



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

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The Independent National Security Legislation Monitor (INSLM) (the Monitor)
Via email: DefiningTerrorism@inslm.gov.au

Re: Submission for Defining terrorism: Review of the definition of a 'terrorist act' in section 100.1 of the Criminal Code Act 1995

I am writing to thank you for the opportunity to contribute to the important work of the Independent National Security Legislation Monitor. I welcome the importance of this Review of the definition of a terrorist act. I also wish to thank you for providing me an extension in making this submission.

Please find enclosed my submission addressing the first priority area: the effectiveness and implications of the definition.

As the Special Envoy to Combat Islamophobia, I am tasked with advising government, driving policy and leading advocacy and education to address anti-Muslim hate and ensure the safety and inclusion of Muslims in Australia. In accordance with this remit, this submission is focused on the effectiveness and implications of the definition, particularly in relation to the experiences of Muslim communities in Australia.

For further enquiries regarding my submission or information, please do not hesitate to contact my office via email at: info@oseci.gov.au, or visit the website at www.oseci.gov.au.

Yours sincerely,



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Submission to the Independent National Security Legislation Monitor: Review of the Definition of Terrorism

Executive Summary

This submission responds to the Review of the definition of a 'terrorist act' in section 100.1 of the *Criminal Code Act 1995* by the Independent National Security Legislation Monitor.

It proposes the removal of religious motive from any statutory or policy definition of terrorism in Australia. This includes as a subset to "ideological cause." As my submission outlines, linking terrorism to religion – particularly Islam – has resulted in significant social harm, further entrenching Islamophobia, undermining trust between communities and government, and diverting valuable law enforcement resources away from emerging security threats in Australia.¹

Associating a religious motive to terrorism implies the motive arises from a true, accurate, and proper interpretation, understanding, and application of Islam or another religion. In other words, this linking of religion to terrorism in legal definitions, inadvertently and incorrectly normalises and fuels a harmful belief about the nature of Islam, and by extension, Muslim Australians. This submission contends that poor religious literacy and the inappropriate conflation of religion, such as Islam, with political ideology only harms Muslim Australians, and ultimately, social cohesion. It further contends that what is perceived as a religious motivation for terrorism is a misuse of religion, not an accurate or correct understanding and application. This conflation of religion and ideology serves not only the agenda of political and ideological groups that engage in acts of terrorism and stigmatises religious communities, or in this case, Muslim Australians, but also those who purport that Islam is at its heart, a religion of terror and violence.

This submission is intended to complement the Joint Community Submission (made collectively by a number of key Muslim organisations across Australia) in the executive summary as well as bring a particular focus to the goal of preventing and reducing Islamophobia.

1. Introduction

What is commonly described as "religious terrorism" is in fact ideological and political violence cloaked in religious rhetoric. Associating terrorism with religion implies that violence arises from a correct or genuine understanding of sacred scripture and religious history. In reality, violent actors misuse and distort religion to legitimise political ideologies and grievances. Islam, in its normative, mainstream interpretation, categorically prohibits terrorism, indiscriminate violence, and the killing of civilians.²

¹ The Special Envoy to Combat Islamophobia, *A National Response to Islamophobia: A Strategic Framework for Inclusion, Safety and Prosperity* (Sydney, NSW: The Office of the Special Envoy to Combat Islamophobia, 2025).

² See for example, Muhammad Afifi Al-Akiti, *Defending the Transgressed by Censuring the Reckless against the Killing of Civilians* (Birmingham: Aqsa Press, 2005); Abdal Hakim Murad, *Bombing without Moonlight: The Origins of Suicidal Terrorism* (Bristol: Amal Press, 2008); Abdallah bin Bayyah, *The Culture of Terrorism: Tenets and Treatments*, trans. Hamza Yusuf (California: Sandala, 2009); Joseph E.B. Lumbard (Ed), *Islam, Fundamentalism, and the Betrayal of Tradition* (United States of America: World Wisdom, Inc., 2009); HRH Prince



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

It is not only the labelling of certain acts as “religious” but the almost exclusive use of terrorist act offences for persons who are Muslim or assumed to be Muslim,³ which has created the public perception that only Muslims are capable of terrorism. As such it is important to also consider why terrorist act offences have not been used for persons engaging in similar conduct who are not Muslim.

