

Submission to the Parliamentary Joint Committee on Intelligence and Security on its Review of the Re-listing of Hezbollah's External Security Organisation under the Criminal Code Act 1995

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Introduction

This document forms the submission by the Australia/Israel & Jewish Affairs Council (AIJAC) to the Parliamentary Joint Committee on Intelligence and Security (JCIS) on the re-listing of Hezbollah's External Security Organisation (ESO) under the *Criminal Code Act 1995*.

This document recommends the JCIS approve the re-listing of Hezbollah's ESO as a terrorist organisation.

It further recommends the JCIS to recommend to the Attorney General that the entire Hezbollah organisation, not simply the ESO, be designated a terrorist organisation. It suggests the JCIS makes this recommendation for three reasons:

1. Hezbollah's leaders have claimed on numerous occasions that while the West makes a distinction between the political and paramilitary wings of Hezbollah, the organisation itself makes no such distinction;
2. Further, the organisation as a whole continues to meet the definition of a terrorist organisation as defined by Australian federal legislation, principally the *Criminal Code Act 1995, sections 102.1 and 102.1A*;
3. Finally, as an Australian Federal Parliamentary Library Research Note points out,

since late 2001 it has been a criminal offence under the provisions of the *Charter of the United Nations Act 1945* and the Charter of the United Nations (Terrorism and Dealings with Assets) Regulations 2002, to fund or resource the group. Together, this legislation ratifies Australia's obligation under UN Security Council Resolution 1373 to suppress the financing of terrorism¹.

Since it is illegal to fund any part of the group, for fear that funding will support terrorist activity, it is logical that Australia already *de facto* considers the entire Hezbollah organisation as a terrorist organisation, and should change the *Criminal Code Amendment Regulations* to reflect this position.

Hezbollah as a terrorist organisation

The Australian Federal Parliamentary Library Research Note no. 42 2002-03, authored by Nigel Brew of the Foreign Affairs, Defence and Trade Group, entitled "Hezbollah in Profile," was presented in June 2003, and provides a brief background of Hezbollah origins and activities until that time.

The Attorney General's letter to the JCIS of May 8, 2009, recommending the re-listing of Hezbollah's External Security Organisation, included a Statement of

¹ Brew, N, 2003, "Hezbollah in Profile" *Parliament of Australia Parliamentary Library Research Note*, no. 42 2002-03, June 2, <http://www.apf.gov.au/Library/pubs/RN/2002-03/03rn42.htm> accessed June 11, 2009.

Reasons provided by the Australian Security Intelligence Organisation (ASIO). This included an update on some of the terrorist activities of Hezbollah.

The Statement of Reasons was, we suggest, incorrect in its assertion that "ESO constitutes a distinct terrorist wing within Hizballah's structure." This will be discussed below.

Recent Hezbollah terrorist activities

As the ASIO Statement of Reasons makes clear, Hezbollah has in no way changed its objectives, motivations and *modus operandi*. The Statement of Reasons does not, however, list some of the most recent terrorist actions of the group.

Occupation of Beirut

In May 2008, the Lebanese government decided to both dismantle a telecommunications network Hezbollah had illegally established throughout southern Lebanon and dismiss the head of security at Beirut's international airport due to allegations he was allowing Hezbollah to spy on the comings and goings at the airport.

Hezbollah Secretary General Hassan Nasrallah said the decision to dismantle the telecommunications network was a "declaration of open war," and sent Hezbollah troops into the streets of Beirut, effectively occupying the city. Nasrallah later called on the Lebanese government to "withdraw their decisions, and there would be no war."²

Among other actions, the Hezbollah fighters closed pro-government media (television, radio and print), and blocked roads leading to the city. The resultant internecine fighting saw the most deaths since the end of the civil war in 1990. An Australian citizen was killed in the strife caused by Hezbollah's takeover³.

As a direct result of this semi-coup, the Doha Agreement was signed, which granted Hezbollah and its allies, despite lacking a majority in parliament, a veto over parliamentary decisions. Moreover, the government allowed Hezbollah to retain its separate telecommunications infrastructure⁴.

