether or not Hezbollah's leadership *directs* the ESO can be put to one side temporarily. The Hezbollah organisation's many activities—political, commercial (including international drug trafficking) and social welfare—are designed to complement its terrorism activities (and vice versa). In doing so, Hezbollah's strategic objectives are advanced.

In short, the entire Hezbollah organisation intentionally associates with the ESO, and this association provides support to the ESO (and is designed to do so). S. 102.8 of the Criminal Code prohibits an *individual* from associating with a terrorist organisation in such a manner:

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<sup>5</sup> European University Institute, 13 March 2020 (accessed 15 January 2021), [https://cadmus.eui.eu/bitstream/handle/1814/66546/MED\\_WPCS\\_2020\\_4.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/66546/MED_WPCS_2020_4.pdf?sequence=1&isAllowed=y)

<sup>6</sup> See, among others, US Department of State, 17 September 2020 (accessed 6 January 2021), <https://www.state.gov/remarks-at-ajc-hizballah-europe-event/>; Washington Post, 26 August 2020 (accessed 4 January 2021), [https://www.washingtonpost.com/national-security/man-convicted-in-2005-assassination-of-former-lebanese-prime-minister-was-part-of-a-hezbollah-hit-squad-officials-say/2020/08/25/543cbf1a-e6e0-11ea-bc79-834454439a44\\_story.html](https://www.washingtonpost.com/national-security/man-convicted-in-2005-assassination-of-former-lebanese-prime-minister-was-part-of-a-hezbollah-hit-squad-officials-say/2020/08/25/543cbf1a-e6e0-11ea-bc79-834454439a44_story.html); US Treasury, 13 September 2012 (accessed 7 January 2021), <https://www.treasury.gov/press-center/press-releases/Pages/tg1709.aspx>; US Senate Committee on Armed Services, 10 March 2009 (accessed 7 January 2021), p. 16, [https://books.googleusercontent.com/books/content?req=AKW5QadlCo8fz96lSQEzCI-5AN9RaZklxNkGtLoPgdzBLAsroa-qDBMGKEqYKlbzlexzpPQQOgx9xnUUgi-cYeq9FiM7qUvDpmYV43W2nqxZ77KWAtJgn8N3Bt7VcNXQ1uXRV0eGzF0uabfA3HHgVgDAwnEYNiZgBMXEpX3ZGEuJo7CMnG3CHSLKsO1jwPCRwHL6w6dJSVEJ8WRA\\_B4TmNrnVvqe5G6JEUrc7e\\_4xuep0XeOc-BuH0scwLEXQmaj1TX9urCp0kIfvNd73WoV5FmxW-LIVFCw](https://books.googleusercontent.com/books/content?req=AKW5QadlCo8fz96lSQEzCI-5AN9RaZklxNkGtLoPgdzBLAsroa-qDBMGKEqYKlbzlexzpPQQOgx9xnUUgi-cYeq9FiM7qUvDpmYV43W2nqxZ77KWAtJgn8N3Bt7VcNXQ1uXRV0eGzF0uabfA3HHgVgDAwnEYNiZgBMXEpX3ZGEuJo7CMnG3CHSLKsO1jwPCRwHL6w6dJSVEJ8WRA_B4TmNrnVvqe5G6JEUrc7e_4xuep0XeOc-BuH0scwLEXQmaj1TX9urCp0kIfvNd73WoV5FmxW-LIVFCw)

<sup>7</sup> *Hezbollah: The global footprint of Lebanon's party of God*, 2013, p. 15

<sup>8</sup> Middle East Media Research Institute (MEMRI), 24 July 2013 (accessed 6 January 2021), <https://www.memri.org/reports/senior-hizballah-officials-and-associates-there-no-distinction-between-hizbullahs-political-Qassem-has-made-similar-statements-on-many-other-occasions; these are reproduced in the MEMRI article.>