By removing “religious motive” from terrorism definitions and instead recognising terrorism as politically or ideologically motivated violence, Australia can enhance social cohesion, improve trust between communities and government, and better direct security resources toward the actual sources of threat – *but only* if that translates into more consistent charging and prosecutions regardless of the racial or religious background of the accused.

Determining the ideological cause of a perpetrator continues to be a task that is highly problematised in literature and only becoming more difficult with time, as ideologies evolve. It appears that law enforcement has struggled to use this category in relation to accused persons who are not Muslim.

I understand that **there will be a desire to capture conduct that is not only to serve a political framework, but an ideological one**, including ideologies that are packaged as religious, despite having no legitimate basis in their purported religion.

However, I also note that the United Nations Security Council and the relevant UN Special Rapporteur have consistently put forward an understanding of terrorism that does not require a specific motive or cause to be identified,⁴ and that requires condemnation of terrorism regardless of the motive.⁵

The solution may not be as simple as just removing the word “religious” from the motive element. In addition, it might be worth questioning whether a motive element is needed at all. What matters more is making sure the purpose element clearly reflects the specific intent behind terrorism, helping to distinguish it from other, similar acts of violence. It may be that the purpose element needs clarifying to

Ghazi bin Muhammad, Ibrahim Kalin, and Mohammad Hashim Kamali (Eds), *War and Peace in Islam: The Uses and Abuses of Jihad* (Cambridge: The Royal Islamic Strategic Studies Centre and The Islamic Texts Society, 2013), and ElSayed M.A. Amin, *Reclaiming Jihad: A Qur'anic critique of terrorism* (Leicester: The Islamic Foundation, 2014). Also see: Charles Kurzman, *The Missing Martyrs: Why There Are So Few Muslim Terrorists* (New York: New York: Oxford University Press, 2011).

³ The INSLM issues paper notes that four cases of persons outside of ISIL, al Qaeda or related ideology have been convicted of terrorism related offences. To be more specific, only one person has been convicted of a Division 101 or 102 “terrorist act” offence (some that come with a maximum penalty of life imprisonment). That conviction was *CDPP v Galea* [2020] VSC 750 under section 101.6 (preparing a terrorist act). Three other non-Muslims have been convicted with “Advocating terrorism,” a speech-related offence that sits in a different part of the Criminal Code and comes with a maximum penalty of 7 years. Advocating terrorism is not considered a primary terrorist act offence.

⁴ Martin Scheinin. *Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism*. (A/HRC/16/51) United Nations Human Rights Council, 2010.

⁵ United Nations Security Council, 'Resolution 1566 (2004)', UNSC Res 1566, UN Doc S/RES/1566 (8 October 2004) [on international cooperation in the fight against terrorism]: “Condemns in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security.” United Nations Security Resolution 1566 (2004) New York: UN, 2004, p. 2.
[https://undocs.org/S/RES/1566\(2004\)](https://undocs.org/S/RES/1566(2004))



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

show the *ideological or political nature of the intended impact*, without requiring the *identification of their motive or cause*.

This will encourage law enforcement to focus less on the reasons given by an accused.

This is important for several reasons. We must resist all actions that unwittingly amplify the message of an accused, in what is essentially a message crime, otherwise we are rewarding their behaviour. We must also resist focusing law enforcement on the prosecution of only certain ideologies using the terrorist act offence because they consider such ideologies to be easier to prosecute. Both consequences lead to outcomes which tear at the fabric of our society and normalise anti-Muslim prejudice through the persistent association of Muslims and terrorism.

I recommend that the definition of terrorism in Australian law be amended to:

1. Remove reference to religious motives in Australian law and policy, including administrative categories used by agencies.
2. Consider changes to promote consistent charging and prosecution, such as reassessing the necessity and proportionality of the motive element and replacing the motive element with an improved purpose element.
3. Address the social harms endured by Muslims in Australia resulting from previous religious framing.
4. Reinforce protections for affected communities to restore trust in government and law enforcement.

