16 April, 2026

Our Ref: 00071-90-Hizb ut-Tahrir Australia

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
Canberra ACT 2600

By email: pjcis@aph.gov.au

Dear Committee Secretary,

Review of Hizb ut-Tahrir as a prohibited hate group under the Criminal Code

1. Introduction

1.1. We act for former members (**Former Members**) of Hizb ut-Tahrir Australia (**HTA**). HTA was a not-for-profit, non-incorporated organisation, which described itself as:

> … a global Islamic political party … In the West, Hizb ut-Tahrir works to cultivate a Muslim community that lives by Islam in thought and deed, preserving a strong Islamic identity and remaining connected to the global struggle of the Muslim Ummah as one Ummah. Whilst we do not work in the West to change the system of government, we do carry Islam intellectually as the only way of life mandated by the Creator, Allah (swt), and in turn as the solution to the malaise of secular liberalism which has led humanity for three centuries now and failed her miserably.

1.2. On 5 March 2026, the Governor-General of the Commonwealth of Australia, made the *Criminal Code (Prohibited Hate Group—Hizb ut-Tahrir) Regulations 2026* (**Regulation**). The Regulation was made under the *Criminal Code Act 1995* (the **Act**). The Regulation commenced on 6 March 2026.

1.3. The Regulation specified and proscribed Hizb ut-Tahrir as a prohibited hate group (as defined by subsection 114A.2(1) of the Act). Under the Act, it is now an offence to:[1]

(a) Direct the activities of HTA;

(b) Be a member of HTA;

(c) Recruit members of HTA;

(d) Train members for HTA;

(e) Provide or receive funds for HTA;

[1] The Act, Part 3.5B, Division 114B.

(f) Provide support to HTA.

1.4. The effect of the Regulation and offences under the Act, is to prohibit the existence, operations, and support for HTA.

1.5. The Parliamentary Joint Committee on Intelligence and Security (**PJCIS**) has commenced a review into the listing of HTA in the Regulation under the Act. The purpose of this letter is to make submissions on behalf of HTA to the PJCIS regarding the Regulation, the Act, and the significant concerns and impacts on the rule of law, natural justice, free speech, political expression, and religious freedoms in Australia.

1.6. This letter will also provide an update to the community regarding the actions of the Australian Government following the making of the Regulation.

2. Legality of the Act and Regulation

2.1. Our concerns regarding the constitutional legality of the Act and Regulation, are outlined in our earlier letter dated 10 January 2026 which is **enclosed**.

2.2. One or more of the Former Members will likely commence litigation challenging the constitutional legality of the Act and Regulation. Those issues will ultimately be for the Court to decide.

2.3. This letter will focus on the practical impacts of the Act, and the Regulation.

3. Procedural concerns

3.1. The actions of the Australian Government, in both legislating the 'hate organisation' regime, and, subsequently, making the Regulation, are unprecedented. Alarmingly, we note the following procedural concerns regarding these actions:

(a) As has been widely reported, the amendments to the Act were made without:

i. publicising/providing HTA with the evidentiary basis (subject to narrowly tailored national-security redactions) for the proposed listing of HTA, with a clear explanation for why the listing was proposed, and providing an opportunity to respond;

ii. any public hearing or inquiry,

iii. a review of existing federal and state legislative regimes, and their applicability and efficacy,

iv. referral to a joint parliamentary committee, for public hearings, expert submissions and scrutiny,

v. including statutory procedural-fairness safeguards, such as requiring notice of adverse material, an opportunity to respond, judicial review rights, and requiring judicial oversight before an organisation is listed,

vi. adopting narrow conduct-based definitions, defining offences to target conduct such as incitement, and avoiding vague terms such as 'hate',

vii. including sunset and review clauses, with mandatory independent reviews to prevent permanent entrenchment of broad power and listings,

viii. obtaining and publicising independent legal advice, covering all potential legal and human rights issues including those identified above,

ix. undertaking community engagement and transparency, with civil society, faith leaders, and civil liberty organisations to build consensus on targeted measures that protect safety without suppressing lawful political and religious expression, or

x. to prevent polarisation, protecting all members of the public, regardless of their characteristics or political beliefs, rather than targeting a specific political ideology or group.

(b) Despite the above concerns being raised with the Prime Minister, Minister for Home Affairs, and the Attorney-General,[2] and acknowledgement of our letter,[3] no response was provided.

