

Review of the definition of a ‘terrorist act’ in section 100.1 of the *Criminal Code Act 1995*

Submission to the Independent National
Security Legislation Monitor
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Contents

Overview	4
Introduction	4
Recommendations	4
1 Defining a ‘terrorist act’	6
Previous reviews and key findings	6
Distinguishing terrorism from other forms of crime	7
Coercion or intimidation of an international organisation	7
The ‘terrorist motive’ requirement	8
Mixed motives	9
Emerging ideologies	10
Threats	11
Hostage taking	11
Scope of current exclusions	12
2 Impact on Children & Young People	14
Increasing radicalisation of children	14
Convention on the Rights of the Child	14
3 Additional Considerations	16
Sentencing	16
Endnotes	17

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Overview

Introduction

1. Terrorism presents a grave threat to public safety and to the enjoyment of rights, including the right to life and security of the person. At the same time, counter-terrorism laws must comply with fundamental human rights standards, including the principles of legality, necessity, proportionality, and accountability. The challenge is to maintain an appropriate balance between safeguarding the community and preserving the democratic freedoms that terrorism seeks to undermine.
2. This submission is framed around ensuring that Australia's counter-terrorism framework – and specifically the definition of a 'terrorist act' in section 100.1 of the *Criminal Code Act 1995* (Cth) (Criminal Code) – remains both effective in protecting national security and fully consistent with Australia's international legal obligations. These obligations encompass both the duty to prevent and suppress acts of terrorism,¹ and the requirement to protect human rights.²
3. While the terrorist threat facing Australia has changed since 2002, the core principles outlined in 2008 by the Commission in *A Human Rights Guide to Australia's Counter-Terrorism Laws* (2008 Guide) remain relevant. In particular, the 2008 Guide emphasised the profound impact that counter-terrorism laws can have on fundamental human rights and freedoms and the need to ensure that counter-terrorism laws comply with Australia's international human rights obligations.³
4. Safeguarding national security and upholding human rights are not mutually exclusive goals. Both can be achieved through balanced and principled policy making.

Recommendations

5. The Commission makes the following recommendations.

Recommendations

1. The definition of 'terrorist act' under s 100.1(c)(i) of the *Criminal Code* should be extended to include coercion or intimidation of an international organisation.
2. The motive element defined under s 100.1(b) of the *Criminal Code* should be retained, but the reference to advancing a religious cause should be removed.

3. The current statutory definition should be amended to provide that an act may constitute a 'terrorist act' where 'advancing a political or ideological cause' is a substantial purpose, even if accompanied by other motives.
4. The 'threat of action' should not be included within the definition of a 'terrorist act', and a separate offence of threatening to commit a terrorist act should be created.
5. Hostage-taking should be included in the list of actions falling within subsection (2) under the current statutory definition of a 'terrorist act'.
6. The current exemption of advocacy, protest, dissent and industrial action should be retained as part of the definition of a 'terrorist act'.
7. All counter-terrorism laws and measures concerning children should be consistent with Australia's obligations under the *Convention on the Rights of the Child*.
8. Periodic reviews of sentencing laws and practices and trends in sentencing outcomes relating to terrorism offences should be included within the specific functions of the INSLM.

1 Defining a ‘terrorist act’

This section examines key aspects of Australia’s current definition of a ‘terrorist act’ in s 100.1 of the *Criminal Code*, including:

- extending the definition to cover coercion or intimidation of an international organisation
- whether the specific reference to ‘advancing a religious cause’ should be removed
- clarifying treatment of mixed motives and emerging ideologies
- including specific reference to hostage-taking
- the scope of the current exclusion for ‘advocacy, protest, dissent or industrial action’; and
- establishing a separate offence of threatening to commit a terrorist act.