I also recommend that any updates to the definition should be informed by:

5. An independent review of counter-terrorism laws, policies and practices to investigate potential discriminatory application and effect, including on Muslim-Australian communities.⁶ This review should be followed by the establishment of an advisory panel consisting of representatives from diverse Muslim communities to provide insights into the potential impacts and unintended consequences of new counter-terrorism legislation and changes to definitions, on Muslim communities.⁷

2. Background and Context

Since the early 2000s, Australian counter-terrorism law has explicitly included religious motives in the statutory definition of terrorism (Criminal Code Act 1995 (Cth), s 100.1). While intended to capture broad motivational bases, evidence finds that in practice, this has overwhelmingly linked terrorism to Islam and led to discrimination against Muslims in Australia.

My recently released National Response to Islamophobia report documents how this framing has entrenched prejudice against Muslims, leading to widespread verbal abuse, physical attacks against

⁶ See Special Envoy to Combat Islamophobia, [A National Response to Islamophobia: A Strategic Framework for Inclusion, Safety and Prosperity](#), Recommendation 4; Australian Human Rights Commission, *The National Anti-Racism Framework: A Roadmap to Eliminating Racism in Australia* (AHRC: Canberra, 2024).

⁷ Special Envoy to Combat Islamophobia, *A National Response to Islamophobia*, [A National Response to Islamophobia: A Strategic Framework for Inclusion, Safety and Prosperity](#), Recommendation 21



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

Muslim bodies and sites, as well as discrimination in education and employment, and mistrust of public institutions.⁸ In alignment with this report there is an urgent need for counter-terrorism frameworks that avoid religious bias to maintain legitimacy and compliance with human rights standards in Australia.

My recommendations are foregrounded in the growing body of research and evidence of the following:

1. Social harm produced by religion-linked framing.
2. The negative impacts of current framing on trust in government and law enforcement.
3. The need for alignment between Australian counter-terrorism law and international definitions that omit references to religion and de-emphasise the need to identify and label motives.

3. Evidence and analysis

3.1 *Evidence-based, critical-analytical study of Islam*

The religion of Islam has been subject to intense scholarly research and study for hundreds of years, with the field of Islamic Studies expanding at universities across North America, Europe and Australia over the past two decades. Islamic Studies provides an evidence-based, critical analysis of Islam's primary source, the Qur'an, as well as the lived example of Prophet Muhammad (*sunnah*), Prophetic narrations (*hadith*), Islamic civilisation, Islamic law, Muslim history, and contemporary lived experiences of Muslims.

Arguably, a significant development in the field of Islamic Studies is the rediscovery of the Covenants of the Prophet Muhammad⁹ and analysis of covenants in the Qur'an and historical Muslim governance.¹⁰ This research establishes the centrality of covenants in Islam for human security and peaceful coexistence between all peoples and affirms the authenticity and historicity of the Prophet's covenants as pledges of protection – of life, property, and places of worship, freedom of religion, mutual respect – issued to Christian, Jewish, and other non-Muslim communities. Islamic covenantal scholarship contributes to a universal human story in which religious, social, and international covenants – formal agreements for establishing social relations, resolving conflict, and maintaining a just peace – are central to the social contract and human coexistence.

Research on covenants in Islam demonstrates that extremism and terrorism are fundamentally antithetical to the faith, which is also embedded in mainstream Islamic belief and practice. Covenantal teachings in the Qur'an and *sunnah* emphasise justice, trust, and peaceful coexistence, strictly prohibiting indiscriminate violence, the targeting of civilians, and the spreading of fear in society. The use of force is permitted only in narrowly defined circumstances – primarily self-defence and responses to treaty violations – but always within covenantal limits designed to protect non-combatants and uphold

⁸ Special Envoy to Combat Islamophobia, [*A National Response to Islamophobia: A Strategic Framework for Inclusion, Safety and Prosperity*](#).

⁹ John Morrow, *The Covenants of the Prophet Muhammad with the Christians of the World* (Kettering, OH: Angelico Press / Sophia Perennis, 2013); Ibrahim Mohamed Zein, and Ahmed El-Wakil. *The Covenants of the Prophet Muhammad: From Shared Historical Memory to Contemporary Global Citizenship* (London: Routledge, 2022).