(c) Rather, the Act was amended to include express statutory provisions removing procedural fairness requirements.[4] This meant the Director-General and AFP Minister were not required to:

i. Provide evidence, or reasons,

ii. Provide an opportunity to respond,

iii. Consider material, information, or documents provided in response, or

iv. Act in accordance with natural justice and procedural fairness requirements.

(d) The Act was also amended to include provisions specifying that no prior conviction was required before the AFP Minister could make a determination to prohibit an organisation.[5] In effect, this removed any process of:

i. Independent judicial fact finding and determination,

ii. Criminal conduct being established, before an organisation could be listed,

iii. A legal review process,

iv. Rule of law requirements and access to the justice system.

The effect of this provision, combined with the removal of procedural fairness requirements, is extraordinary.

(e) The Regulation was made without any prior warning, written details, or notification to HTA and despite acknowledgment of our letter sent on behalf of the Former Members.[6] Shockingly, the ban was reported on by the media, right after the Regulation was made on 5 March 2026, despite HTA not being informed.

[2] See our letter dated 10 January 2026.
[3] Submission of the Minister for Home Affairs to PJCIS dated 16 March 2026 (**MHA Submission**), folio page 20.
[4] The Act, ss 114A.4(5), 114A.5(5).
[5] The Act, s 114A.5(4).
[6] Submission of the Minister for Home Affairs to PJCIS dated 16 March 2026 (**MHA Submission**), folio page 20.

(f) Tony Burke, the Minister for Home Affairs, has made multiple public comments, including, as early as 22 December 2025,[7] that HTA would be banned. As the decision maker under the Act, the Minister effectively pre-judged the outcome, before the amendments to the Act were even drafted. These comments were made on numerous occasions throughout the statutory process for the making of the Regulation.[8]

(g) Mike Burgess, the Director-General of ASIO, has also made multiple public comments, including as early as 4 November 2025,[9] before the Bondi incident had even occurred, criticising HTA. Alarmingly, the Director-General's criticism conflates anti-Zionist and anti-Jewish sentiment.[10] The Director-General has previously admitted that HTA's speech 'stops short of promoting onshore acts of politically motivated violence' and while 'stretch[ing] the boundaries of legality' did not '[break] them'.[11] Despite this contradictory public acknowledgement, the Director-General participated in the process for, and recommended, the making of the Regulation.[12] It is unknown and unclear how the Director-General made such a drastic determination just two months after acknowledging HTA had not engaged in promoting politically motivated violence. The Director-General also subsequently met with the Zionist President, Isaac Herzog, in an unprecedented secret meeting.[13] Shockingly, this meeting occurred during the decision-making process for the making of the Regulation, and it is unclear whether Isaac Herzog was informed of, or played a role in, the process. It is unprecedented for a foreign politician to receive secret briefings from the Director-General, the purpose and nature of which is yet to be clarified by ASIO.

(h) The Regulation was made without a rigorous, objective, reasoned, and evidence-based fact-finding process. To date, neither HTA nor its former members, have not been convicted in Australia of any terrorism or hate offences. Despite this, the Minister's reasons for making the Regulation include vague and unsupported statements:[14]

> There are examples demonstrating that Hizb ut-Tahrir's rhetoric and ideology can lead to serious, real-world consequences, with examples of violence that have been inspired by Hizb ut-Tahrir's ideology and rhetoric. Hizb ut-Tahrir's propaganda and rhetoric have served as a conduit for radicalisation to violence, including the facilitation of individual pathways into terrorist networks.
>
> When considered in combination, the effect in the Australian community of inflammatory statements that praise hate crimes, and Hizb ut-Tahrir having previously inspired acts of violence through propaganda and rhetoric, demonstrate that there is an unacceptable risk that Hizb ut-Tahrir praising hate crimes could lead people to engage in conduct that would constitute a hate crime.