Previous reviews and key findings

6. Since 2002, a series of parliamentary and independent reviews have examined Australia’s definition of a ‘terrorist act’, noting that its core wording has remained substantively unchanged since first enacted.⁴ The Parliamentary Joint Committee on Intelligence and Security (PJCIS), the Security Legislation Review Committee (Sheller Review), Council of Australian Governments Review of Counter-Terrorism Legislation (COAG Review) and past Independent National Security Legislation Monitors (INSLMs) have all underscored the need for a precise, proportionate, and narrowly tailored definition. Each of these bodies recognised that terrorism offences and powers are exceptional in nature, and therefore demand care and restraint in their drafting and application.⁵
7. The definition of a ‘terrorist act’ should be precisely drafted, compatible with Australia’s human rights obligations and clearly distinguished from other serious criminal conduct. Given the significant consequences that attach to an act being characterised as a ‘terrorist act’ it is crucial that the definition captures only those actions that the Australian community would genuinely regard as terrorism, while excluding behaviour that – although criminal – does not reach this threshold.
8. This Review provides an important opportunity to reaffirm and implement these long-standing principles. By doing so, Australia can ensure that its counter-terrorism framework continues to protect national security, while simultaneously upholding the rule of law and safeguarding fundamental freedoms.

Distinguishing terrorism from other forms of crime

9. The current definition of 'terrorist act' within s 100.1 of the Criminal Code is outlined in full in the *Issues Paper*.⁶
10. The definition of a 'terrorist act' should preserve a clear and principled distinction between terrorism and other serious criminal offences. Terrorism is 'qualitatively different from other types of serious crime'.⁷ It is important to guard against definitional drift – that is, the risk that the concept of terrorism expands to encompass conduct more appropriately handled under ordinary criminal law.
11. This distinction is critical given the exceptional powers, surveillance, penalties, and preventive measures that are enlivened when behaviour is characterised as 'terrorism'. These exceptional measures should only be available where the conduct squarely falls within the accepted definition of terrorism.
12. This was also an important consideration with respect to the constitutional referral of powers, with the Inspector-General of Intelligence and Security previously stating that from the perspective of the States '... in making the constitutional referral of power to the Commonwealth ... it was important that the definition of a terrorist act be at the high end ... and only capture, those acts that we would readily agree constitute terrorism'.⁸
13. There is currently no universally accepted definition of terrorism under international law.⁹ While there are common elements contained across various international instruments that contain definitions or descriptions of terrorist acts, no single definition has achieved consensus among states. This reflects the complex and contested nature of terrorism. It is important to recognise that no definition will be perfect, and that the definitional choices made will carry significant legal and human rights implications.

Coercion or intimidation of an international organisation

14. As noted in the *Issues Paper*, the Australian definition of 'terrorist act' currently refers to actions done with the intention of 'coercing, or influencing by intimidation' a government, but does not extend to coercion or intimidation of an 'international organisation'.
15. Including 'international organisations' within the scope of the terrorist purpose would bring Australia's definition into closer alignment with international standards and the recommendations of previous reviews,¹⁰ Security Council resolutions,¹¹ and definitions in comparable jurisdictions such as Canada, New Zealand and the United Nations.¹²
16. The rationale for inclusion is clear. International organisations – such as the United Nations and its agencies – have 'been the target of terrorism on

numerous occasions, including the bombing of the United Nations Headquarters in Baghdad on 19 August 2003'.¹³ Recognising such entities within the definition would ensure Australia's laws better reflect the realities of contemporary terrorism and would also reflect 'Australia's broader role in international efforts to control terrorism'.¹⁴

17. Division 71 of the Criminal Code already establishes offences relating to attacks against United Nations and associated personnel. Extending the definition of a 'terrorist act' to also encompass coercion or intimidation of international organisations would therefore complement the existing framework, promote consistency across the *Criminal Code* and to ensure that terrorism offences comprehensively cover conduct targeting both national and international institutions.

