

Parliamentary Joint Committee on Intelligence and Security

Report by Statement

**Review of the 2023 relisting of three organisations as terrorist organisations
under the Criminal Code**

September 2023

Mr Speaker, I rise today to present a report by statement from the Parliamentary Joint Committee on Intelligence and Security, for the review of regulations re-listing three organisations as terrorist organisations under Division 102 of the *Criminal Code Act 1995*.

Under the Criminal Code, regulations may be made which specify an organisation as a terrorist organisation, for up to a three-year period; provided the Minister responsible for the Australian Federal Police—currently the Attorney-General— is satisfied on reasonable grounds that the organisation directly or indirectly engages in terrorism; or advocates the doing of a terrorist act. Organisations previously listed may be re-listed for further three-year periods if the Attorney-General remains satisfied that their terrorist activities continue.

The regulations subject to this review relate to Islamic State, Islamic State West Africa Province, and Boko Haram. All three organisations were already listed as terrorist organisations under the Criminal Code. The present regulations re-list them for a further three years from 1 July 2023.

The effect of being listed as a terrorist organisation under the Criminal Code is to trigger the application of offences for supporting or associating with the organisation in specified ways; such as being a member of, recruiting for or providing funding to it.

Under section 102.1A of the Criminal Code, the Committee may review the regulations that list or re-list terrorist organisations, and report its comments and recommendations to each House of the Parliament before the end of the 15 sitting day disallowance period for the regulations.

In determining whether the regulations re-listing the three organisations should be supported, the Committee reviewed the Attorney-General's explanatory statement and statement of reasons for re-listing the organisations, and other publicly available information. The Committee also invited submissions on the listings, and received one submission from a member of the public.

The Committee noted the following information about the organisations.

Islamic State is a Sunni Islamic extremist group which has historically operated and controlled territory in Northern Iraq and Syria. IS was first listed by the Australian Government as a terrorist organisation in 2005, under its previous name of 'al Qa'ida in Iraq', and has been re-listed consistently since. Known by a range of pseudonyms, Islamic State is a self-declared Caliphate with global ambitions, which seeks to subjugate through terror those who do not follow its doctrine.

IS has a brutal history of prosecuting its agenda, and in doing so has commissioned numerous crimes against humanity. While IS no longer controls territory in Northern Iraq and Syria, IS remains one of the world's deadliest and most active terrorist organisations, regularly conducting attacks and sanctioning others to do likewise.

Australians have directly suffered at the hands of those influenced by Islamic State, notably in the tragic siege of the Lindt café in Sydney in 2014; whose perpetrator had sworn allegiance to IS. IS has openly called for attacks against Australia and Australian interests.

Since IS was last proscribed as a terrorist organisation, in July 2020, the group can be attributed to the commissioning of at least 9 terrorist attacks that have resulted in the deaths of 268 people, plus numerous injuries; in Syria, Iran, Israel, Iraq and Austria.

Boko Haram is a Sunni Islamic extremist group which operates in Nigeria and along the Nigeria-Cameroon border. It was first listed in 2014, and has been consistently listed since.

Following a pledge of allegiance to Islamic State in 2015, and a subsequent internal split in 2016, Boko Haram's allegiance to Islamic State is currently unclear. However, Boko Haram continues to recruit members through a combination of coercion, exploitation, kidnapping, and fearmongering, with some members joining the group in order to avoid becoming a target of it.

Since it was last listed, Boko Haram has continued to engage in terrorist activities and kidnappings against civilian and military targets across Nigeria and in neighbouring countries, and is responsible for over 180 deaths.

Islamic State West Africa Province is a Sunni Islamic extremist group which operates primarily in Nigeria. ISWAP was formed from the split within Boko Haram, and was first listed on 1 July 2020 as a separate entity.

ISWAP shares the extremist ideology of Islamic State. It promotes sectarian violence, is anti-government, rejects the sovereignty of states, and is one of the greatest security threats to Nigeria—and by extension, a threat to stability across Africa.

Since it was listed in 2020, eight instances of terrorist activity can be reliably attributed to ISWAP. Its targets have included civilians, the Nigerian military, police and worshippers at a Catholic Church, and it has occasioned the death of approximately 300 individuals, significant injury, and a mass prison-break.

While neither Boko Haram or Islamic State West Africa Province have undertaken direct attacks against Australians or Australian interests, they have issued statements threatening foreigners, and the interests of Australia and its allies more broadly. Accordingly, both organisations have been listed as terrorist organisations by likeminded countries, including New Zealand, Canada and the United States; as well as the United Nations.

Mr Speaker, the Australian Government's assessment is that Islamic State, Boko Haram, and Islamic State West Africa Province continue to be directly or indirectly engaged in preparing, planning, assisting or fostering the undertaking of terrorist acts, involving threats to human life and serious damage to property.

Based on the evidence provided, the Committee is satisfied with the re-listing process and considers that it has been appropriately followed for the three organisations. The Committee therefore supports the re-listing of Islamic State, Boko Haram, and Islamic State West Africa Province under Division 102 of the Criminal Code in order to protect Australians and Australia's interests; and finds no reason to disallow these regulations.

Finally, Mr Speaker, I note that the Committee is currently considering the Counter-Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Bill 2023, introduced into Parliament by the Government in June this year. That Bill includes proposed provisions to remove the three-yearly sunseting of terrorist listings under the Criminal Code; meaning that once listed by regulation, an organisation would remain so unless and until the listing was amended or revoked by the Minister. The Bill proposes to grant the PJCS an 'own motion' power to review these ongoing listings at any time.

The Committee's review of that Bill is currently underway, and the Committee looks forward to offering its views on the proposed changes to the terrorist listings process when it presents its report on the Bill.

In the meantime, I commend this report to the Parliament.

Mr Peter Khalil MP

Chair