It is unclear, unspecified, and unsupported that any such 'examples' have actually occurred, with no factual link being established to HTA's prior activities. As

[7] https://www.tonyburke.com.au/speechestranscripts/transcript-joint-press-conference-canberra-monday-22-december-2025.
[8] MHA Submission, folio pages 20 to 21.
[9] https://www.asio.gov.au/resources/speeches-and-statements/2025-lowy-lecture.
[10] Ibid.
[11] Ibid.
[12] MHA Submission, folio pages 4, 12, 20, 21.
[13] https://www.theguardian.com/australia-news/2026/mar/03/isaac-herzog-israeli-president-asio-meeting-australia-visit-ntwnfb.
[14] Ibid, folio page 10.

discussed above, HTA and its former members have never been convicted in Australia of any terrorism or hate offences.

The Minister's reasoning is itself hypothetical, referring to speech that 'could' lead people to engage in 'a hate crime'. If the 'risk' was truly 'unacceptably' high, why were HTA and its former members never charged or convicted of hate crimes or terrorism offences?

3.2. On their own, each of these procedural concerns is significant. When combined, the listing process under the Act is essentially 'Kafkaesque', granting the AFP Minister unfettered power to determine which organisation to list, regardless of logic, reason, objective fact finding, oversight, procedural fairness, or review.

4. Political and religious polarisation

4.1. A proscription regime that targets ideology rather than conduct invites circumvention and creates long-term precedents that may be used against other political or religious movements. This may reduce effective enforcement while chilling lawful speech, leading to inconsistent applications.

4.2. To many members of the public, it appears that the proposed measures have been applied disproportionately to pro-Palestinian and Muslim activism, as compared with other political movements, such as Zionism, and March for Australia.[15] Recently, government and public bodies have adopted measures suppressing free speech[16] and criminalising pro-Palestinian activism.[17] Some of these measures have already been determined to be constitutionally invalid due to their impact on political freedoms.[18] The Commonwealth Government risks inflaming tensions, suppressing freedoms, further dividing the public, and increasing political and religious polarisation by targeting organisations based on their ideology and beliefs, rather than established criminal conduct, and by linking non-violent political groups like HTA to listed terror organisations like ISIS despite no factual link being established.[19]

4.3. Senator Pauline Hanson has recently made statements that there are 'no good Muslims',[20] and wore a burka to parliament.[21] These actions cannot be separated from the Regulation and ban of HTA, which has never advocated hatred against any faith or mocked religious attire. Many Australians will be wondering: how can HTA be banned due to political activities opposing Zionism and the criminal actions of the Zionist occupation, but Pauline Hanson can make explicit hateful statements/actions with no criminal repercussions or ban?

4.4. This is a question that must be satisfactorily answered, lest we perpetuate the divide between citizens of this country. A law that is not applied equally is not law; it is arbitrary political power.

5. Misconceptions

5.1. The media and politicians have made numerous allegations and statements about HTA which are untrue, misrepresented, and misconceived. The following key misconceptions and responses clarifying HTA's position are provided to establish the record:

[15] https://www.zfa.com.au/; https://marchforaustralia.org/.
[16] https://www.jewishcouncil.com.au/2025/02/jewish-council-of-australia-slams-universities-adoption-of-dangerous-politicised-and-unworkable-antisemitism-definition.
[17] https://www.sbs.com.au/news/article/protest-laws-palestine-action-group/7aufdkhtt.
[18] *Lees v State of New South Wales* [2025] NSWSC 1209.
[19] https://ministers.ag.gov.au/media-centre/transcripts/press-conference-canberra-22-12-2025.
[20] https://www.abc.net.au/listen/programs/pm/pauline-hanson-s-muslim-comments-condemned/106360694.
[21] https://www.abc.net.au/news/2025-11-24/senate-suspended-after-pauline-hansons-burka-stunt/106047124.

(a) Have HTA, or any of its former members, ever been charged or convicted of a hate, violent, or terror offence in Australia?

No.

(b) Does HTA advocate for or aim for the establishment of a Caliphate, or Sharia Law in Australia?

No. HTA's advocacy and aim for the establishment of a Caliphate, or Sharia Law, is exclusive to Muslim countries. HTA has no intention or aim of establishing a Caliphate or Sharia Law in Australia.

(c) Does HTA advocate for the rule of law and equitable rights for all citizens of the Caliphate?

Yes. HTA advocates for the rule of law and equitable rights for all citizens regardless of race, religion, ethnicity or ideology. Citizens of the Caliphate have every right to be involved in politics and holding the leader to account, as the role of the leader (Caliph) is that of a servant to the public, governing them with justice, regardless of their personal characteristics.