Rafik al-Hariri

A recent *Der Spiegel* article alleged the UN special tribunal, formed in March 2009 to further the investigation into the murder of former Lebanese Prime Minister

² An excellent analysis of the lead up to the Hezbollah takeover of Beirut is Carmon, Y & Zweig, E, 2008, "A Clean Sweep: Amal, Hizballah Take Much of Beirut in Redux of Hamas' Gaza Takeover" *MEMRI Inquiry and Analysis*, no. 436, May 9, <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA43608> accessed June 11, 2009.

³ See "Gun Battles Break Out in Beirut" *CNN*, May 9, 2008, <http://edition.cnn.com/2008/WORLD/meast/05/08/lebanon.hezbollah/index.html> access June 10, 2009 among others.

⁴ See "Lebanese Leaders Sign Historic Agreement" *Arab News*, May 22, 2008, <http://www.arabnews.com/?page=4§ion=0&article=110143&d=22&m=5&y=2008&pix=world.jpg&category=World> access June 10, 2009, among others.

Rafik al-Hariri on February 14, 2005, had found that Hezbollah was responsible for the slaying⁵.

The previous UN investigation team has suspected Syrian elements, and ordered the arrest of four individuals connected with Damascus. One of the first acts of the new special tribunal was to release these four men. Its report is forthcoming.

Hezbollah's interests in the death of Hariri are self-evident; Hariri was secular, Sunni, pro-Western in outlook, and a moderniser – all things anathema to Hezbollah. Hariri was widely popular in Lebanon and had announced his impending return to politics a short time before his slaying.

Other Activities

The Washington Institute for Near East Policy has recently released a *Policy Watch*⁶, which briefly describes other recent terrorist-related activities of Hezbollah. These include:

- Terrorist cells exposed in Egypt by Egyptian authorities in November 2008
- Yemeni President Ali Abdullah Salih accused Hezbollah of training Shi'ite rebels in Yemen in May 2009;
- An Africa-based Hezbollah network was added to the US Treasury list of designated terrorists in May 2008;
- Details published by the *Los Angeles Times* in June 2009 of a foiled Hezbollah attack on the Israeli, Japanese and Thai embassies in Baku, Azerbaijan last year; and
- The indictment of a Columbian of Lebanese descent in Argentina for his alleged involvement in the 1994 AMIA bombings, for which Hezbollah members and former Iranian President Ali Akbar Hashemi Rafsanjani, among others, have already been indicted.

Listing Hezbollah as a unified organisation

It is AIJAC's strong opinion that the entire Hezbollah organisation should be listed as a terrorist organisation, rather than only its External Security Organisation.

This is for two reasons: Hezbollah leaders have explicitly rejected the distinction; and the entire organisation fulfils the requirements of Australian law to be listed as a designated terrorist organisation.

If Australia were to list the entire organisation as a terrorist organisation, Australia would join the ranks of the US, Canada and Israel, which have done the same.

⁵ See Follath, E, 2009, "New Evidence Points to Hezbollah in Hariri Murder" *Der Spiegel*, May 23, <http://www.spiegel.de/international/world/0,1518,626412,00.html> accessed June 10, 2009.

⁶ See Levitt, M, 2009 "Hizballah Campaigns at Home, Exposed Abroad" *Washington Institute for Near East Policy Policy Watch/Peace Watch*, no. 1528, June 5, <http://www.washingtoninstitute.org/templateC05.php?CID=3065> accessed June 10, 2009.

Lack of Distinction

Hezbollah leaders have frequently stated explicitly that there is no distinction between the military and political wings of the organisation. Hezbollah Deputy Secretary General Sheikh Naim Qassam said in April this year,

Some [in the West] try to distinguish between the military wing and the political wing [of Hezbollah]. This is because they are convincing themselves of a necessity, gradually compromising [toward recognising Hezbollah], because as they will learn, every member of the resistance [i.e. Hezbollah] is a politician, and every politician is a member of the resistance. You won't find with us a political stance and a [separate] position of the resistance. Our general secretary on the pulpit and at the fronts, and the fighter at the front – he is who will vote in parliamentary elections and he will appear in politics. We are all the resistance and we are all policy makers⁷.

He made similar remarks to the *Los Angeles Times* in April,

Hezbollah has a single leadership... All political, social and jihad work is tied to the decisions of this leadership... The same leadership that directs the parliamentary and government work also leads jihad actions in the struggle against Israel⁸.

Hezbollah Secretary General Hassan Nasrallah granted an interview to *al-Jazeera* during the 2006 Hezbollah-Israel conflict, during which he claimed there was no distinction between the political and military wings.