- (1) A person commits an offence if:
- (a) on 2 or more occasions:
    - (i) the person intentionally associates with another person who is a member of, or a person who promotes or directs the activities of, an organisation; and
    - (ii) the person knows that the organisation is a terrorist organisation; and
    - (iii) the association provides support to the organisation; and
    - (iv) the person intends that the support assist the organisation to expand or to continue to exist; and
    - (v) the person knows that the other person is a member of, or a person who promotes or directs the activities of, the organisation; and
  - (b) the organisation is a terrorist organisation because of paragraph (b) of the definition of terrorist organisation in this Division (whether or not the organisation is a terrorist organisation because of paragraph (a) of that definition also).<sup>9</sup>

However, the Criminal Code—at least as interpreted to date by Australian Governments—appears to allow *organisations* to associate with terrorist organisations.

## An international approach

Terrorism is not merely an Australian problem. Australian authorities have and continue to cooperate with key international partners to help prevent terrorism both here and internationally. However, a holistic approach would see Australian proscription laws become more internationalist.

The international nature of sophisticated terrorism-supporting organisations means they undertake different activities in many different countries. Typically, those countries that have good law and order, such as Australia, will see relatively less illegal activity, whereas countries with weaker law and order might witness much more criminal conduct, such as money laundering and drug smuggling activities, by the same overarching organisation.<sup>10</sup> However, all these activities—whether legal or illegal, whether in Australia or abroad—complement and are designed to make easier the operational environment of ‘terrorist wings’ of terrorism-supporting organisations and ultimately to foster or assist terrorist activity.

Further, the nature of social media networks means we need to fight radicalisation—including support in Australia for foreign terrorist groups—to support international partners, just as we expect our partners to fight radicalisation in their own countries, to prevent terrorism here or against Australian nationals abroad. We note that, for example, the radicalisation of Australian national Brenton Tarrant in Australia resulted in his terrorist attack in New Zealand, when he murdered 51 worshippers in two Christchurch mosques in March 2019.

Actions Australia can undertake to prevent terrorism against our international partners are in Australia’s interest to take. Such actions would also help promote Australia’s reputation and self-perception as a good international citizen.

As will be discussed below (see, ‘A change in ASIO’s approach’), Australia *notes* whether likeminded countries have proscribed an organisation, but doesn’t appear to actively consider how to help likeminded countries in their fight against terrorism when considering whether or not to proscribe an organisation. A holistic approach, which

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<sup>9</sup> Criminal Code 1995 s. 102.8

<sup>10</sup> That said, Hezbollah has conducted money laundering operations connected with its international drug smuggling in Australia as well. Al-Arabiya, 23 January 2014 (accessed 19 January 2021), <https://english.alarabiya.net/en/News/world/2014/01/23/Money-Laundering-ring-funding-Hezbollah-cracked-by-Australian-police>

uses all available means to restrict the ability of terrorist organisations to recruit or operate, would see Australia change its approach in this regard.

## Comparing the five eyes

In light of the above discussion, it is worth comparing how the five eyes countries proscribe terrorist organisations.

In 2007, the Parliamentary Joint Committee on Intelligence and Security (PJCIS) held an inquiry into Australian terrorism listing laws. This included a comparison with how the five eyes countries list terrorist organisations.<sup>11</sup> Broadly speaking, none of the countries has changed their approach in the last 14 years.

In the **United Kingdom**, an organisation is proscribed if it: commits or participates in acts of terrorism, prepares for terrorism, promotes or encourages terrorism (including the glorification of the commission or preparation of acts of terrorism), or is otherwise concerned in terrorism.<sup>12</sup> In determining whether to proscribe an organisation, the UK Home Secretary considers “the need to support international partners in the fight against terrorism”.<sup>13</sup>

In **Canada**, an organisation is proscribed if “(a) the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist act; or (b) the entity is knowingly acting on behalf of, at the direction of or in association with an entity referred to in (a).”<sup>14</sup>

Canada proscribes organisations that act in association with a proscribed terrorist organisation. The effect of this is to cast an ever-widening net, thereby providing individuals and organisations that associate with a newly-proscribed organisation a choice; do they continue their association and risk being proscribed themselves, or do they stop associating with it? Thus, the operational environment for terrorists becomes smaller and harder to navigate.