¹⁰ Joseph Lombard. Covenant and Covenants in the Qur'an. *Journal of Qur'anic Studies* 17 no. 2 (2015): 1–23; “Human Security and Peaceful Coexistence in Islam: Analysis of Covenants in the Qur'an and Sunnah.” *Journal of Pacifism and Nonviolence* 2, no. 2 (2024): 233–56; Halim Rane, and Ibrahim Mohamed Zein. Forthcoming. *Covenants with Allah: Keystone of Islam* (London: Routledge, 2025).



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

agreements for peace and security. This evidence underscores that what is commonly labelled “religiously motivated terrorism” is in fact a betrayal and misuse of Islam’s covenantal obligations, *not a fulfilment of them*, and therefore terrorism should be understood as political or ideological violence rather than as a religiously inspired act.

3.2 *The Stigmatisation of Muslim Australians*

Terrorism is driven by several factors.¹¹ Regrettably, religion can be conflated with political ideology and as such unwittingly serves the agenda of political and ideological groups.¹² An important analysis of the sentencing transcripts of terrorism court cases in Australia demonstrates the mislabelling of “religious motivation” and the problematic conflation of Islam with ideological and political readings of Islam.¹³

While everyday mainstream Muslims can and do distinguish between religious imperatives and fringe, ideological and political perversions, broader society often is unable to do so. Achieving such discernment, arguably requires either lived experience as a Muslim, frequent contact with Muslims, or extensive historical and doctrinal context. It would require, for example, an understanding of the impacts of the dissolution of the Ottoman Empire (ca. 1288-1922) and the decline of significance of the traditionally trained scholastic clergy (*‘ulema*) on the ordinary lives of Muslims, their identity, belief, religious practise, as well as an understanding of the ways in which religious authority has since been constructed and contested.

In addition, it would require a grasp of the rise of influential Muslim intellectuals, ideologues and political leaders from across the Muslim world, which heralded the demise and destruction of the old, traditional order and worldview. They spearheaded revivalist, modernist, and reformist movements, that were responding to the collapse of the Ottoman Empire, a perceived lack of authentic religiosity, European imperialism, modernity, colonialism and post-colonialism. This not only saw a new generation of technocrats and clergy, but also a contestation of ideas and paradigms that articulated a new “Islamicised” worldview.

Furthermore, it would require an understanding of the response by such thinkers and ideologues to secular nationalism in their homelands, the creation of the modern Middle East, and the forceful interventions by major powers to preserve their national interests in Muslim-majority countries. These all contributed to shaping religious identity, practice, social relations, and politics that Muslims around the world have inherited and navigate, today.

¹¹ Robert A. Pape, *Dying to Win: The Strategic Logic of Suicide Terrorism* (New York: Random House Trade Paperbacks, 2006); Daniel Byman, *Spreading Hate: The Global rise of White Supremacist Terrorism* (New York: Oxford University Press, 2022) and Arie Perliger, *American Zealots: Inside Right-wing Domestic Terrorism* (New York: Columbia University Press, 2020).

¹² Michael Weiss and Hassan Hassan, *ISIS: Inside the Army of Terror* (New York: New York, Regan Arts, 2015), Ami Pedahzur and Arie Perliger, *Jewish Terrorism in Israel* (New York: Columbia University Press, 2011), and Elizabeth Neumann, *Kingdom of Rage: The Rise of Christian Extremism and the Path Back To Peace* (Nashville: Hachette, 2024).

¹³ Halim Rane, “Cogent Religious Instruction: A Response to the Phenomenon of Radical Islamist Terrorism in Australia.” *Religions* 10 no.4 (2019): 246.



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

Of course, explaining this is beyond the scope of this submission.¹⁴

Including religion in the current definition of terrorism, risks not only ignoring these historical forces, but wilfully obscures the faith and practice of everyday Muslims with that of fringe, political and ideological voices. This has resulted in the stigmatisation of Muslim Australians, polarisation between social groups and cultivated a climate of suspicion and fear around Muslims.¹⁵ References to religious motives in the current definition of terrorism have been found to perpetrate public perceptions that Islam is inherently tied to violence, eroding social cohesion by criminalising Muslims¹⁶ and cultivating a climate of suspicion that has provided ammunition for far-right extremist narratives.¹⁷ Religious descriptors in counter-terrorism discourse and laws have produced a “guilt by association” and “suspect community” effect that have, at times, casted Muslims as inherently linked to terrorism.¹⁸ This has negative effects on social

