



5 July 2024

SENATE INQUIRY INTO FAR-RIGHT EXTREMISM MOVEMENTS IN AUSTRALIA.

SUBMISSIONS FROM THE AUSTRALIAN MUSLIM ADVOCACY NETWORK LTD

1. ACKNOWLEDGEMENT

The Australian Muslim Advocacy Network Ltd (AMAN) acknowledges the First Nations peoples of the lands it works on. We want to work in solidarity with First Nations Peoples to undo the oppression causes by Australia's legal frameworks and to envisage solutions that benefit not only the Muslim community, but First Nations communities and all communities that are affected by racism.

2. INTRODUCTION

The Australian Muslim Advocacy Network Ltd (AMAN) works to prevent the harms of systemic racism, online hatred and Islamophobia through policy engagement and law reform. It has supported the publication of peer review research and strategic public interest complaints and litigation. Through this work it has been able to develop practical recommendations.

AMAN has made very detailed submissions to various iterations of these inquiries over the years. Due to resource constraints, AMAN has pulled this together quickly.

3. RECOMMENDATIONS

AMAN recommends the Australian Government deals with the core of the problem. It can effectively respond to Nazism, racist nationalism, and other forms of violent extremism that violently deny Australia's cultural and religious diversity through:

- (a) Amendment to the terrorist act definition to remove the motive element which provides a terrorist act is intended to advance a political, ideological or religious cause. This amendment will help to ensure racist nationalists and Nazis are treated in line with community expectations under existing criminal law. In the alternative, remove the ideological and religious cause elements. This will eliminate the disproportionate and counterproductive effects of focusing police, media and community on ideology and/or religion and refocus direction on the key intention and conduct elements of the offence, which inherently focus on politically motivated violence.
- (b) AMAN recommends that the labels of religiously and ideologically motivated terrorism be done away with, in line with the removal of the motive element in the terrorist act definition. AMAN notes that quite a few police support this but contend that the direction to use these labels comes from above.
- (c) AMAN recommends a review of the necessity and proportionality of the terrorism event declaration powers. Based on that review, police should adopt uniform protocols for declaring a terrorism incident that favours allowing time to review evidence and contains criteria that can act as a safeguard against double standards and bias.

- (d) AMAN recommends the disclosure of the guidelines employed by law enforcement to determine whether prosecuting a child for terrorism or violent extremism offences is warranted for community safety.
- (e) AMAN recommends that forensic psychologist and social worker evidence reviewing the Government's approach to dealing with children with autism or other disabilities or mental illness, specifically in terms of their rehabilitation and risk mitigation, be produced to the National Children's Commissioner for her to review and make an annual report that is tabled in Parliament.
- (f) AMAN recommends reviewing existing counterterrorism laws to align them with general criminal law and general sentencing principles, allowing for individual assessment and short and long-term community safety to be considered. Currently, all mitigating factors are discounted in terrorism sentencing in favour of a greater emphasis on general deterrence.
- (g) AMAN recommends reviewing the role and practice of police through a health and community-based lens. There is a genuine perception within the Muslim community that brutal forms of policing and deprivation of liberty based on prejudicial suspicion are designed to isolate and break people and increase their transition to violence, which is then characterised as terrorism-related, further justifying to the public more brutal policing of more Muslim youth. Whether this is the intention or simply an unintended consequence, it is a matter that requires urgent attention.
- (h) Addressing harmful behaviour in the public information environment by corporations, whether traditional or social media (rather than locating the burden on the community and police):
 - (i) Amendment to the Online Safety Act to regulate dehumanising material targeting groups based on protected characteristics (The AMAN Foundation makes more specific recommendations in our submission in response to the Statutory Review of the Online Safety Act, which is ANNEXED to this submission). We recommend the recommendations in that submission be adopted.
 - (ii) Amendment to the Broadcasting Services Act to not allow news outlets to amplify ISIS media, Nazi and racist nationalist media in a way that supports their recruitment.
- (i) AMAN does not support criminalising hate speech due to our concern about expanding police powers and carceral approaches that have disproportionate effects on marginalised and overpoliced communities. A more even-handed approach to addressing hatred is required, which can be done via regulators such as E-Safety and ACMA.
- (j) AMAN does not support the new offences in relation to accessing, transmitting, soliciting, possessing or controlling violent extremist material for reasons it outlined in its submissions at the time and recommends they be repealed.

- (k) AMAN recommends that state police introduce hate crime scrutiny panels to continually improve the policing of hate crime in a way that builds community confidence.
- (l) AMAN recommends that penalty enhancement laws like introduced in Queensland be considered for other states so that police are better supported to charge a crime as a hate crime from the beginning and collect appropriate evidence. AMAN does not support expanding criminal laws, but existing criminal laws should have the capacity to acknowledge where the crime is done to express a message of hatred to an entire community based on the victim's protected attribute.