The Canadian approach is similar to that of the United States, though less expansive.

In the **United States**, organisations may be designated as a foreign terrorist organisation if it is foreign, engaged in terrorist activity, and perceived as a threat to the US or US nationals. The US also has Executive Order 13224, which allows the US “to disrupt the financial support network for terrorists”. Individuals or entities are designated if they “have committed, or pose a significant risk of committing, acts of terrorism that threaten the security of US nationals or the national security, foreign policy, or economy of the US... [or are] owned or controlled by, or act for or on behalf of an individual or entity [already designated] ... [or] assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities [already] designated.”<sup>15</sup>

There are a handful of differences between these two types of designations, but the key difference, in terms of our discussion, is that the US Treasury can designate additional entities that provide support for or that are

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<sup>11</sup> Parliament of Australia, September 2007 (accessed 7 January 2021), [https://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=pjcis/proscriptio n/report.htm](https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=pjcis/proscriptio n/report.htm)

<sup>12</sup> Terrorism Act 2000 (UK), s. 3(5-5A), <https://www.legislation.gov.uk/ukpga/2000/11/part/II> (accessed 14 January 2021)

<sup>13</sup> Legislation UK, 2004 (accessed 18 January 2021), [https://www.legislation.gov.uk/ukdsi/2014/9780111112960/pdfs/ukdsiem\\_9780111112960\\_en.pdf](https://www.legislation.gov.uk/ukdsi/2014/9780111112960/pdfs/ukdsiem_9780111112960_en.pdf)

<sup>14</sup> Criminal Code 1985 (Canada), s. 83.02, <https://laws-lois.justice.gc.ca/eng/acts/c-46/page-14.html#h-116404>

<sup>15</sup> US Department of State, n.d. (accessed 14 January 2021), <https://www.state.gov/executive-order-13224/>

otherwise associated with an EO 13224 designated entity.<sup>16</sup> The point of this mechanism is—similar to Canada—that by casting an ever-wider net, it makes it more difficult for terrorist organisations to operate.

In **New Zealand**, an entity is designated on a three-month interim basis if the prime minister has ‘good cause to suspect’ or a three-year ‘final basis’ if the prime minister ‘believes on reasonable grounds’ that it has carried out or participated in carrying out a terrorist act. The prime minister can similarly designate an ‘associated entity’ if it is knowingly facilitating the carrying out of a terrorist act by, or with the participation of, the terrorist entity (for example, by financing those acts, in full or in part); or is knowingly acting on behalf of, or at the direction of, a terrorist entity or an associated entity or is an entity (other than an individual) that is wholly owned or effectively controlled, directly or indirectly, by a terrorist entity or associated entity.<sup>17</sup>

It is of interest that New Zealand makes a definitional distinction between an organisation that carries out a terrorist attack (‘terrorist entity’) and an organisation that willingly associates with a terrorist entity (‘associated entity’). Despite this definitional distinction, associating with a proscribed associated entity is prohibited and will cause an organisation to also be proscribed.

A holistic approach to countering violent extremism would include prohibiting any action or association that knowingly and purposefully makes easier terrorist activity in Australia or abroad.

In regards to individuals, Australian law is broadly adequate in this matter, but Australian law in regards to the proscription of organisations is not.

**Recommendation 1:** The Australian Government and its agencies should further utilise a holistic approach to combating terrorism, bringing it into line with international best practice.

## A change in law

A holistic approach would see the Australian Government prohibit—for an organisation—any terrorism-supporting action that is also prohibited for individuals.

Currently, and as above, Australian law focuses on proscribing an organisation if it engages in, prepares, plans, assists in, fosters or advocates the doing of a terrorist act.<sup>18</sup> But organisations that knowingly and willingly cooperate with terrorist *organisations* are not proscribed. This would be rectified if s. 102.1(2) of the Criminal Code were to be amended, to become:

Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of terrorist organisation in this section, the AFP Minister must be satisfied on reasonable grounds that the organisation:

- (a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
- (b) advocates the doing of a terrorist act; or
- (c) has an organisational association with a listed terrorist organisation.