Ghasn Ben-Jadu (interviewer): Now, ten days into the battle, what do you have to say, politically and militarily?

Hassan Nasrallah: In the name of Allah, the benevolent and the merciful, politically and militarily, it is a lump sum. Both are difficult. Let us begin...⁹

Other media have confirmed that, in practice as well as in theory, there is no distinction between the military and political wings.

For instance, the *Spiegel* article cited *supra*, which claimed the UN special tribunal investigating Rafik al-Hariri's murder believes Hezbollah is involved included the following,

Salim's secret "Special Operational Unit" reports directly to Hezbollah Secretary-General Hassan Nasrallah¹⁰.

Hajj Salim is the commander of Hezbollah's 'Special Operational Unit,' another name for the ESO¹¹. That he reports to Hezbollah's Secretary General would indicate the military wing of Hezbollah is not separate to the political wing.

⁷ "Al-Sheikh Qassam: Dowl al-a'alm takhtab wadna wa nihna lan naqsar ma'ha" *al-Manar*, April 5, 2009 <http://www.almanar.com.lb/newssite/NewsDetails.aspx?id=80514&language=ar> (Arabic) accessed June 10, 2009. (*Al-Manar* is Hezbollah's television station)

⁸ Daragahi, B, 2009, "Lebanon's Hezbollah savors increasing legitimacy" *Los Angeles Times*, April 13, <http://articles.latimes.com/2009/apr/13/world/fg-lebanon-hezbollah13> accessed June 10.

⁹ "Dimensions of the conflict with Israel" *al-Jazeera*, July 25, 2006, <http://www.aljazeera.net/NR/exeres/017535F1-C1B1-458C-A6A4-E29311F5E35D.htm> (Arabic) accessed June 10, 2009.

¹⁰ Follath, E, 2009, "New Evidence Points to Hezbollah in Hariri Murder" *Der Spiegel*, May 23, <http://www.spiegel.de/international/world/0,1518,626412-2,00.html> accessed June 10, 2009.

¹¹ *Der Spiegel* points out that the Special Operational Unit was headed by Imad Mughniyeh until his assassination. As both the ASIO Statement of Reasons and the 2003 Australian Parliamentary Library Research Note point out, Mughniyeh was the commander of the ESO until his death.

Hezbollah political leaders support terrorist acts

The *Criminal Code Act 1995 Section 102.1* reads, "**terrorist organisation** means: (a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not a terrorist act occurs)..." Further, *Section 102.1A* reads, "an organisation advocates the doing of a terrorist act if: (a) the organisation directly or indirectly counsels or urges the doing of a terrorist act; or... (c) the organisation directly praises the doing of a terrorist act in circumstances where there is a risk that such praise might have the effect of leading a person ... to engage in a terrorist act."

Numerous statements by Hezbollah leaders have praised terrorist acts or actors, and have planned terrorist attacks. As such, according to Australian law, the entire organisation of Hezbollah should be listed as a terrorist organisation.

The following examples are either quotes from or analyses of Arab-language media:

- *This is an example of the Hezbollah leadership encouraging terrorism:* "In an interview for the *Al-Manar* television station, Hassan Nasrallah, secretary general of the Hizballah, stated that if it was the desire of the Palestinian people to promote awareness of their problem in world public opinion, the right way to do so was through suicide attacks that would make bodies of men and women roll in the streets of Tel Aviv and Jerusalem... On September 5, 1997, after a Palestinian suicide attack in Jerusalem, Hassan Nasrallah said on Radio Nur, 'Greetings to the holy martyrs who carried out the suicide attack yesterday in the heart of conquered Jerusalem, a mission which shocked the enemy and awakened the "devils" in the world. The mission proved the power of our nation yet again, its determination and desire to continue in its struggle and cause the enemy repeated defeats.¹²'"
- *This is an example of the Hezbollah leadership preparing for terrorist acts:* "According to the Egyptian daily *Al-Masaa*, the Egyptian investigation has revealed that senior Hizbullah operative Muhammad Yousef Mansour (known as Sami Shihab) had been dispatched to Iran several times, on [Hezbollah Secretary General Sheikh Hassan] Nasrallah's orders, in order to be trained in terrorist tactics by the Revolutionary Guards¹³."
- *This is an example of the Hezbollah leadership encouraging terrorism:* Hezbollah Secretary General Hassan Nasrallah said: "If they [Jews] all gather in Israel, it will save us the trouble of going after them worldwide.¹⁴"
- *This is an example of the Hezbollah leadership encouraging terrorism:* Hezbollah Secretary General Hassan Nasrallah said: "Martyrdom operations - suicide bombings - should be exported outside Palestine. I

¹² Shai, S & Farkash, A, 2004, *The Shahids: Islam and suicide attacks*. Herzliya: Transaction Publishers, p. 44.