4. DISCUSSION

4.1 The terrorist act definition concerns

- (a) Religiously framed political violence is ultimately political.
- (b) Religiously motivated terrorism' is not a neutral term.
 - (i) White supremacist or Incel-inspired terrorism is "ideologically motivated", yet where the offender is Muslim, a whole religion and community are demonised. It also glamorises violent acts as religious¹, playing directly into the hands of politically motivated groups like ISIS². Racist groups also seize upon the terminology used by public officials to promote the scapegoating and dehumanisation of Muslims.
 - (ii) Individuals or groups that self-declare as Islamist or white supremacist, for example, can be called 'self-declared' advocates of that ideology, but presuming an ideology is highly prejudicial and unreliable. In other areas of law, there is no focus on motive in the definition of the crime or public labelling of crimes according to motive.³
 - (iii) We acknowledge that the legislative distinction between religion and ideology is peculiar to the UK, Australia, Canada and New Zealand, following Tony Blair's invention of the religious category.⁴ It is not in line with international legal conventions.⁵ and has been criticised by a former Australian

¹ Walker, B SC, 2012, INSLM (Independent National Security Legislation Monitor Annual Report), <<https://www.inslm.gov.au/reviews-reports/annual-reports/independent-national-security-legislation-monitor-annual-report-2012>>.

² Hardy, K, 2011, "Hijacking Public Discourse: Religious Motive in the Australian Definition of a Terrorist Act." University of New South Wales Law Journal 17(1) : 333-350.

³ McSherry, B, 2004, "Terrorism Offences in the Criminal Code: Broadening the Boundaries of Australian Criminal Laws," UNSW Law Journal 27 (2): 354.

⁴ Jabri Markwell, R. (2023) "Religion as a Motive – Does Australian Terrorism Law Serve Justice?", International Journal for Crime, Justice and Social Democracy. doi: 10.5204/ijcjsd.2686.

⁵ Walker, Hardy, Jabri Markwell, Vaughan, op cit.

High Court judge⁶ and Independent National Security Legislation Monitor⁷ as prosecuting a religion and being extremely counterproductive to the qualities that protect society against terrorism. The former INSLM advocated for the removal of the motive element.

(iv) AMAN continues to urge the removal of the 'ideological or religious' cause from the terrorist act definition, and the broader Muslim community leadership has urged for 'religious' to be removed at least from the definition.⁸ AMAN believes that the decision to maintain this category is politically intentional.

(v) The public needs to be educated on the political origins, context and agendas of various groups designated as terrorists under Australian law rather than associating the drive to violence as a result of religion. The latter approach has the misleading effect of making any Muslim in Australia a terrorism suspect, which is likely to exacerbate uncertainty and extreme fear in the public. According to research, this association with religion also makes it impossible to overcome prejudice, regardless of how much the public learns about Islam or how many personal relationships they may form.⁹ Religiosity in Islam does not cause terrorism¹⁰, nor does Islam support it¹¹.

- (c) The Australian Muslim Advocacy Network (AMAN) has recently renewed its call for an into the definition of terrorist acts following the recent police response to a stabbing at Sydney University.
- (d) Police have stated that a motive must be established to classify this incident as a terrorist act. This approach echoes the response to the Bondi incident, where mental health was considered, unlike the Wakely incident, where a Muslim teenager with mental health issues was labelled a terrorist within hours.

⁶ Brennan CJ, G, 2007, "Liberty's threat from executive power." Sydney Morning Herald, July 6, 2007. <https://www.smh.com.au/national/libertys-threat-from-executive-power-20070706-gdqjxj.html>.

⁷ Walker, B SC, 2012, INSLM (Independent National Security Legislation Monitor Annual Report), <<https://www.inslm.gov.au/reviews-reports/annual-reports/independent-national-security-legislation-monitor-annual-report-2012>>.

⁸ [Joint-Statement-on-behalf-of-the-Australian-Muslim-Community-to-PJCIS-01.09.23.pdf \(aman.net.au\)](#)

⁹ Vergani, Matteo & Mansouri, Fethi & Orellana, Liliana. (2022). Terrorism concern and persistence of negative attitudes towards Islam and Muslims. *Journal of Community & Applied Social Psychology*. 32. 10.1002/casp.2633.

¹⁰ Aly, A, Striegler, J, 2012, "Examining the Role of Religion in Radicalization to Violent Islamist Extremism." *Studies in Conflict & Terrorism* 35(12): 849–862. <https://doi.org/10.1080/1057610X.2012.720243>; Beller, J, and Kröger, C, 2018, "Religiosity, religious fundamentalism, and perceived threat as predictors of Muslim support for extremist violence." *Psychology of Religion and Spirituality* 10(4), 345–355. <https://doi.org/10.1037/rel0000138>

¹¹ [Australian Islamic groups calls for revision of national terrorism laws, as sixth teenager charged - ABC News](#)