(d) Does HTA advocate for the establishment of the Caliphate by force?

No. HTA resolutely opposes all forms of tyranny and dictatorship exclusively through intellectual and political means, and considers the use of violence to achieve its objectives a violation of Islamic law. Hizb ut-Tahrir has no history of violence or militancy anywhere in the world.

(e) Is HTA an antisemitic organisation?

No. HTA engages in pro-Palestinian advocacy, which cannot be equated with antisemitism. HTA has repeatedly distinguished between the criminal actions of the Zionist occupation, and the Jewish religion. HTA's advocacy and statements have always been directed at the Zionist occupation and its crimes, and never against Jewish people as a collective.

5.2. Some of these misconceptions have been parroted by the Minister and Director-General and used as a basis to justify the amendments to the Act and the making of the Regulation. The reliance on misconceptions and incorrect facts demonstrates the highly problematic nature of the legislative process undertaken and the need for a careful and calculated review and public inquiry.

6. Next steps

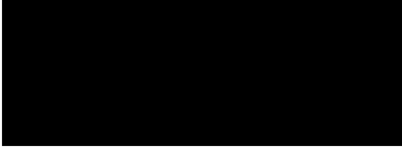
6.1. Based on the significant and extraordinary legal, procedural, and political issues discussed above, we submit that the PJCIS recommend to each House of the Parliament[22] that HTA be immediately delisted as a 'prohibited hate group' under the Act,[23] pending the careful consideration of and resolution of these issues. Significant amendments to the Act, if not an entire new Part 5.3B, will be required to adequately address these issues. This is a matter of significant public interest and concern, and these issues should not be dismissed lightly.

[22] The Act, s 114A.9.
[23] The Act, s 114A.8.

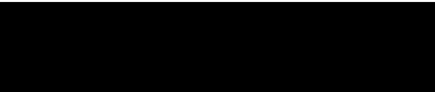
6.2. Given the significant public interest, we request this letter be publicised so it can be circulated to the public and key stakeholders for their input.

6.3. We are available to meet with your officers to discuss these matters further. If you require additional information, please contact us.

Yours faithfully



Zaid Hamdan El Madi
Director



10 January, 2026

Our Ref: 00071-90-Hizb ut-Tahrir Australia

The Hon Anthony Albanese MP
The Hon Tony Burke MP
The Hon Michelle Rowland MP
Parliament House
Canberra ACT 2600

OPEN LETTER
By Online Form and Post

Dear Prime Minister, Minister for Home Affairs, and Attorney-General,

Proposed listing regime and ban of Hizb ut-Tahrir Australia

1. Introduction

1.1. We act for Hizb ut-Tahrir Australia (**HTA**). HTA is a not-for-profit, non-incorporated organisation, which describes itself as:[1]

> … a global Islamic political party … In the West, Hizb ut-Tahrir works to cultivate a Muslim community that lives by Islam in thought and deed, preserving a strong Islamic identity and remaining connected to the global struggle of the Muslim *Ummah* as one *Ummah*. Whilst we do not work in the West to change the system of government, we do carry Islam intellectually as the only way of life mandated by the Creator, Allah (swt), and in turn as the solution to the malaise of secular liberalism which has led humanity for three centuries now and failed her miserably.

1.2. On 22 December 2025, following an alleged 'ISIS-inspired … terror attack'[2] on 14 December 2025 at Bondi Beach, the Prime Minister, Minister for Home Affairs, and Attorney-General announced:[3]

> … We want to list prohibited hate organisations to make it a criminal offence to join, recruit or support an organisation listed by the Home Affairs Minister and the Attorney-General …
>
> For too long there have been extremists who've operated just within the law, crafting rhetoric and participating in actions specifically designed to operate below the existing criminal threshold …
>
> And finally, on listing prohibited hate organisations, I've spoken before about my disgust for a very long time at organisations like Hizb ut-Tahrir and the Nationalist Socialist Network, otherwise known as the Neo-Nazis. These organisations for a long time have been able to take hate right to the threshold without using the words violence and escape any further terrorist listing. We will be establishing a new form

[1] https://www.hizb-australia.org/2016/02/faqs-hizb-ut-tahrir/.
[2] https://ministers.ag.gov.au/media-centre/transcripts/press-conference-canberra-22-12-2025.
[3] Ibid.