The 'terrorist motive' requirement

18. The inclusion of a motive element – currently that of advancing a political, religious or ideological cause – remains an important safeguard against overreach. While recognising that this 'is one of the most contentious features of the 'terrorist act' definition',¹⁵ it helps to preserve the distinction between terrorism and other forms of serious violence by requiring proof of a specific purpose beyond the commission of the act itself. At least five previous reviews have been identified in the *Issues Paper* as endorsing its retention for this reason.¹⁶
19. The Commission has previously highlighted concerns that if paragraph (b) was removed entirely from the definition of 'terrorist act' 'the resultant breadth of the definition would render Part 5.3 of the Criminal Code a disproportionate limitation on the rights guaranteed by the ICCPR, in particular articles 19 and 22. This is especially so in view of the severity of the penalties attaching to terrorism offences under Part 5.3'.¹⁷ It is appropriate to retain the requirement under paragraph (b) that a terrorist motive be established on the basis that it is this element of the definition 'which makes the differentiation between "terrorist" and "non-terrorist" offences meaningful'.¹⁸
20. Whilst supporting the retention of a motive element in paragraph (b) as an important safeguard against legislative overreach, the Commission recognises that the inclusion of the phrase 'advancing a religious cause' has been the subject of specific concern. A number of past reviews have cautioned that such language risks reinforcing stigma against particular faith communities – particularly Muslim Australians – without adding meaningful legal precision.¹⁹ As the 2012 *Declassified Annual Report of the INSLM* observed, 'the requirement to prove religious motive in terrorism offences comes too close to pursuing a case against a religion'.²⁰

21. Removing the explicit reference to ‘advancing a religious cause’ from paragraph (b) would not, in fact, narrow the operative scope of the terrorism definition. The *Issues Paper* notes significant overlap between political, religious and ideological causes, observing that in its review of Australian terrorism prosecutions ‘all of the “ideology” cases also identify politics or religion, or both, as motives’.²¹ This demonstrates that conduct currently characterised as terrorism would continue to be captured under a revised definition referring to political or ideological causes alone. The proposed change would therefore not ‘water down’ the concept of terrorism, but rather remove a term that results in symbolic and social costs without adding distinct legal benefit.
22. The inclusion of the word ‘religion’ carries substantial symbolic and social consequences, even if its legal impact is minimal. It risks contributing to the stigmatisation of particular religious communities and can also lend unintended legitimacy to extremist claims of religious justification for violence. By contrast, subsuming purportedly religious motives within the broader concept of ideology would preserve the legal reach of the definition, while reducing the potential for unintended social harms.
23. It is acknowledged that a number of past Australian reviews have recommended retaining the reference to religious motivation,²² and that among jurisdictions employing motive-based definitions – such as the United Kingdom, Canada and New Zealand²³ – it is common to include religion as an explicit motive category.
24. However, the Commission considers that the balance of contemporary evidence and experience supports the modernisation of the definition. While the motive element remains an important safeguard distinguishing terrorism from other serious crimes, removing the explicit reference to religion would not narrow the law’s operation. It would instead make the definition more precise and proportionate, reflecting the overlap between existing motive categories and avoiding language that risks unnecessary social harm.

Mixed motives

25. Australia’s Counter-Terrorism and Violent Extremism Strategy 2025 recognises the emerging challenge of ‘mixed, unclear and unstable ideologies’, observing that ‘some individuals switch between different ideologies or groups (fluid or unstable), merge components from different ideologies (mixed or hybrid), or adopt a vague or incoherent ideological mix to justify their violence (unclear)’.²⁴
26. This reflects the observations made by the ASIO Director-General in his 2025 Annual Threat Assessment that ‘traditional distinctions between extremist motivations are also breaking down’ with individuals ‘cherry-picking seemingly antithetical ideologies to create new, hybrid beliefs’ and extremists ‘self-

radicalising, “choosing their own adventure” – and often their own unique, blended belief system’.²⁵

27. This evolution presents a practical challenge for applying the existing definition of a ‘terrorist act’, which assumes that conduct can be clearly attributed to a single political, religious or ideological cause. In reality, recent examples demonstrate that radicalisation often draws upon a convergence of grievances, personal resentments, and loosely formed ideological narratives, rather than necessarily being based on a coherent belief system.
28. Statutory guidance on this point would be desirable. The Commission considers that Australia should amend the current statutory definition to provide that an act may constitute a ‘terrorist act’ where advancing a political or ideological cause is a *substantial* purpose, even if accompanied by other personal or situational motives. Such clarification would enhance interpretive consistency, reflect contemporary patterns of radicalisation, and ensure that the law remains adaptable to the evolving nature of terrorism.