- (e) Under international law, terrorism is defined as politically motivated violence and should be treated as such. The current legal requirement to establish a motive is unnecessary, as the political aspect is already contained in the special intent clause, which includes the intention to coerce or compel the government or intimidate the population.
- (f) The requirement to establish a religious or ideological cause poses several problems:
 - (i) **Disarm violent ideological narratives and recruitment:** Groups like ISIS and Al Qaeda are glamorised as religious entities, aiding their promotion. For twenty years, the official lexicon of 'religiously motivated' terrorism has lent authority to ISIS and racist nationalist narratives about Islam. ISIS wants its followers to believe it is religious and carries out a religious war. It wants to draw interest from young Muslims and can succeed where religious illiteracy is an issue. Racist Nationalists want their followers to believe Islam is incompatible, savage and inherently violent.
 - (ii) **Prosecution Challenges:** There is uncertainty about whether ideologies such as racism, white supremacy, and mixed ideologies constitute terrorism.
 - (iii) **Community Stigmatisation:** This requirement demonises religious communities and leads to intractable prejudice.
 - (iv) **Prejudice to justice:** Stigmatisation of Muslims leads to strong political pressure to label Muslims as terrorists earlier, even when the accused is a child and mentally unwell or disabled. As all terrorism charges must be judged by a jury, this also leads to irreparable prejudice at trial.
 - (v) **Reduce arbitrary implementation:** The overwhelming view from human rights lawyers and the United Nations Security Council is that a motive element leads to the arbitrary implementation of terrorism law, where some ideologies are treated as violent, and others are not.
 - (vi) **Support cultural change within law enforcement institutions:** The removal of the religious and ideological elements would refocus law enforcement on the core intention (to coerce or compel the government, cause intimidation to the government or population) and the conduct components of terrorist-related crimes.
- (g) AMAN proposes removing the motive element, or alternatively, removing the religious and ideological elements of the motive so that there is only political motive.

- (h) Removing this requirement will reduce stigmatisation of Muslims and inconsistent police handling while making it easier to prosecute white supremacists.

4.2 Concerns with CVE programs

- (a) *Degree to which the CVE program works with the protective factor of religion:* Research demonstrates that a strong sense of religion increases the rejection of violent extremism as an ideology and behaviour. Supporting violent extremism is not the product of religion but of a combination of factors, including one's social identity shaped through the meaningful narratives that are offered by violent extremist groups. Violent extremist groups provide individuals in the group the identity of belonging, exclusion, exploitation, becoming disparaging of other groups and adopting a hardened in-group viewpoint and perceived group injustice.¹²
- (b) *Degree to which the CVE program works with the protective factor of community and social bonds:* The CVE program, driven by the Federal Government, mobilises local governments to implement strategies and interventions to disrupt and prevent an individual's progression towards "violent extremism". However, AMAN is concerned that the basis on which the CVE programs select participants could cause community members to be alienated and damage community leaders' legitimacy.¹³ The CVE operates on the basis that there are outward "warning signs" of an individual's possible progression towards engaging in terrorism instead of the individual making actual threats or expressions of intent to commit violence.¹⁴ A report by the Brennan Center for Justice notes that, "despite the impetus to find a terrorist profile or hallmarks of radicalisation to hone in on incipient terrorists, empirical research has emphatically and repeatedly concluded that there is no such profile and no such easily identifiable hallmarks."¹⁵
- (c) Degree to which the CVE program prioritises rehabilitation: Moreover, there is an inherent conflict between the interests of the community and federal law enforcement present in the programs. Law enforcement may be pressured to

¹² Waseem Charkawi, Kevin Dunn, Ana-Maria Bliuc, 'The Influences of Social Identity and Perceptions of Injustice on Support to Violent Extremism', at 1, available at https://www.researchgate.net/publication/339955223_The_influences_of_social_identity_and_perceptions_of_injustice_on_support_to_violent_extremism.

¹³ Muslim Justice League, 'Concerns about "Concerning Violent Extremism" (CVE) Programs,' (2014), at 1.

¹⁴ Ibid.

¹⁵ Faiza Patel, Brennan Center for Justice, "Rethinking Radicalization" (2011) at 8, available at: http://brennan.3cdn.net/f737600b433d98d25e_6pm6beukt.pdf. See also "The Edge of Violence," supra note 1; and John Horgan. "Discussion Point: The End of Radicalization?" (2012), available at: <http://www.perma.cc/OiCRqo8gp8K>.

maximise terrorism convictions and gather intelligence to support convictions from the programs rather than favouring rehabilitation.¹⁶

- (d) How CVE program supports persons with mental illness: Given the correlation between psychiatric disorders, disabilities such as autism and transitions to violence, it is vital that any counterproductive elements or deficiencies in policing or the CVE program are brought to light as soon as possible.¹⁷
- (e) Degree to which CVE program is subject to evaluation: Such programs should not be assumed to be subject to fulsome scrutiny and evaluation. Since the September 11 attacks, prevention and countering violent extremism (P/CVE) programs have rapidly increased worldwide, garnering significant interest among researchers. A systematic review focusing on the evaluations of primary, secondary and tertiary prevention programs from 2001 until 2020 identified 74 program evaluations that included satisfactory measures and metrics. Only 32% of the studies deemed the intervention successful, 55% described limited success, and 8% deemed the program had failed. Many of the programs evaluated failed to reach their objectives; some generated negative outcomes such as community disdain and an increase in the likelihood of alienation and stigma. Success was largely a self-assessed measure by the facilitators or stakeholders of the programs or the evaluators of the study. Success indicators were operationalised as the degree of enhanced sense of belonging (connectedness to the community, social connection), trust and willingness to engage in programs, development of critical thinking skills (integrative complexity theory), and a strong sense of worth (quest for significance).¹⁸
- (f) Degree to which CVE program may have broader public safety impacts: A similar program, "Preventing Violent Extremism", was introduced in the UK in 2007. The UK program has been damaging as there was a lack of government transparency and accountability, a significant focus on gathering intelligence