¹³ Yehoshua, Y, 2009, "Egypt: The Hizbullah Cell in Egypt – A Joint Conspiracy by Iran, Syria, Qatar, Hizbullah, Hamas and the Muslim Brotherhood" *MEMRI Inquiry and Analysis*, no. 512, April 27, <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA51209> accessed June 11, 2009.

¹⁴ *Daily Star* (Lebanon), October 23, 2002, reproduced in Passner, D, 2006, "Hassan Nasrallah: In his own words" *CAMERA*, July 26, http://www.camera.org/index.asp?x_context=7&x_issue=11&x_article=1158 accessed June 11, 2009.

encourage Palestinians to take suicide bombings worldwide. Don't be shy about it.¹⁵”

- *This is an example of the Hezbollah leadership threatening violence against the Lebanese government; this threat amounts to terrorism:* “In an October 31, 2006 interview with Hizbullah's *Al-Manar* TV, Hizbullah Secretary-General Hassan Nasrallah issued an ultimatum, saying that the March 14 Forces [i.e. the governing coalition] must agree to the establishment of a national unity government by November 13, 2006: ‘We think that the natural solution for this problem is a national unity government... The other group [i.e. the March 14 Forces] has two options: The first is to sacrifice Lebanon and to involve it in the regional tensions just so they can [continue to] rule on their own. The second option is to seize this golden opportunity for we Lebanese to cooperate and save our country... If the consultation does not lead to [the establishment of] a national unity government, the political forces [i.e. Hezbollah] will have no choice but to take to the streets, and they will do so. In that case, the goal will no longer be [the establishment of] a national unity government, but rather early parliamentary elections. If the forces currently in power [i.e. the March 14 Forces] do not agree to [hold] early elections, we will work to topple the government...¹⁶”
- *This is an example of the Hezbollah leadership threatening violence against the Lebanese government; this threat amounts to terrorism:* “The Lebanese daily *Al-Akhbar*, which is close to Hizbullah, reported on a secret meeting of Lebanese opposition forces on January 2, 2007, in which they concluded that the [Fuad] Al-Siniora government [the government of Lebanon] had succeeded in withstanding the opposition's popular demonstrations and that it enjoys Arab and international support. The participants in the meeting therefore decided that the opposition should take new steps. The daily reported that ‘a prominent senior opposition figure defined the forthcoming steps that were discussed in the meeting as steps of ‘violent protests’ - which is what former minister and MP Suleiman Frangieh talked about a few days ago... when he mentioned roadblocks and [civil] unrest...” *Al-Akhbar* explained that these steps are coming as ‘preparation for ... a new plan that sets out [steps] more severe than roadblocks - such shutting down the activity of government ministries and offices, blocking the routes to the airport and the seaport and blocking central junctions - all of which is liable to completely paralyze life [in Lebanon]¹⁷.’”
- *This is an example of the Hezbollah leadership threatening violence against the Lebanese government; this threat amounts to terrorism:* “Nasrallah called May 7, 2008 - the date Hizbullah took over Beirut - a ‘glorious day in the history of the resistance,’ and told the March 14 Forces never to forget it. The March 14 Forces understood this to be an explicit threat of a recurrence of these events if Hizbullah did not get its way. March 14 Forces general secretariat coordinator Fares Sa'id expressed this as follows: ‘Hizbullah is trying to extort us and to make us choose between

¹⁵ *Washington Times* (USA), December 6, 2002, reproduced in *ibid*.

¹⁶ Avraham, H, 2006, “Lebanon Faces Political Crisis in Aftermath of War: Tensions Escalate Between ‘March 14 Forces’ and Hizbullah, Pro-Syrian Camp” *MEMRI Inquiry and Analysis*, no. 299, November 3, <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA29906> accessed June 11, 2009.