<sup>16</sup> US Department of State, 27 February 2018 (accessed 14 January 2021), <https://www.state.gov/terrorism-designations-faqs/>

<sup>17</sup> Terrorism Suppression Act 2002 (New Zealand), ss. 20-23, 35  
<https://www.legislation.govt.nz/act/public/2002/0034/latest/whole.html>

<sup>18</sup> Criminal Code 1995, s. 102.1(2)

The amended legislation would include a definition of ‘organisational association’ similar to the prohibitions on individuals found in s. 102.8.

S. 102.8 reads, in part,

- (1) A person commits an offence if:
  - (a) on 2 or more occasions:
    - (i) the person intentionally associates with another person who is a member of, or a person who promotes or directs the activities of, an organisation; and
    - (ii) the person knows that the organisation is a terrorist organisation; and
    - (iii) the association provides support to the organisation; and
    - (iv) the person intends that the support assist the organisation to expand or to continue to exist; and
    - (v) the person knows that the other person is a member of, or a person who promotes or directs the activities of, the organisation; and
  - (b) the organisation is a terrorist organisation because of paragraph (b) of the definition of terrorist organisation in this Division (whether or not the organisation is a terrorist organisation because of paragraph (a) of that definition also).<sup>19</sup>

For the purposes of an adapted s. 102.1(2), Parliament could consider adopting a definition of ‘organisational association’, perhaps similar to the following:

#### Definition of **organisational association**

1. In this Division, an organisation has an **organisational association** with a terrorist organisation if,
  - a. the organisation knowingly and voluntarily has a bureaucratic or financial relationship with
    - i. a terrorist organisation; or
    - ii. a person who is a member of, or a person who promotes or directs the activities of, a terrorist organisation; and
  - b. the association provides support to assist the terrorist organisation to expand or to continue to exist; and
  - c. the terrorist organisation is a terrorist organisation because of paragraph (b) of the definition of terrorist organisation in this Division (whether or not the organisation is a terrorist organisation because of paragraph (a) of that definition also).

Consistent with the approach in Canada, the United States and New Zealand, Australian legislation should treat organisations that associate with terrorist organisations, in effect, as terrorist organisations. That would curtail the operational environment of terrorists, as it would cause law-abiding organisations to desist from associating with or in any other way cooperating, coordinating or purposefully complementing a terrorist organisation.

**Recommendation 2:** S. 102.1(2) of the Criminal Code should be amended to include, “or has an organisational association with a listed terrorist organisation” (with ‘organisational association’ appropriately defined).

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<sup>19</sup> Criminal Code 1995 s. 102.8



## A change in ASIO's approach

As above, in 2007, the PJCS held an inquiry into proscription laws. The Attorney-General's Department, the Australian Security Intelligence Organisation (ASIO), the Australian Federal Police, the Department of Foreign Affairs and Trade and the Commonwealth Director of Public Prosecutions made a combined submission (hereinafter the AGD submission). The AGD submission noted that,

In considering whether to put forward an organisation for possible listing as a terrorist organisation, ASIO evaluates an organisation against a range of factors, including:

- engagement in terrorism
- ideology and links to other terrorist groups/networks
- links to Australia
- threat to Australian interests
- listing by the UN or like-minded countries and
- engagement in peace/mediation processes.<sup>20</sup>

Although ASIO's approach considers whether like-minded countries proscribe a terrorist organisation, it is of note this approach does not specifically refer to international partners' fights against terrorism, as does the UK Home Secretary's list of considerations. A holistic approach, which recognises that helping to fight radicalisation and terrorism in Australia also means helping other countries fight terrorist groups or terrorism-supporting networks that don't necessarily engage in violent activities in Australia, would see this change.

It is also of interest that the AGD submission notes,

The criteria mentioned above are not expressly specified in the Criminal Code as matters requiring consideration by the Attorney-General under subsection 102.1(2). In particular, there is no statutory requirement to establish a nexus between an organisation and Australia for the purpose of specifying the organisation as a terrorist organisation under the Act.