¹⁶ Sahar Aziz, "Policing Terrorists In the Community," 5 Harvard Nat'l Sec. J. 147 available at: <http://harvardnsj.org/wp-content/uploads/2014/01/Aziz-Final.pdf>.

¹⁷ Allely, C. S., Jouenne, E., Westphal, A., Staufenberg, E., & Murphy, D. (2024). Autism spectrum disorder, extremism and risk assessment. *Criminal Behaviour and Mental Health*.

Soares, N., Allely, C. S., Straub, F., & Penner, M. (2022). Autism spectrum disorder, extremism, and the role of developmental-behavioral pediatric clinicians. *Journal of Developmental & Behavioral Pediatrics*, 43(8), 480-488.

Rousseau, C., Johnson-Lafleur, J., Ngov, C., Miconi, D., Mittermaier, S., Bonnel, A., ... & Veissière, S. (2023). Social and individual grievances and attraction to extremist ideologies in individuals with autism: Insights from a clinical sample. *Research in Autism Spectrum Disorders*, 105, 102171.

18 Wesam Charkawai, Kevin Dunn and Ana-Maria Bliuc, 'Evaluations of countering violence extremism programs: Linking success to content, approach, setting and participants,' at 1, available at <https://www.sciencedirect.com/science/article/pii/S1756061624000260>.

on Muslim communities, and the policing of radical dissent.¹⁹ Participation in the program diminished youth confidence in democracy and inhibited Muslims' abilities to feel safe in using services.²⁰ The UK program also unfairly imposes two standards on citizens, namely one for Muslims and another for everyone else.²¹

4.3 Comparative analysis

(a) Recent points of comparison

(i) The **Botany petrol bomb incident** occurred on 5 January 2024. A man left a petrol-filled bomb on a car in Botany with a note saying, "Enough! Take the flag down" on his neighbour's car, which was flying the Palestinian flag. The police were informed, but they did not involve the counterterrorism unit, and the man responsible was charged with five non-terrorism offences. The accused had also attended the site to deliver a verbal tirade of 'Zionist' rhetoric.

(ii) On Thursday, 28 March 2024, police executed a search warrant and seized the mobile phone, computer and laptop of a 69-year-old disability pensioner, Muslim and artist. The action was taken after a public post on X, formerly Twitter, where the artist wrote, "You're lucky no one left a petrol bomb at your family home #alexryvchin" with reference to the Botany incident. The warrant was issued under section 93Z of the Crimes Act 1900 (NSW), for the offence of publicly threatening or inciting violence on grounds of race, religion, sexual orientation, gender identity or intersex or HIV/AIDS status. The pensioner described the action as "weaponizing the police to terrorise citizens".²² He alleged that NSW police ransacked his home and pinned him against the wall. Finally, one detective explained that there had been an accusation that he had made a bomb, and they then produced a copy of the tweet.²³

(iii) The **Bondi stabbing incident** occurred after 3:30 pm on Saturday, 13 April, at the Bondi Junction Westfield centre and was ruled out as terrorism that evening by the NSW Police Commissioner during a press conference as the person was known to him and suffered mental illness. Six people were killed. The person of interest was killed by a police officer and was a white adult male with schizophrenia.

19 Jahangir Mohammed and Dr Adnan Siddiqui, CAGE, "The Prevent Strategy: A Cradle to Grave Police State" (2014) (hereinafter "The Prevent Strategy"), available at: <http://cageuk.org/report.pdf>.

20 "The Prevent Strategy: A Cradle to Grave Police State" (2014) (hereinafter "The Prevent Strategy"), available at: <http://cageuk.org/report.pdf>.

21 "The Prevent Strategy: A Cradle to Grave Police State" (2014) (hereinafter "The Prevent Strategy"), available at: <http://cageuk.org/report.pdf>, 8, 28.