> of listing for those who do not meet the terrorist organisations – of being able to prescribe organisations. I'm asking my department, as the drafting is done, to check it against previous behaviour of Hizb ut-Tahrir and the National Socialist Network. Their behaviour needs to be unacceptable, their behaviour needs to be unlawful, their behaviour needs to be enough that we can prescribe the organisation and prohibit their activity in Australia …
>
> But it is very clear from the evidence which has been got, more of which is now into the public arena due to the police statement relating to the charges, that this was an ISIS-inspired attack, that we know that ISIS is an ideology, a perversion of Islam that essentially doesn't agree with any recognition of nation states, seeks a caliphate. It is an extremist ideology that seeks a caliphate as its objective …

1.3. This letter sets out, in short form, the likely principal legal, political, practical, and human rights consequences and risks of the Commonwealth Government proceeding to proscribe HTA or enact a broad federal 'hate organisation' listing regime that targets political ideology rather than conduct (**Proposed Listing**). Given the significant public interest, this letter will be an open letter that will be circulated with the public and key stakeholders for their input.

2. Factual context

2.1. There is no identifiable link between the incident in Bondi and the Proposed Listing. To date, HTA, and its members, have not been convicted in Australia of any terrorism or hate offences. HTA has not engaged in or advocated terrorist acts in Australia. Hizb ut-Tahrir (**HT**), being a global organisation, is not listed on the U.S. Department of State's 'Foreign Terrorist Organizations' List.[4] While several jurisdictions have proscribed or restricted Hizb ut-Tahrir in recent years, those foreign decisions and the factual bases for them vary and are not determinative of Australian legal validity. We note that while the United Kingdom in 2024 proscribed Hizb ut-Tahrir, there are multiple key issues relating to the Proposed Listing:

(a) HT was prescribed under the *Terrorism Act 2000 (UK),* which is a different statutory context.[5] The Commonwealth Government has acknowledged that HTA does not meet the threshold for a terror organisation listing in Australia.[6]

(b) To our knowledge, the listing of HT as a terror organisation in the UK is currently being reviewed by the Courts, and a final determination is yet to be made.

(c) The factual, and constitutional context is different in Australia.

2.2. The Commonwealth Government appears to be contemplating a new federal category of 'hate organisation' or an expansion of proscription powers that would permit listing and criminal sanctions where an organisation's speech or ideology is characterised as 'hate', 'extremist' or 'vilifying', even in the absence of domestic violence, incitement to violence, or operational activity. That is a materially different legal regime from the existing Division 102 terrorist-organisation regime in the *Criminal Code Act 1995 (Cth)*, which is expressly tied to engagement in or advocacy of terrorist acts.

3. Constitutional analysis – implied freedom of political communication

3.1. The High Court has long recognised an implied freedom of political communication as a structural limitation on Commonwealth and State legislative power necessary for representative and responsible government. Applying the modern structured proportionality

[4] https://www.state.gov/foreign-terrorist-organizations.
[5] https://www.gov.uk/government/news/home-secretary-declares-hizb-ut-tahrir-as-terrorists.
[6] See paragraph 1.2 above.

approach[7] to the proposed 'hate organisation' proscription of HTA shows that the Proposed Listing would likely violate the constitutionally implied freedom because:

(a) **Burden**: HTA's activities in Australia, are primarily political, religious and ideological. A law that criminalises membership, support, or public praise of HTA will plainly burden political communication. The High Court treats restrictions on political association and advocacy as core instances of the implied freedom's protection.[8]

(b) **Legitimate purpose**: The Commonwealth Government will likely assert legitimate aims such as preventing violence, protecting public order, and preventing radicalisation.[9] Those aims may be legitimate in principle. However, the Court examines the real-world purpose and effect; if the law's practical operation is to suppress an unpopular political or religious ideology rather than to prevent concrete harm, the purpose may be characterised as illegitimate for the purposes of the implied freedom.[10]

(c) **Proportionality**: Even if the purpose is accepted as legitimate, a blanket organisational ban that targets ideology rather than conduct is unlikely to be necessary or adequately balanced.[11] Existing criminal offences already target incitement, threats, recruitment for terrorism, and material support. The High Court has struck down laws that disproportionately burden political communication where the connection to public order was not sufficiently tight, and has required close tailoring where political speech is affected.[12]