¹⁴ See for example, William R. Polk, *Crusade and Jihad: The Thousand-year war between The Muslim world and the Global North* (United States of America: Yale University Press, 2018); David Fromkin, *A Peace to End all Peace: Creating the Modern Middle East 1914-1922* (England: Penguin Books, 1989); Nehemiah Levtzion and John O. Voll (Eds), *Eighteenth-Century Renewal and Reform in Islam* (United States of America: Syracuse University Press, 1987); David Dean Commins, *Islamic Reform: Politics and Social Change in Late Ottoman Syria* (New York: Oxford University Press, 1990); Kemal H. Karpat, *The Politicization of Islam: Reconstructing Identity, State, Faith, and the Community in the Late Ottoman State* (New York: New York: Oxford University Press, 2001); Samira Haj, *Reconfiguring Islamic Tradition: Reform, Rationality, and Modernity* (California: Stanford University Press, 2009); Bruce Westrate, *The Arab Bureau: British Policy in the Middle East: 1916-1920* (United States of America: The Pennsylvania state University Press, 1992); Charles C. Adams, *Islam and Modernism: A Study of the Modern Reform Movement Inaugurated by Muhammad 'Abduh* (Malaysia: Islamic Books Trust, 2010); Suha Tahi-Farouki and Basheer M. Nafi (Eds), *Islamic Thought in the Twentieth Century* (New York: I.B. Tauris, 2004); Malika Zeghal, *The Making of the Modern Muslim State: Islam and Governance in the Middle East and North Africa* (New Jersey: Princeton University Press, 2024); Adam Mestyan, *Arab Patriotism: The Ideology and Culture of Power in Late Ottoman Egypt* (New Jersey: Princeton University Press, 2017); Mustafa Baig and Robert Gleave, *Violence in Islamic Thought: From European Imperialism to the Post-Colonial Era* (Edinburgh: Edinburgh University Press, 2021); Fawaz A. Gerges, *Making the Arab World: Nasser, Qutb, and the Clash that shaped the Middle East* (New Jersey: Princeton University Press, 2018); Richard C. Martin and Abbas Barzegar (Eds) *Islamism: Contested Perspectives on Political Islam* (California: Stanford University Press, 2010); Cemil Aydin, *The Idea of the Muslim World: A Global Intellectual History* (United States of America: Harvard University Press, 2017); M.A.J Beg, *The Middle East in the Twentieth Century: Chronology of Events* (Cambridge: UK: n.p., 2006); Roger Hardy, *The Poisoned Well: Empire and its legacy in the Middle East* (London: C. Hurst & Co., 2018). Also see: Daryush Shayegan, trans John Howe, *Cultural Schizophrenia: Islamic Societies Confronting the West* (London: Saqi Books, 1992).

¹⁵ Waqas Tufail, and Scott Poynting, “A common ‘outlawness’: Criminalisation of Muslim minorities in the UK and Australia,” *International Journal for Crime, Justice and Social Democracy* 2, no. 3 (2013): 43-54; Adrian Cherney, and Kristina Murphy, “Being a ‘Suspect Community’ in a Post-9/11 World: The Impact of the War on Terror on Muslim Communities in Australia,” *Australian & New Zealand Journal of Criminology* 49 no. 4 (2016): 480-96

¹⁶ Tufail & Poynting, “A common ‘outlawness.’”

¹⁷ Scott Poynting. “Islamophobia, Human Rights and the ‘War on Terror,’” in Carrington, Kerry, Matthew Ball, Erin O’Brien, and Juan Tauri, *Crime, Justice and Social Democracy: International Perspectives* (Eds), pp. 133-144. (London: Palgrave Macmillan UK, 2012).

¹⁸ Anne Aly, “Australian Muslim responses to the discourse on terrorism in the Australian popular media,” *Australian Journal of Social Issues* 42, no. 1 (2007): 27-40; Cherney & Murphy, “Being a Suspect Community”; Halim Rane, “Cogent Religious Instruction: A Response to the Phenomenon of Radical Islamist Terrorism in Australia,” *Religions* 10 no. 4 (2019): 246. <https://doi.org/10.3390/rel10040246>; Tufail & Poynting, “A common ‘outlawness’”.