22 <https://www.dailytelegraph.com.au/news/nsw/petrol-bomb-tweet-from-sydney-propalestinian-artist-sparks-police-investigation/news-story/5095146f2cc3d23881204cf3b53cca0a>

23 <https://www.sydneycriminallawyers.com.au/blog/nsw-police-officers-raid-pro-palestinian-man-over-misunderstood-tweet/>

(iv) The **Wakely stabbing incident** occurred at about 7:10 p.m. on Monday, 15 April, and it was designated at 1:35 a.m. on 16 April as a religiously motivated terrorism incident, according to the police Statement of Facts. Two people received non-life-threatening injuries. The person of interest was arrested by police. He was an Arab Muslim 16-year-old boy with a history of mental health concerns and potential undiagnosed disabilities/disorders. Despite his troubled history, he had never undergone a psychiatric or pediatric diagnosis.²⁴

(v) On Wednesday, 24 April 2024, a counterterrorism operation involving 400 police officers conducted 13 search warrant raids and arrested seven children aged between 14 and 17 years old.²⁵ Five of the children were charged, two with violent extremist material offences and three with terrorism conspiracy. Australian Federal Police (AFP) Deputy Commissioner Krissy Barrett said investigations had revealed a “network” of people who share a “similar violent extremist ideology.” This common “ideology” was not named, but clearly, the accusation was directed at identification with Islamic belief. Lawyers for two of the children immediately applied for bail, and the application for the first was granted with the judge finding ‘comfort in that the young person's intention is not to support terrorism.’ This young person has Autism Level 2. It was subject to immediate appeal by police and the decision was stayed. The second application was then heard and failed.

(vi) It is also reported that police are investigating some of the youths for ‘religiously motivated terrorism’ in relation to alleged assaults against LGBT persons.²⁶

(vii) On Wednesday, 24 April 2024, ASIO Director-General Mike Burgess told the National Press Club that ‘Sunni Islamic violent extremism’ remained the principal concern. and warned there was a 50 per cent chance that someone would plan or conduct an act of terrorism in the next 12 months.”²⁷

(b) Mental illness

(i) In one case, mental illness was assumed to explain why someone did something wrong and why it is wasn’t terrorism (**see Background Material ‘Police reasoning’**).

²⁴ <https://www.abc.net.au/news/2024-04-29/parents-of-teenager-who-stabbed-bishop-give-first-interview/103767910>

²⁵ <https://www.afp.gov.au/news-centre/media-release/five-charged-following-joint-counter-terrorism-team-operation>

²⁶ <https://www.dailytelegraph.com.au/truecrimeaustralia/police-courts-nsw/major-antiterror-raids-across-sydney-after-church-stabbing-attack/news-story/bd1488cec612b9598f1fe4156ada7de1>

²⁷ <https://www.theaustralian.com.au/nation/politics/nsw-police-operation-amid-teen-terror-seven-threat/news-story/a748bccd3823433b2e3f8d12e5d15333>

- (ii) In another, the person had mental health issues, but they weren't assessed yet. The police jumped to designate the event as terrorism at 1:35 am in the morning before the hospital could assess the Wakely attacker for mania (**see Background Material – ‘Designation before psychiatric assessment’**)
- (c) Significance of terrorism charge
 - (i) When it comes to punishing terrorists, young age, mental health, and rehabilitation are not taken into account as they are in other crimes.²⁸ Specific and general deterrence is the overriding consideration²⁹ and the penalty is far more severe – life imprisonment.
 - (ii) Throughout Australian prosecution history, only one Australian white male has been prosecuted for terrorism (terrorism conspiracy).³⁰ Numerous Australian white males with underlying mental health conditions, troubled schooling marred by bullying and disabilities (especially autism) has been charged and prosecuted using non-terrorism offences, leading to much smaller penalties and, in some cases, even home detention (**see Background Material – ‘Mental Illness and Disabilities in terrorism and non-terrorism cases’; ‘The Sentencing Framework in Terrorism’; ‘Relevant law’**).
- (d) Inconsistencies in Terrorism designation process and reasoning
 - (i) The Wakely and Bondi incidents highlight inconsistencies in reasoning that should be reviewed.

(A) What is the ideological or religious movement proposing to change the system through violence?

Professor Greg Barton stated, “Basically, it boils down to whether these violent actors think they’re part of a political or religious movement that’s going to change the system, or whether they are simply angry men projecting loathing and driven by personal demons. The two, of course, are not mutually exclusive.”

Here, for NSW police to designate and then charge the boy with terrorism, they would need to identify the broader religious movement that is going to change the system by violently attacking people who insult the Prophet. This religious system certainly cannot be called Islam or Sunni Islam, and our community will robustly oppose any effort by the Prosecution to brand our religion in this way.

In *R v Elomar* (2010), Justice Whealy attempted to spell out the ‘religious content of the convictions held by the defendants’ as an example of their ideology (2021: 807):

First, each was driven by the concept that the world was, in essence, divided between those who adhered strictly and fundamentally to a rigid concept of the Muslim faith, indeed, a medieval view of it, and those who did not.

²⁸ Weinberg, M, 2021, “Sentencing Terrorist Offenders – The General Principles.” Australian Law Journal 95:766.

²⁹ Ibid.

³⁰ Philip Galea.

Secondly, each was driven by the conviction that Islam throughout the world was under attack, particularly at the hands of the United States and its allies. In this context, Australia was plainly included.

Thirdly, each offender was convinced that his obligation as a devout Muslim was to come to the defence of Islam and other Muslims overseas.