3.2. While the Court has shown deference in some national-security contexts (e.g. upholding certain control orders where risk of violent harm was demonstrated), that deference depends on a demonstrable, evidence-based risk of violence.[13] It does not permit overzealous bans of political or religious movements that have no domestic history of violence. The more the law targets political advocacy, the more intense the scrutiny the Court will apply.[14]

4. Freedom of religion and related protections

4.1. Section 116 of the *Australian Constitution* prohibits the Commonwealth from making laws 'prohibiting the free exercise of any religion'. The High Court's interpretation of s 116 has been narrow,[15] but where religious doctrine is inseparable from political advocacy, proscription risks indirectly prohibiting religious exercise.[16] HTA's public discourse is both religious and political; a law that effectively criminalises the organised expression of a religious-political worldview risks engaging s 116 and the implied freedom in tandem.

4.2. Even if s 116 does not provide an independent basis for invalidity in every case, the intersection of religious expression and political communication strengthens the proportionality argument above – restrictions that disproportionately burden religiously-inflected political speech are more likely to be seen as overbroad and unnecessary.

[7] *Brown v Tasmania* [2017] HCA 43.
[8] Ibid, [193].
[9] See paragraph 1.2 above.
[10] *Brown v Tasmania* [2017] HCA 43, [204] – [207].
[11] Ibid, [139] – [146].
[12] Ibid, [152].
[13] *Thomas v Mowbray* [2007] HCA 33.
[14] *Brown v Tasmania* [2017] HCA 43, [130].
[15] *Church of the New Faith v Commissioner of Pay-Roll Tax (VIC)* [1983] HCA 40.
[16] Ibid, [16] – [17].

5. Administrative law and procedural fairness

5.1. Administrative law requires decision-makers to act within power, rationally, and with procedural fairness where required. Public statements by Ministers or officials that indicate a decision has been made before the statutory process is complete can give rise to judicial-review grounds due to bias, apprehension of bias, or failure to observe statutory limits.[17] The Commonwealth Government has publicly signalled a predetermined outcome regarding the Proposed Listing of HTA, potentially tainting the decision-making process.

5.2. Where adverse material is relied upon to justify a listing, natural justice ordinarily requires that affected persons or organisations be given notice of the case against them and an opportunity to respond.[18] A listing process that denies any meaningful opportunity to respond, or that relies on undisclosed intelligence without adequate safeguards, will be vulnerable to quashing for denial of procedural fairness or jurisdictional error.[19]

5.3. If the Government proposes closed-material procedures (relying on classified intelligence), any such process should be accompanied by robust judicial oversight and mechanisms to protect procedural fairness and rationality e.g. special advocates, and independent reviewers. Absent such safeguards, the administrative-law risk is substantial.[20]

6. Federal-state interaction and statutory design concerns

6.1. The States and Territories already operate racial and religious vilification laws and public-order offences that target incitement, threats and serious vilification.[21] A federal proscription that duplicates or displaces these regimes risks inconsistency under s109 of the *Constitution* and may supplant more tailored State mechanisms. We note that HTA has never breached any racial, incitement, or vilification provisions previously.

6.2. Terms such as 'hate', 'extremism' or 'vilification' are inherently value-laden. If the Commonwealth statute uses broad or vague language to define a 'hate organisation' or confers wide executive discretion to list organisations without clear criteria, the law will be open to challenge for uncertainty, overbreadth and arbitrary enforcement – all of which undermine the rule of law.

6.3. To prevent circumvention, proscription regimes commonly include successor, alias and related-entity provisions. The broader those provisions are, the greater the constitutional risk; a provision that permits listing of any group that 'advocates similar ideas' risks capturing loose networks of individuals and lawful political associations.

7. International obligations and human rights

7.1. Australia is internationally bound by the ICCPR treaty.[22] Articles 18 (religion), 19 (expression) and 22 (association) protect freedoms that may be lawfully restricted only for legitimate aims and in a manner that is necessary and proportionate. Article 20(2) requires prohibition of advocacy of 'hatred that constitutes incitement to discrimination, hostility or violence' – a narrow category directed at incitement, not at mere advocacy of controversial political or religious ideas.