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

cohesion, translating into negative attitudes towards Islam and Muslims in Australia¹⁹ as well as providing support for punitive counter-terrorism laws that erode the civil liberties and human rights of both Muslims and the broader Australian public.²⁰

For Muslim Australians, the inclusion of religion as a motive to terrorism has resulted in challenges navigating identity and belonging in this context of disproportionate state surveillance.²¹ A rise in anti-Muslim attitudes has also translated into intensifying anti-Muslim incidents in a range of settings,²² resulting in mental health challenges,²³ and broader social mobility in accessing opportunities such as employment amongst Muslims.²⁴ Muslim youth in particular experience deep stigmatisation and identity challenges when terrorism is tied to Islam, as they are treated as potential threats and expected to condemn and counter extremist on behalf of the broader community.²⁵ Cumulatively, this has led to feelings of alienation and disengagement amongst Muslims in Australia, eroding civic equality and reproducing anti-Muslim prejudice, racism and sentiment as a structural condition of governance.²⁶

Removing the association between religion/Islam and terrorism will work to reduce collective blame, stigma, and discrimination against Muslim Australians. By decoupling religion from terrorism, Muslims will be less likely to be treated and perceived as a threat. This will work to foster a stronger sense of belonging and enable Muslims to share their identity openly without fear of being surveilled or targeted based on their religious visibility. Concurrently, by removing religion as a driver of terrorism, it removes the persuasiveness and legitimacy of Islamophobic narratives and tropes that focus exclusively on Islam as the singular driver of terrorism. Most Australians are still unclear about Islam, its relationship with terrorism, and a high proportion of Australians hold negative attitudes towards Muslims.²⁷

The omission of religion from definitions of terrorism will support and strengthen Muslim citizenship, by strengthening belonging, trust, and equal treatment for all members of society. It aligns safety and justice with shared democratic values, not with broad generalisations about a religious group, that only foment confusion, fear and Islamophobia.

¹⁹ Matteo Vergani, Fethi Mansouri, and Liliana Orellana, "Terrorism Concern and Persistence of Negative Attitudes towards Islam and Muslims," *Journal of Community & Applied Social Psychology* 32 no. 6 (2022): 1029-46. <https://doi.org/10.1002/casp.2633>.

²⁰ Harley Williamson, and Kristina Murphy, "Animus toward Muslims and its association with public support for punitive counter-terrorism policies: did the Christchurch terrorist attack mitigate this association?" *Journal of Experimental Criminology* 18, no. 2 (2022): 343-363.

²¹ Randa Abdel-Fattah, *Coming of Age in the War on Terror* (Sydney: NewSouth Publishing, 2021).

²² Susan Carland, Nadeem Alziyadat, Matteo Vergani, and Kerry O'Brien, *Islamophobia in Australia: Report V* (Sydney: Islamophobia Register Australia, 2025).

²³ Jannat Fatima Farooqui and Archana Kaushik, "Growing up as a Muslim youth in an age of Islamophobia: A systematic review of literature," *Contemporary Islam* 16, no. 1 (2022): 65-88.

²⁴ Mohammad Alaslani and Jock Collins, "The Blocked Mobility Hypothesis and Muslim Immigrant Entrepreneurship in Sydney, Australia," *Review of Integrative Business and Economics Research* 6 no.3 (2017): 333-57.

²⁵ Randa Abdel-Fattah, *Coming of Age*, and Randa Abdel-Fattah, "Islamophobia and Australian Muslim political consciousness in the war on terror," *Journal of Intercultural Studies* 38, no. 4 (2017): 397-411.

²⁶ Farooqui and Kaushik, "Growing up as a Muslim Youth."

²⁷ Special Envoy to Combat Islamophobia, *A National Response to Islamophobia*, pp. 14-17.



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

3.3 *Trust in government and law enforcement*

Research has uncovered the limitations of definitions of terrorism that reference religion, leading to operational inefficiencies in law enforcement, as well as the erosion of community trust in government.