Fourthly, it was the duty of each individual offender, indeed a religious obligation, to respond to the worldwide situation by preparing for violent Jihad in this country, here in Australia. ([56]–[57]).³¹

Reflecting on this passage, Jabri Markwell writes,

This is not a definition of religious cause but evidence of its application, in which a judicial officer has sought to explain the motives declared by the defendants. Whealy J could have provided such an explanation if the law only referred to an ideological cause. Primarily, what Whealy J explained is an ideology, or worldview, to justify violence. It does not equate with orthodox Islam.³²

We would add that this argument could be made if the law only referred to political causes, as the description above is ostensibly about political action.

The core of terrorism definitions worldwide is politically motivated violence³³, and the legitimate end sought by the incredible incursion on human rights posed by counterterrorism laws is to discourage non-democratic and violent challenges to power; or, as Barton says, ‘to change the system.’

It is yet to be made out with evidence about what ideology either the Bondi or Wakely attackers subscribed to (if any at all).

(B) Social process

Professor Barton speculated that “Having identified the attacker, they would have been studying his social connections and examining his digital footprint.”³⁴

The research underlines that radicalisation to the point of violence is, most of all, a social process (**see Background Material – ‘Social Process’**). In the case of the Bondi and Wakely attackers, they would be looking for a social history, online and offline, that showed how they began to accept public violence as necessary to ‘change the system’ as part of a broader ideological or religious movement.

When the perpetrators are white men, police tend to deploy a degree of extensive care and thoroughness (see **Background Material – ‘Police reasoning’**).

³¹ R v Elomar (2010) 264 ALR 759

³² Jabri Markwell, R. (2023) “Religion as a Motive – Does Australian Terrorism Law Serve Justice?”, International Journal for Crime, Justice and Social Democracy. doi: 10.5204/ijcjsd.2686.

³³ Vaughan, Katy (2022) Interoperability of terrorism definitions between the law and tech platforms. Report to the Global Internet forum to Counter Terrorism.

³⁴ <https://theconversation.com/why-is-the-sydney-church-stabbing-an-act-of-terrorism-but-the-bondi-tragedy-isnt-227997>

In relation to the Wieambilla incident, QPS took more than two months to determine that the incident was terrorism, stating: "We've had an opportunity to go through all the phone message texts, emails, the social media postings. I can tell you our investigators at this point in time have taken over 190 statements or recorded interviews. We've gone through body worn camera footage and also CCTV."

We are yet to see evidence from either the Bondi or Wakely incidents that show that *social process*. ASIO has said the Wakely attacker acted alone.³⁵

(C) Content on phones

The mere presence of content on a phone has been found to not warrant concerns about radicalisation or terrorism concern in a case involving a man who had bomb chemicals in his garage, had practised making a 'mother of satan bomb' and 60 images relating to "anti-Islamic and patriotic style ideology" as well as footage of the Christchurch mosque attacks on his phone.³⁶ Other cases of non-Muslim offenders found not to be terrorists are catalogued³⁷, and seem to fall down in not meeting the threshold of 'intended to advance an ideological cause'. Like in the case above, being anti-Muslim or racist in general was not deemed an ideology.

Case law of Muslim individuals tried for terrorism conspiracy, on the other hand, shows acceptance of content on the phone as probative of 'radicalisation' in religious cause/ideology. This extrapolation poses particular concern where

- the accused has circumscribed special interest arising from autism;
- the decision is made by police or a jury likely subject to the same bias that is prevalent in society, including cognitive barriers to moderating bias about Muslims presented where terrorism concern is elevated.³⁸

(D) Identity of victims

Professor Barton also stated, "the police assessment would have also given attention to the particulars of the church targeted. Assyrians (people from northwest Iraq, northeast Syria and southeast Turkey) are almost exclusively Christian, belonging to one of the oldest churches in existence, living in precisely that part of the world in which the Islamic State established its brutal caliphate."³⁹

³⁵ <https://theconversation.com/why-is-the-sydney-church-stabbing-an-act-of-terrorism-but-the-bondi-tragedy-isnt-227997>

³⁶ <https://www.abc.net.au/news/2019-05-17/alleged-explosives-maker-is-granted-home-detention/11118662>

³⁷ [Islamophobia Report 3 2022 LR Spreads RA.pdf \(csu.edu.au\)](#), pp125-128

³⁸ Vergani, Matteo & Mansouri, Fethi & Orellana, Liliana. (2022). Terrorism concern and persistence of negative attitudes towards Islam and Muslims. *Journal of Community & Applied Social Psychology*. 32. 10.1002/casp.2633.

³⁹ Ibid.

The Bondi attacker targeted women. If the victim's background was the basis for designation, why was the Bondi attacker's targeting of women⁴⁰, not a reason to designate it as terrorism, unlocking full investigative powers (**see Background material – 'Police reasoning'**).

The victim's identity is highly relevant to a hate crime prosecution. Hate crimes are directed against the target group to send a frightening message to the broader community that the victim belongs to.