The Criminal Code does not refer to a Statement of Reasons, or any particular criteria for listing an organisation, other than that specified under section 102.1(2)(a) or (b).<sup>21</sup>

It is good that ASIO applies specific criteria when determining whether to recommend to the Minister that an organisation be proscribed, and it is good that these criteria are public. However, while ASIO's statutory independence needs to be maintained, that legislation or some other regulation does not direct ASIO as to the relevant considerations when determining whether to recommend that an organisation be proscribed risks allowing a divergence between the intentions of the Australian electorate (as reflected by the Parliament) and the actions of the Australian Public Service.

Were the criteria ASIO had to consider (at minimum) be enshrined in legislation or regulation, ASIO could be directed, for example, to focus on whether organisations that threaten our international partners and/or associate with terrorist organisations should be proscribed, because they indirectly threaten Australian security and/or assist a proscribed terrorist organisation by allowing a freer environment in which to operate. Indeed, as the AGD submission noted,

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<sup>20</sup> Attorney-General's Department, February 2007 (accessed 14 January 2021), p. 6, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=pjcs/proscription/submissions/sub10a.pdf](https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=pjcs/proscription/submissions/sub10a.pdf)

<sup>21</sup> Attorney-General's Department, February 2007 (accessed 14 January 2021), p. 6, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=pjcs/proscription/submissions/sub10a.pdf](https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=pjcs/proscription/submissions/sub10a.pdf)



Terrorism is not a phenomenon that is relevant only to a particular region or country; it is a global problem that requires a global response. Being able to proscribe an organisation as a terrorist organisation is a part of that global response and gives effect to Australia's international obligations to combat terrorism.<sup>22</sup>

**Recommendation 3:** ASIO should be directed, either in legislation or regulation, as to the criteria it must consider (at minimum) when determining whether to recommend that an organisation be proscribed.

**Recommendation 4:** In determining whether to recommend that an organisation be proscribed, ASIO should consider whether an organisation's activities threaten an international partner.

**Recommendation 5:** In determining whether to recommend that an organisation be proscribed, ASIO should consider whether an organisation willingly and knowingly associates with a listed terrorist organisation.

## A note on right-wing extremism

Right-wing extremism is a growing threat in Australia.<sup>23</sup> Although no right-wing organisation has been proscribed in Australia, that the threat is growing, becoming more organised and more ideological, and that likeminded countries have proscribed right-wing organisations<sup>24</sup>, makes it likely that such a proscription could occur in the future.

Internalising a holistic approach, including incorporating the suggestions in this submission, would be advantageous in the fight against right-wing extremism in Australia. First, ASIO would consider proscribing foreign right-wing terrorist organisations if, in doing so, our international partners would be aided in their fight against right-wing terrorists. Second, by prohibiting both individuals *and organisations* from associating with those foreign right-wing terrorists, Australia would decrease the operational and recruitment capability of right-wing extremist movements in Australia, as well as abroad.

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<sup>22</sup> Attorney-General's Department, February 2007 (accessed 14 January 2021), p. 7, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=pjcis/proscriptio n/submissions/sub10a.pdf](https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=pjcis/proscriptio n/submissions/sub10a.pdf)

<sup>23</sup> Australian Security Intelligence Organisation, 15 October 2020 (accessed 19 January 2021), <https://www.asio.gov.au/australias-security-environment-and-outlook.html>

<sup>24</sup> For instance, Canada proscribed 'Proud Boys' (which has a presence in Australia) in February 2021, and the US proscribed the Russian Imperial Movement in April 2020. See ABC, 4 February 2021 (accessed 4 February 2021), <https://www.abc.net.au/news/2021-02-04/canada-puts-proud-boys-on-terror-list-calls-group-neo-fascist/13120082> and US Department of State, 7 April 2020 (accessed 4 February 2021), <https://2017-2021.state.gov/united-states-designates-russian-imperial-movement-and-leaders-as-global-terrorists/index.html>