In relation to operational inefficiencies, evidence has found that focusing on religious identity when defining terrorism risks the diversion of resources from tracking actual threats based on intent, planning, and capability.²⁸ This is particularly tied to the growing threat of right-wing extremism in Australia, whereby a narrow religious framing of terrorism has been found to obscure other significant security threats,²⁹ like the emergence of far-right extremist movements. By broadening security discourse beyond religion, the emerging definition must recognise these emerging and diverse threats to security.³⁰

In addition, studies have shown that government investment in de-radicalisation programs built on religious and cultural assumptions has limited effectiveness, failing to address structural issues, and instead, reinforce stigma against these groups.³¹ This may be attributed to the issue of community distrust in government and law enforcement. Trust is crucial for effective community engagement strategies and cooperation with communities in countering terrorism.³² In this case of Muslims in Australia, procedural justice studies demonstrate that Muslims' willingness to cooperate with police depends on fairness and respect.³³ However, religion-linked counter-terrorism frameworks and policing undermine this trust, alienating Muslim Australians, reducing community resilient and undermines intelligence-sharing and prevention efforts.³⁴

By removing references to religion/Islam, trust will be built and enhanced between Muslim communities and police agencies. Consistent, non-discriminatory policing and law enforcement practices will improve perceptions of fairness and legitimacy, thus encouraging Muslim communities to report concerns, share information, and participate in safety efforts.

²⁸ Geoff Dean, Peter Bell, and Zarina Vakhitova, "Right-wing extremism in Australia: the rise of the new radical right," *Journal of Policing, Intelligence and Counter Terrorism* 11, no. 2 (2016): 121-142.

²⁹ Dean et al, *Right wing Extremism in Australia*.

³⁰ Jade Hutchinson, "The new-far-right movement in Australia," *Terrorism and Political Violence* 33, no. 7 (2021): 1424-1446.

³¹ Shahram Akbarzadeh, "Investing in Mentoring and Educational Initiatives: The Limits of De-Radicalisation Programmes in Australia," *Journal of Muslim Minority Affairs* 33 no. 4 (2013): 451-63.
<https://doi.org/10.1080/13602004.2013.866347>.

³² Wesam Charkawi, "Approaching P/CVE through building trust and meaningful relationships with Muslim communities," *Journal for Deradicalization* 40 (2024): 114-49.

³³ Mohamed M. Ali, Kristina Murphy and Adrian Cherney, "Counter-terrorism measures and perceptions of police legitimacy: The importance Muslims place on procedural justice, representative bureaucracy, and bounded-authority concerns," *Australian & New Zealand Journal of Criminology* 57 no. 1 (2024): 24-42.
<https://doi.org/10.1177/2633807621103095>

³⁴ Kevin Mark Dunn, Rosalie Atie, Michael Kennedy, Jan A. Ali, John O'Reilly, and Lindsay Rogerson, "Can you use community policing for counter terrorism? Evidence from NSW, Australia." *Police Practice and Research* 17, no. 3 (2016): 196-211.



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

4. Alignment with international definitions

My second recommendation is to adopt a definition of terrorism that aligns with international definitions and standards. As outlined in comparative reviews, definitions of terrorism should remain neutral, and conduct-based, focusing on violent acts and coercive intent to maintain clarity.³⁵ This is distinct from the current focus of Australian law on motive categories like religion.³⁶

UN conventions and the European Union define terrorism *without* the requirement to identify or label a motive, such as religious qualifiers, as follows:

- *UN Security Council Resolution 1566* (2004) defines terrorism by serious violence and coercive intent, without reference to religion or specific motives in general.
- *UN General Assembly reports* focus on political purposes and coercion, again excluding the requirement for specific motives, such as religion.
- *EU Directive 2017/541* defines terrorism by conduct, intent, and aim to intimidate a population or compel a government. There is no mention of motives or causes in this definition.
- *The UN Rapporteur model definition* also does not include a motive element or any specifics relating to religion.³⁷

The current purpose element of the Australian definition reads:

- (a) *the action is done or the threat is made with the intention of:*
- (i) *coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or*
 - (ii) *intimidating the public or a section of the public.*

If the motive element were removed, the purpose element could be reworked to place greater emphasis on how terrorism seeks to intimidate or pressure governments or institutions: whether to force action, stop something from happening, or even as a form of punishment for past decisions. The part that deals with intimidating the public could also be reframed to highlight how these acts often aim to exert political pressure indirectly, by influencing public perception and, through that, decision-makers. Greater care is needed in addressing the ideological dimension of terrorism within the purpose clause, capturing the