The victim's identity is not always relevant to terrorism.

The police's consideration of assaults on LGBTQI community members as another example of religiously motivated terrorism seems to expand the definition of hate crime to terrorism.

(e) Prejudice arising from terrorism designation

Where the accused is still alive, it stands to reason that a terrorism designation leads to irreparable prejudice at trial, as all Commonwealth offences must be before a jury.

(f) Prejudicial commentary by the media and the Australian Prime Minister

(i) On 13 April 2024, Prime Minister Anthony Albanese said about the Bondi incident:⁴¹

BEN FORDHAM, HOST: Prime Minister, I wanted to give you the chance to share your thoughts with everyone because I'm sure, like everyone else in Sydney and around Australia, you're heartbroken about what's happened this afternoon.

ANTHONY ALBANESE, PRIME MINISTER: Look, this is just extraordinarily heartbreaking for Australians. Australians will be shocked, as I am, by an incident such as this in our peace-loving country. Westfield Bondi Junction will be familiar to many Sydneysiders. And the fact that this news came through, very quickly, really, while it was still happening, is of great shock. And I do want to pay tribute to the brave police, not least of which is this Inspector who, she attended the scene by herself and took this guy out, which obviously saved further lives. And her bravery and the bravery of others, people will have seen some of the footage of one gentleman grabbing a bollard to stop the assailant getting up the escalator onto the next level at Westfield there. An extraordinarily brave thing to do. And to all of the first responders, this is a reminder, at a time of crisis like this, police and first responders rush to danger, not from it, and we should give thanks to them each and every day.

(ii) On 17 April 2024, Prime Minister Anthony Albanese said about the Wakely incident:⁴²

⁴⁰ <https://www.news.com.au/national/nsw-act/obvious-killer-targeted-women-nsw-police-commissioner-karen-webb-says/news-story/a4cddd03d396d7dafdb4edc9c83824c1>

⁴¹ <https://www.pm.gov.au/media/radio-interview-2gb-0>

⁴² <https://www.pm.gov.au/media/radio-interview-2gb-drive-1>

O'KEEFE: So the belief that this was religiously-motivated clearly was the catalyst for determining and declaring that it was a terrorist attack. Are you concerned that this teenage boy has been radicalised by people who are still living in Sydney, or is this a matter that he may have well been radicalised online?

PRIME MINISTER: Well, I am concerned about his radicalisation. I'll leave any declarations, if you like, information to the police to release at an appropriate time. I don't want to say things that interfere with their ongoing investigations. I can assure your listeners, though, that the police are very focused on this, as are our security agencies, in particular ASIO, using powers at their disposal.

O'KEEFE: And what are they telling you? Are they telling you that there is potentially still some sort of a threat that is alive here in Sydney?

PRIME MINISTER: They are saying that this person acted alone, is what they have found. But they are, of course, going through this gentleman's media with all of his phone conversations, with people who he's been in contact with. There will be a full and comprehensive investigation into this and they will, when it is appropriate, ensure that that information is made public in a transparent way. I want to, my job as Prime Minister is to give every support to our police officers and to our security agencies, and that's what I'll continue to do.

O'KEEFE: Now, there's been some suggestions that this was religiously motivated from the Muslim faith. Clearly, Bishop Mar Mari is an Assyrian Christian. Are you worried where this heads?

PRIME MINISTER: Look, I want to see a de-escalation here. It's important that people don't take things into their own hands.

(iii) In one case, there is the complete erasure of the perpetrator and focus on the victims and in the other, there is the vilification of an entire religious community and prejudicial assumptions against a living accused person before the courts about radicalisation.

(g) Alternative Diversion options

The Youth Justice NSW's Countering Violent Extremism Unit aims to identify and divert young people from violent extremism. However, there are no clear guidelines for referral to the unit, which could lead to bias and double standards in the treatment of youth.

(h) Violent Extremism Assessment Tools scrutinised

Reviews have raised serious concerns with tools used to determine risk of violent extremism.⁴³

⁴³ <https://www.theguardian.com/australia-news/2023/aug/11/home-affairs-tried-to-water-down-report-critical-of-extraordinary-counter-terror-powers-documents-reveal>

- (i) A principled and consistent approach is key

AMAN understands why these recent events cause immense and legitimate grievances within the Australian Muslim community, especially at a time when there is already widespread suffering due to the Australian Government's non-adherence with international law in relation to Gaza.

Further, consistency and fairness in the investigation process, labelling, and charges laid are imperative to our liberal democracy. A person convicted of violent offending may attract five years in prison.⁴⁴, whereas a person convicted of terrorist acts may be imprisoned for life⁴⁵. Whether they are children or not doesn't matter under terrorism laws. We must hear from more experts on this issue to assist this area of law and policing to become more aligned with standing criminal law and justice principles.