Emerging ideologies

29. The ASIO Director-General recently observed that ‘we are seeing an increase in issue-motivated extremism, fuelled by personal grievance, conspiracy theories and anti-authority ideologies’.²⁶ Australia’s definition of a ‘terrorist act’ must remain capable of addressing the evolving threat landscape, including forms of violent extremism linked to misogynistic, racist, or conspiracy-driven ideologies where these rise to the level of terrorism-related offending.
30. Recent incidents internationally and within Australia demonstrate that emerging ideological drivers – such as incel-related violence, accelerationist movements, and conspiracy-based extremism – can give rise to conduct that meets the substantive elements of terrorism. This reinforces the need for definitional clarity that is adaptable to new forms of radicalisation without diluting the essential elements of intent, motive, and harm.
31. Ensuring that the definition of a ‘terrorist act’ is capable of encompassing such emerging ideologies does not require broadening its scope but reaffirming its principle-based design. The focus should remain on conduct that seeks to coerce or intimidate through serious violence, regardless of the particular ideological banner under which it is pursued. Maintaining this functional approach ensures that the law captures new manifestations of violent extremism while preserving precision, proportionality, and adherence to human rights standards. Preventive responses – including education, early intervention, and digital literacy – will also need to adapt to reflect the evolving threat landscape and emerging ideological drivers.

Threats

32. The Australian definition of a 'terrorist act' can currently be met either by the commission of an act or the threat of an act. While acknowledging that there is some divergence in comparative practice,²⁷ the Commission considers that threats should not form part of the core definition but should instead be dealt with as a separate offence. In criminal law, the threat to commit an offence and the commission of the offence itself are conceptually distinct, and should be treated as such. Including threats within the definition of a terrorist act risks conflating conduct of lesser gravity with the actual perpetration of terrorism.
33. This is consistent with recommendations made in a number of earlier Australian reviews.²⁸ In 2006 the UN Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism also expressly noted that the Australian definition extended to threats and 'calls for caution in this respect, in order to ensure compliance with the requirements of legality'.²⁹
34. Retaining threats within the definition of a terrorist act risks expanding its scope beyond necessity, particularly when coupled with the existing preparatory and planning offences under the Criminal Code. The inclusion of threats creates the possibility that early-stage or inchoate conduct – such as statements, discussions or online expressions – could attract the same penalties as the commission of a completed terrorist act. This raises concerns regarding overreach and the criminalisation of expression absent concrete steps toward violence.
35. Establishing a distinct but lesser offence of threatening to commit a terrorist act would provide a more proportionate and legally coherent approach. It would preserve the ability to prosecute serious threats while ensuring that ancillary or preparatory offences are not inadvertently captured within the full terrorism framework. This approach aligns with broader criminal law practice in Australia, where threats are generally prosecuted under separate offence categories, reflecting the different degree of harm and moral culpability involved.

Hostage taking

36. Although hostage taking has long been recognised as a well-established form of political violence, the current Australian definition of a 'terrorist act' does not expressly refer to hostage taking as an action falling within subsection (2). Several past reviews have recommended that this omission be remedied, arguing that an explicit reference would improve clarity and better reflect the realities of modern terrorism.³⁰ In order to amount to terrorism, the hostage taking would also need to satisfy the terrorist motive requirement discussed above.

37. Including hostage taking in the statutory definition would better align Australia with United Nations Security Council Resolution 1566 (2004), which urges States to prevent and punish acts committed with the intention of causing death or serious injury or *the taking of hostages*, where done to provoke terror, intimidate populations, or compel governments or organisations.³¹ Hostage taking is also firmly established in international law as a serious offence – in both counterterrorism and humanitarian law contexts – and is recognised as a war crime under the Rome Statute and customary international law.³²
38. The practical importance of explicit inclusion is underscored by Australia’s own experience, with the 2014 Lindt Café siege presenting a stark example where hostage taking intersected with extremist motivation. In the current threat environment, hostage taking remains a tactic not only of extremist groups but also of lone actors seeking to maximise pressure on governments or communities. By expressly including hostage taking in the definition, the law would remove ambiguity, facilitate more consistent prosecutorial practice, and ensure that statutory terrorism powers and penalties properly capture this high-impact, coercive form of violence.