³⁵ International Commission of Jurists, *Counter-Terrorism and Human Rights in the Courts – Guidance for Judges, Prosecutors and Lawyers on Application of EU Directive 2017/541 on Combatting Terrorism* (Geneva: ICJ, 2020). <https://www.icj.org/wp-content/uploads/2020/11/Guidance-counter-terrorism-ENG-2020-1.pdf>; Commonwealth of Australia, *Annual Report: Independent National Security Legislation Monitor* (Canberra: INSLM, 2012); Council of Australian Governments (COAG), *Review of Counter-Terrorism Legislation* (Canberra: COAG, 2013); Independent National Security Legislation Monitor (INSLM), *Issues Paper: Review of the Definition of Terrorism* (Canberra: INSLM, 2025).

³⁶ United Nations Office on Drugs and Crime. *University Module Series: Counter-Terrorism – Defining Terrorism* (Vienna: UNODC, 2020).

³⁷ See footnote 4.



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

real-world impact of violently imposed ideology, while ensuring clarity and avoiding the risk of legitimising or amplifying the ideology itself.

The real test of whether the wording is effective is whether the law is applied consistently across all accused individuals, regardless of their racial or religious background or the reasons attributed to their actions.

As emphasised by the Office of the High Commissioner for Human Rights (2008) and the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2010-2023),³⁸ definitions of terrorism must be precise, non-discriminatory, and uphold human rights. Persisting with religion-linked or motive-linked definitions of terrorism risks reputational damage for Australia's human rights commitments to equality and non-discrimination.

I support the position of the Australian Human Rights Commission's *National Anti-Racism Framework*, which stresses that counter-terrorism frameworks must avoid religious bias to maintain legitimacy and compliance with human rights standards.³⁹

³⁸ United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, 2010–2023, *Annual Reports to the Human Rights Council and General Assembly* (New York/Geneva: United Nations, 2025). <https://www.ohchr.org/en/special-procedures/sr-terrorism/annual-reports-human-rights-council-and-general-assembly>

³⁹ Special Envoy to Combat Islamophobia, *A National Response to Islamophobia*, and Australian Human Rights Commission, *The National Anti-Racism Framework*.



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

Recommendations

1. Remove religion from the definition of terrorism. Amend s 100.1 of the *Criminal Code Act 1995* to exclude “religious” motives. Removing the association between religion/Islam and terrorism requires only a small legal change, but the positive effects will be deeply transformative.
2. Consider amending the definition to focus law enforcement on the intended political or ideological impact of the conduct rather than the purported reasons of the accused. For example, in alignment with international examples such as the *UNSC Resolution 1566* and *EU Directive 2017/54*, define terrorism in terms of a strengthened purpose element and move away from the motive element. Refocus the purpose element to better capture how terrorism seeks to intimidate or pressure governments, directly or indirectly through the public, and carefully integrating the ideological dimension without legitimising or amplifying it. In this way, the political and ideological nature of the action is measured in its intended impact.
3. Acknowledge and repair the social harm of the religious-linked definition on Muslims in Australia. Investigate the negative impacts that legal and political rhetoric has played in fuelling Islamophobia, as well as the disproportionate surveillance of Muslim communities. In response, develop public communication strategies and implement this understanding through meaningful engagement that directly addresses the social harms previous definitions have caused to community trust and relations with government and law enforcement.
4. Strengthen safeguards that ensure counter-terrorism powers are exercised with clear oversight to prevent the disproportionate targeting of minority communities.
5. Promote community partnership. Prioritise deep engagement with Muslim communities based on respect, equality, and recognition of their contribution to Australian society. As proposed in my recent report, this should include measures such as the establishment of an advisory panel consisting of representatives from diverse Muslim communities to provide insights into the potential impacts and unintended consequences of new counter-terrorism legislation and changes to definitions on Muslim communities.⁴⁰

⁴⁰ Special Envoy to Combat Islamophobia, *A National Response to Islamophobia*.



AUSTRALIA'S SPECIAL ENVOY TO COMBAT ISLAMOPHOBIA

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