¹⁷ “Despite Arab Diplomatic Efforts, Hizbullah Threatens Violent Escalation – To Begin this Coming Monday (January 8, 2007)” *MEMRI Special Dispatch*, no 1414, January 5, 2007, <http://memri.org/bin/articles.cgi?Page=archives&Area=sd&ID=SP141407> accessed June 11, 2009

the 'obstructing third' [which means that Hizbullah] has control of the country - and a repeat of its May 7 [takeover of Beirut]...¹⁸”

- *This is an example of the Hezbollah leadership justifying terrorism:* Hezbollah Deputy Secretary General Sheikh Naim Qassem said: “Hizbullah, when it comes to matters of jurisprudence pertaining to its general direction, as well as to its jihad direction, based itself on the decisions of the Jurisprudent [i.e. the religious rulers of Iran]... Even with regard to the firing of missiles on Israeli citizens... This was done in order to put pressure on them. Even that required general permission based on Islamic law.¹⁹”
- *This is an example of a Hezbollah fighter denying the existence of a distinction between the military and political wings:* From the BBC: “But Mahmoud, the fighter, says the UK is fooling itself by making this distinction. ‘We have two arms, but we belong to one body. There is no such things as the military wing or the political wing of Hezbollah - we are all part of one resistance,’ he said. ‘Hezbollah will become a purely political party only when Israel ceases to exist,’ he said.²⁰”

Financing Hezbollah already illegal

In accordance with the *Charter of the United Nations Act 1945* and the Charter of the United Nations (Terrorism and Dealings with Assets) Regulations 2002, it is illegal for any Australian to fund any part of Hezbollah. This is because it is feared these funds will be used for terrorist purposes. Further, the Australian Government’s *Australian National Security* website reads, “Hizballah has an international infrastructure including cells; charitable organisations; and business enterprises (both legal and illegal) in the Middle East, Asia, Africa, Europe and North and South America, from which it derives significant financial support. In the Tri-Border area of South America alone it is estimated Hizballah has raised millions of dollars through activities such as drug and arms smuggling and product piracy. ESO is likely to have access to this funding.²¹” This shows that the Australian government recognises that the Hezbollah organisation, even if theoretically separate (which the organisation itself rejects) funds its terrorist wing; thus, by Australian law, rendering it a terrorist organisation.

As such, we believe Australia already effectively considers the entire Hezbollah organisation a terrorist organisation. This should now be formalised.

¹⁸ Varulkar, H, 2009, “On Eve of Lebanon's Parliamentary Elections, Struggle between March 14 Forces, Hizbullah-Headed Opposition Heats Up” *MEMRI Inquiry and Analysis*, no. 520, June 2, <http://memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA52009> accessed June 11, 2009.

¹⁹ “Hizbullah Deputy Sec-Gen Sheikh Naim Qassem: We Have Jurisprudent Permission to Carry Out ‘Martyrdom’ Operations, Fire Missiles on Israeli Civilians From Ayatollah Khomeini” *MEMRI Special Dispatch*, no. 1549, April 19, 2007, <http://memri.org/bin/articles.cgi?Page=archives&Area=sd&ID=SP154907> accessed June 11, 2009.

²⁰ Antelava, N, 2009, “Inside Lebanese Hezbollah militia!” *BBC*, June 2, http://news.bbc.co.uk/2/hi/middle_east/8076820.stm accessed June 11, 2009.

²¹ “Hizballah External Security Organisation, *Australian National Security*, http://www.nationalsecurity.gov.au/agd/WWW/nationalsecurity.nsf/Page/What_Governments_are_doing_Listing_of_Terrorism_Organisations_Hizballah_External_Security_Organisation accessed June 11, 2009.

Conclusion

We recommend that:

- The JCIS should support the re-listing of Hezbollah's External Security Organisation as a terrorist organisation.
- The JCIS should further advise the Attorney General that he list the entire Hezbollah organisation as a terrorist organisation. This is for three reasons: The Hezbollah leadership explicitly rules out a distinction between its political and military wings; the Hezbollah leadership plans and expresses support for terrorist attacks, thus rendering it a terrorist organisation according to Australian law; Australian law already prohibits any funding to Hezbollah due to fears that any funding could be used for terrorist purposes, thus indicating Australia already effectively considers Hezbollah to be a cohesive unit, all components of which constitute a terrorist organisation.