Scope of current exclusions

39. The exclusion for ‘advocacy, protest, dissent and industrial action’ – provided that action is not intended to cause serious harm, cause a person’s death, endanger the life of a person, or create a serious risk to public health or safety – remains one of the most important safeguards within s 100.1 of the Criminal Code. Its inclusion in 2002 directly implemented the recommendations of the Senate Legal and Constitutional Affairs Committee, which sought to ensure that Australia’s counter-terrorism laws would not be misused to criminalise legitimate democratic activity.³³ While concern has since been expressed about the breadth of interpretation – particularly in relation to non-violent but disruptive protests³⁴ – the underlying safeguard continues to serve an essential, protective human-rights function.
40. The UN Human Rights Committee has emphasised that the freedoms of expression, association and peaceful assembly³⁵ protect a wide spectrum of dissenting activity, including protest and civil disobedience, provided such conduct is non-violent and proportionate. Consistently with this both the Sheller Review and the PJCIS, while acknowledging that the provision ‘is clearly not free from problems’, concluded that the exception should be retained.³⁶
41. The exception is an important limitation on the definition of terrorism, and a significant recognition of the need to balance counter-terrorism responses with the protection of other individual human rights. It also highlights the importance of distinguishing between terrorism and other forms of crimes, with the PJCIS expressing the view that ‘... in the normal course of events, a serious criminal

offence, which occurs in the course of advocacy, protest, dissent or industrial action, should be dealt with by the ordinary criminal law'.³⁷

42. This safeguard is critical in the Australian context, where protest and advocacy have been integral to advancing democratic and human-rights cases – from environmental movements to First Nations campaigns for justice and self-determination. Ensuring that such activity cannot be characterised as terrorism – with the important qualifier that it loses this protection if there is an intention to cause serious harm – is essential to protecting civic participation and maintaining trust in the proportionate application of counter-terrorism powers.
43. It is equally important to ensure that the framework does not inadvertently capture the activities of impartial humanitarian organisations operating lawfully under international humanitarian law (IHL) – for example, providing medical assistance or negotiating humanitarian access in conflict zones. Rather than broadening the exclusion in s 100.1 to cover all such activities, this objective would be more effectively achieved through targeted exceptions in specific legislative provisions (such as offences relating to foreign incursions or material support). This approach would maintain the integrity of the terrorism definition while ensuring compliance with Australia's obligations under IHL and international human rights law.

2 Impact on Children & Young People

This section focuses on the increasing radicalisation of children and young people and the need to ensure that counter-terrorism responses are consistent with Australia's obligations under the *Convention on the Rights of the Child*.

Increasing radicalisation of children

The Commission is deeply concerned by the increasing radicalisation of children and the lack of appropriate diversionary mechanisms within the current counter-terrorism framework. The 2025 Counter-Terrorism and Violent Extremism Strategy highlights a marked rise in youth engagement with violent extremism.³⁸ The ASIO Director-General also recently reported that 'the median age at which minors are first subject to ASIO investigation is now 15 years old', noting further that 'our minors caseload is overwhelmingly male – around 85%'.³⁹

44. This trend underscores the urgent need to ensure that Australia's response to terrorism-related conduct by minors reflects their particular vulnerability and capacity for rehabilitation. The radicalisation of children raises complex and intersecting human rights, security and welfare concerns. Children may be drawn into extremist networks through online platforms, gaming communities, or peer groups, often in contexts of isolation, trauma or social disconnection. This environment calls for policies that prioritise prevention, resilience-building, and rehabilitation, rather than punitive measures that risk entrenching alienation or harm.
45. At the same time, the Commission recognises that radicalised minors can pose serious security risks and, in some cases, 'the same credible terrorist threat as adults'.⁴⁰ It is imperative that such cases be addressed through a framework that protects the safety and security of the broader Australian public, and also upholds Australia's international human rights obligations.