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[17] *Ebner v The Official Trustee in Bankruptcy* [2000] HCA 63, [6];
[18] *Kioa v West* [1985] HCA 81, [19].
[19] *Minister for Immigration and Citizenship v Li* [2013] HCA 18, [21].
[20] *Minister for Immigration and Citizenship v SZMDS* [2010] HCA 16, [121]; *Al-Rawi and Others v Security Service* [2011] UKSC 34.
[21] *Crimes Act 1900* (NSW), s93Z; *Anti-Discrimination Act 1977* (NSW); *Racial Discrimination Act 1975* (Cth).
[22] *International Convention on Civil and Political Rights,* opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

7.2. UN human-rights bodies and independent experts have repeatedly cautioned against overbroad 'extremism' laws that suppress legitimate political and religious expression.[23] A federal proscription that targets ideology without a clear link to incitement or violence risks adverse findings in international forums and reputational costs.

8. Practical risks and political polarisation

8.1. A proscription regime that targets ideology rather than conduct invites circumvention (phoenix organisations, decentralisation) and creates long-term precedents that may be used against other political movements. This may reduce effective enforcement while chilling lawful speech, leading to inconsistent applications.

8.2. To many members of the public, the proposed measures appear to be applied disproportionately to pro-Palestinian and Muslim activism, as compared with other political movements, such as Zionism, and March for Australia.[24] Recently, government and public bodies have adopted measures suppressing free speech[25] and criminalising pro-Palestinian activism.[26] Some of these measures have already been determined to be constitutionally invalid due to their impact on political freedoms.[27] The Commonwealth Government risks inflaming tensions, suppressing freedoms, further dividing the public, and political polarisation by introducing legislation that targets ideology, rather than violent conduct, and linking non-violent political groups like HTA to listed terror organisations like ISIS.[28]

9. Next steps

9.1. For these reasons, we respectfully urge the Commonwealth Government to pause any legislative or proscription process until:

(a) The evidentiary basis for the Proposed Listing of HTA is published or provided to us. Affected organisations should be provided with a clear statement of the factual and intelligence basis for any proposed listing, subject to narrowly tailored national-security redactions, and explaining why existing laws are insufficient. An opportunity to respond should be provided.

(b) A public review or inquiry is undertaken into the existing Federal and State legislative regimes, and their applicability and efficacy.

(c) Any new proscription regime is referred to a joint parliamentary committee for public hearings, expert submissions and scrutiny.

(d) Statutory procedural-fairness safeguards are included, including a notice of adverse material, an opportunity to respond, judicial review rights, and requiring judicial oversight before an organisation is listed.

(e) Narrow, conduct-based definitions are adopted, defining offences to target conduct such as incitement, rather than ideology, and avoiding vague terms such as 'extremism'.

[23] https://www.ohchr.org/en/press-releases/2025/07/un-experts-urge-united-kingdom-not-misuse-terrorism-laws-against-protest.
[24] https://www.zfa.com.au/; https://marchforaustralia.org/.
[25] https://www.jewishcouncil.com.au/2025/02/jewish-council-of-australia-slams-universities-adoption-of-dangerous-politicised-and-unworkable-antisemitism-definition.
[26] https://www.sbs.com.au/news/article/protest-laws-palestine-action-group/7aufdkhtt.
[27] *Lees v State of New South Wales* [2025] NSWSC 1209.
[28] See paragraph 1.2 above.

(f) Sunset and review clauses are included, with mandatory independent reviews to prevent permanent entrenchment of broad powers and listings.

(g) Independent legal advice is obtained and published, covering all potential legal and human rights issues including those identified above.

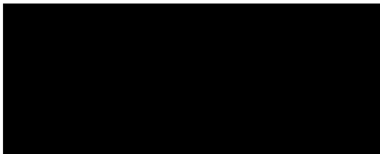
(h) Community engagement and transparency is undertaken, with civil society, faith leaders, and civil liberty organisations to build consensus on targeted measures that protect safety without suppressing lawful political and religious expression.

(i) To prevent polarisation, all members of the public are statutorily protected, regardless of their characteristics or political beliefs, rather than targeting a specific political ideology or group.

9.2. Given the significant public interest, this letter will be an open letter that will be circulated with the public and key stakeholders for their input.

9.3. We are available to meet with your offices to discuss these matters further. If you require additional information, please contact us.

Yours faithfully



Zaid Hamdan El Madi
Director