Convention on the Rights of the Child

46. Australia is bound by the *Convention on the Rights of the Child* (CRC), which requires under Article 3 that in all actions involving children 'the best interests of the child shall be a primary consideration'. The CRC also mandates that children in conflict with the law must be treated in a manner consistent with their sense of dignity and worth, and that the focus must be on their rehabilitation and reintegration into society.⁴¹ These obligations apply equally in the counter-terrorism context.
47. Concerns have previously been expressed about the application of control orders, questioning warrants, and detention powers to minors.⁴² It has

consistently been stressed that such measures should only ever be used as a last resort, and only where demonstrably necessary and proportionate to the threat posed. The need for independent oversight and judicial scrutiny in cases involving children has also been highlighted, consistently with Article 3 of the CRC.⁴³

48. A more effective and rights-consistent approach when dealing with the growing challenge of the marked rise in youth engagement with violent extremism would place greater emphasis on diversion, deradicalisation and rehabilitation. Such an approach does not disregard the serious challenge posed by youth radicalisation or the need to protect and prioritize community safety. Rather, it recognises that long-term security is best achieved by addressing the underlying causes of radicalisation and reducing the risk of future offending through early, evidence-based interventions that support rehabilitation and reintegration into society.
49. International practice offers valuable guidance, with the Issues Paper highlighting strategies or programs in the United Kingdom, Canada and New Zealand that prioritise early intervention and multi-agency coordination. These programs recognise the need to provide appropriate supports around factors which may increase an individual's vulnerability to radicalisation – such as social isolation, discrimination, neurodevelopmental disabilities, exclusion or disengagement from school, or mental health vulnerability – with such approaches being more effective and sustainable than relying solely on punitive enforcement.
50. Adopting a coordinated Australian framework focused on prevention, diversion and rehabilitation would bring domestic practice into closer compliance with our international human rights obligations, including the CRC. This should include increased investment in early intervention and diversion programs for at-risk youth, clear protocols for intergovernmental coordination between federal and state agencies, independent oversight of all counter-terrorism measures involving minors, and a review of the operation of control orders, questioning warrants and preventative detention powers as they apply to children.
51. By embedding these safeguards, Australia can uphold both community safety and the rights of the child – recognising that protecting children from both radicalisation and from disproportionate state responses are two sides of the same human-rights obligation.

3 Additional Considerations

This section examines the need for periodic reviews of sentencing laws and practices and trends in sentencing outcomes relating to terrorism offences.

Sentencing

52. Terrorism offences attract some of the most severe penalties in the Australian criminal justice system, including mandatory minimum sentences, extended non-parole periods, and post-sentence orders such as continuing detention and extended supervision orders. These measures impose exceptional restrictions on individual liberty, and must therefore be strictly justified by reference to the unique and ongoing risks posed by terrorism.
53. Regular review mechanisms are essential to ensuring that the sentencing and post-sentence management of terrorism offenders remains proportionate and fair. For example, both continuing detention and extended supervision orders have been recognised in Australia as exceptional measures that must be subject to robust judicial oversight, transparency and periodic review. These safeguards are critical to preventing indefinite or arbitrary detention and upholding the rule of law.⁴⁴ A statutory review by the PJCIS of Division 105A of the Criminal Code, dealing with post-sentence terrorism orders, lapsed at the last federal election and has not yet been formally continued. Submissions to that inquiry raised particular concerns with the justification for post-sentence orders in the absence of robust assessments of future risk.⁴⁵
54. Regular monitoring of both sentencing trends and the administration of sentences is essential to uphold public confidence and consistency across Australian jurisdictions. Establishing an independent mechanism to review trends in sentencing outcomes and the operation of post-sentence orders (including comparisons between sentencing outcomes for terrorism-related offences and other forms of offending) would promote accountability and ensure Australia's counter-terrorism framework continues to balance community protection with respect for fundamental rights. This could be achieved through an expanded mandate for the INSLM, to expressly provide for periodic reviews of terrorism sentencing practices and post-sentence orders (if they continue to be available). Entrusting this function to an existing independent statutory body would avoid duplication, reinforce accountability and transparency, and ensure that restrictions on liberty remain subject to ongoing, expert human-rights-based scrutiny.

Endnotes

- ¹ Independent National Security Legislation Monitor (INSLM), *Defining Terrorism – Issues Paper – Review of the definition of a ‘terrorist act’ in section 100.1 of the Criminal Code Act 1995*, INSLM, Australian Government, 2025, p 11.
- ² INSLM, *Issues Paper*, p 12.
- ³ Australian Human Rights Commission (AHRC), *A Human Rights Guide to Australia’s Counter-Terrorism Laws*, AHRC, Australian Government, 2008, [2.1] – [2.3].
- ⁴ D Dalla-Pozza, T Tulich, R Ananian-Welsh, K Hardy, *Commonwealth Reviews considering the definition of a ‘Terrorist Act’ in s 100.1 of the Criminal Code Act 1995 (Cth): Final Report* (Report 1, Prepared for the Office of the INSLM, 24 June 2025), p 1. <https://www.inslm.gov.au/system/files/2025-08/commonwealth_reviews_considering_the_definition_of_a_terrorist_act.pdf>.
- ⁵ See Parliamentary Joint Committee on Intelligence and Security (PJCIS), *Review of Security and Counter Terrorism Legislation*, PJCIS, Australian Government, 2006; Security Legislation Review Committee (SLRC), *Report of the Security Legislation Review Committee*, SLRC, Australian Government, 2006; Council of Australian Governments (COAG), *Council of Australian Governments Review of Counter-Terrorism Legislation*, COAG, Australian Government, 2013; Independent National Security Legislation Monitor (Bret Walker SC) (INSLM), *Declassified Annual Report: 20th December 2012*, INSLM, Australian Government, 2013.
- ⁶ INSLM, *Issues Paper*, p 6.
- ⁷ PJCIS, *Review of Security and Counter Terrorism Legislation*, [5.25].
- ⁸ PJCIS, *Review of Security and Counter Terrorism Legislation*, [5.14].
- ⁹ INSLM, *Issues Paper*, p 7.
- ¹⁰ See, for example, COAG, *COAGs Review of Counter-Terrorism Legislation*, p 10; Dalla-Pozza et al, *Commonwealth Reviews Considering the Definition of a ‘Terrorist Act’*, pp 23-24.
- ¹¹ SC Resolution 1566, UN SCOR, UN Doc S/RES/1566 (8 October 2004), art 3.
- ¹² See Independent National Security Legislation Monitor (INSLM), *Table of comparative terrorism definitions*, INSLM, Australian Government, June 2025. <<https://www.inslm.gov.au/publications/resource-table-comparative-terrorism-definitions>>.

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- ¹³ Attorney-General's Department (AGD), *National Security Legislation: Discussion Paper on Proposed Amendments*, AGD, Australian Government, 2009, p 44. <<https://www.inslm.gov.au/system/files/2025-08/previous-review-2009-AGD-discussion-paper.PDF>>.
- ¹⁴ COAG, *COAGs Review of Counter-Terrorism Legislation*, p 10.
- ¹⁵ Dalla-Pozza et al, *Commonwealth Reviews Considering the Definition of a 'Terrorist Act'*, p 17.
- ¹⁶ INSLM, *Issues Paper*, p 38.
- ¹⁷ Human Rights and Equal Opportunity Commission (HREOC), *Supplementary Submission to the Security Legislation Review Committee*, HREOC, Australian Government, 2006, p 8.
- ¹⁸ HREOC, *Supplementary Submission to the Security Legislation Review Committee*, p 8.
- ¹⁹ INSLM, *Issues Paper*, pp 41-42, 53.
- ²⁰ INSLM, *Declassified Annual Report: 20th December 2012*, p 115.
- ²¹ INSLM, *Issues Paper*, p 43.
- ²² COAG, *COAGs Review of Counter-Terrorism Legislation*, p 8.
- ²³ Independent National Security Legislation Monitor (INSLM), *Table of comparative international and Five Eyes definitions of 'terrorism'*, INSLM website, n.d., accessed 10 October 2025. <https://www.inslm.gov.au/system/files/2025-08/table_of_comparative_terrorism_definitions.pdf>.
- ²⁴ Australian Government, *A Safer Australia: Australia's Counter-Terrorism and Violent Extremism Strategy 2025*, January 2025, p 12. <<https://www.nationalsecurity.gov.au/what-australia-is-doing-subsite/Files/australias-counter-terrorism-violent-extremism-strategy.pdf>>.
- ²⁵ Mike Burgess AM (Director-General of Security), *Director-General's Annual Threat Assessment 2025*, Australian Security Intelligence Organisation (ASIO), Australian Government, 19 February 2025. <<https://www.asio.gov.au/director-generals-annual-threat-assessment-2025>>.
- ²⁶ ASIO, *Director-General's Annual Threat Assessment 2025*.
- ²⁷ INSLM, *Issues Paper*, p 48.
- ²⁸ Namely, PJCIS, *Review of Security and Counter Terrorism Legislation*; SLRC, *Report of the Security Legislation Review Committee*; COAG, *Council of Australian*

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8. *Governments Review of Counter-Terrorism Legislation*. See INSLM, *Issues Paper*, p 53.
- ²⁹ Martin Scheinin, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Australia: Study on Human Rights Compliance While Countering Terrorism*, UN Doc A/HRC/4/26/Add.3 (14 December 2006), p 9.
- ³⁰ Namely, INSLM, *Declassified Annual Report: 20th December 2012*; COAG, *Council of Australian Governments Review of Counter-Terrorism Legislation*. See INSLM, *Issues Paper*, p 53.
- ³¹ COAG, *Council of Australian Governments Review of Counter-Terrorism Legislation*, p 9.
- ³² See *Crimes (Hostages) Act 1989 (Cth)* (implementing the International Convention Against the Taking of Hostages); *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 3 (entered into force 1 July 2002), art 8; Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, vol 1: *Rules* (International Committee of the Red Cross, Cambridge University Press, 2005), rule 96.
- ³³ Senate Legal and Constitutional Legislation Committee, Parliament of Australia, *Consideration of Legislation Referred to the Committee: Security Legislation Amendment (Terrorism) Bill 2002 (No 2)* (Report, 8 May 2002), pp 38-40.
- ³⁴ INSLM, *Issues Paper*, p 2.
- ³⁵ See *International Covenant on Civil and Political Rights* (ICCPR), opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), arts 19, 21, 22.
- ³⁶ PJCIS, *Review of Security and Counter Terrorism Legislation*; SLRC, *Report of the Security Legislation Review Committee*, rec 8, [5.26] – [5.32].
- ³⁷ PJCIS, *Review of Security and Counter Terrorism Legislation*; SLRC, *Report of the Security Legislation Review Committee*, [5.32].
- ³⁸ Australian Government, *Australia's Counter-Terrorism and Violent Extremism Strategy 2025*.
- ³⁹ ASIO, *Director-General's Annual Threat Assessment 2025*.
- ⁴⁰ ASIO, *Director-General's Annual Threat Assessment 2025*.
- ⁴¹ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990), arts 37(b), 40.

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⁴² Dr James Renwick SC, *Report to the Prime Minister: The prosecution and sentencing of children for terrorism*, INSLM, Australian Government, 2018; Parliamentary Joint Committee on Human Rights (PJCHR), *Human rights scrutiny report: Report 11 of 2023*, PJCHR, Australian Government, 18 October 2023, pp 63-85.

⁴³ INSLM, *The prosecution and sentencing of children for terrorism*; PJCHR, *Report 11 of 2023*.

⁴⁴ See, for example, AHRC, *A Human Rights Guide to Australia's Counter-Terrorism Laws*; AHRC, *Review into Division 105A of the Criminal Code (post sentence orders) (Submission to the Independent National Security Legislation Monitor)*, 4 February 2022; Kieran Hardy, 'Sentencing and Post-Sentence Decisions Under Australia's Counter-Terrorism Laws: Risk-Averse, Not Risk-Based' (2024) 18(4) *Perspectives on Terrorism* 131.

⁴⁵ See, for example, AHRC, *Review into Division 105A of the Criminal Code (post sentence orders) (Submission to the Parliamentary Joint Committee on Intelligence and Security)*, 23 June 2023.