⁴⁴ Kelty, S. F., Hall, G., & O'Brien-Malone, A. (2012). You Have to Hit Some People! Endorsing Violent Sentiments and the Experience of Grievance Escalation in Australia. *Psychiatry, Psychology and Law*, 19(3), 299–313. <https://doi.org/10.1080/13218719.2011.561769>

⁴⁵ Criminal Code Act (Cth) 1995 s100.1, s101.1

4.5 Background material

(a) RELEVANT LAW

The criminal offences used by police in relation to the chronology of facts referred to in this latter include the following.

Commit terrorist act s101.1

Penalty: Life Imprisonment

Mitigations: General and specific deterrence is paramount, mitigating factors given little to no weight.

Terrorism conspiracy s106.1

Conspiring to engage in any act in preparation for, or planning, a terrorist act. Terrorism sentencing law operates very differently from other criminal sentencing (see Background Material – Sentencing Framework in Terrorism)

Penalty: Life Imprisonment

Mitigations: General and specific deterrence is paramount, mitigating factors given little to no weight.

Violent extremist Material offences (possessing or controlling violent extremist material obtained or accessed using a carriage service)

Penalty: Five years

Mitigations: New offences so unknown degree to which these will be considered.

Terrorism designation powers

The *Terrorism (Police Powers) Act 2002 (NSW)* carries the special powers the JCTT are now applying to the case of the teenager.

(b) POLICE REASONING

Bondi incident

Police told the media that the incident was not terrorism the evening of the incident (it had occurred a few hours before).

While police are still waiting to identify him formally, Webb said police knew enough to classify the attack as a non-terror event. "If he is the person we believe, then we don't have

fears of that person holding an ideation. In other words, it's not a terrorism incident," Webb said.⁴⁶

"The videos speak for themselves, don't they? That's certainly a line of inquiry for us. It's obvious to me, it's obvious to detectives that it seems to be an area of interest that the offender had focused on women and avoided the men," Ms Webb told ABC News Breakfast.⁴⁷

Wakely Incident

Police designated the incident as terrorism within hours of it occurring. The incident occurred at about 7:10 p.m. on 15 April, and it was designated at 1:35 a.m. on 16 April, according to the JCCT Statement of Facts.

NSW Police Commissioner Karen Webb said she had declared the incident a "terrorist act".

"The things that influenced my decision to declare this a terrorist incident was the actions of the individual who attended, we will allege attended that church ... armed with a knife and stabbed the bishop and priest."

"We believe there are elements that are satisfied in terms of religious-motivated extremism."⁴⁸

Wieambilla incident

Three white individuals shot at police and a neighbour, killing all of them.

Date of shooting - 12 Dec 2022.

Date of Press Conference to designate as terrorism - 16 Feb 2023

Extract from the Press Conference (16 February 2023)

DEPUTY COMMISSIONER LINFORD:

So that involves it's been led by our Ethical Standards Command, our Security and Counterterrorism Command and our Crime and Intelligence Command, and there are a range of other specialists that are assisting us in the investigation. We are working with our

⁴⁶ [Bondi Junction stabbing: It was mass murder, not terrorism, says police commissioner \(smh.com.au\)](https://www.smh.com.au/news/nsw-police-commissioner-says-bondi-junction-stabbing-was-mass-murder-not-terrorism-20230216-p5c9qz.html)

⁴⁷ <https://www.news.com.au/national/nsw-act/obvious-killer-targeted-women-nsw-police-commissioner-karen-webb-says/news-story/a4cddd03d396d7dafdb4edc9c83824c1>

⁴⁸ https://www.abc.net.au/news/2024-04-16/nsw-wakeley-church-bishop-stabbing-attack-police-minns/103728120?utm_campaign=abc_news_web&utm_content=link&utm_medium=content_shared&utm_source=abc_news_web#live-blog-post-83907

partners. We certainly we have working with us members from ASIO, from the AFP, we've been working with the New South Wales Police. We've been working with police overseas.

One of our priorities in the investigation is to understand if the Train members acted alone, and to understand what the motivation was behind this event. Last time I talked about the extensive evidence that we had to collect, and I can tell you, we have now had opportunity to go through many, many documents. One of those being a diary that Stacey Train maintained. We've had an opportunity to go through all the phone message texts, emails, the social media postings. I can tell you our investigators at this point in time have taken over 190 statements or recorded interviews. We've gone through body worn camera footage and also CCTV.

REPORTER:

How do you differentiate that from someone just being mentally ill and committing these sorts of acts?

DEPUTY COMMISSIONER LINFORD:

Well, we quite often do see in our terrorist investigations people who are impacted by mental health, because they are easily radicalised. This one's unusual, because we're talking about three different people. You know, so... we are certainly looking at whether or not mental health plays an issues with all three of them. But when you've got three acting together, it's

challenging to say that it was a mental health issue in this instance, particularly when we look at all the material that we've examined.

Raghe Abdi incident

A Muslim young man was shot by police when found on a highway with a knife. He was later linked by police to a double homicide.

Date of incident – Thursday morning, 17 December 2020.

In the coronial inquest, his father gave evidence about how Queensland police declined to provide mental health assistance for his son.⁴⁹

Date of press conference designating as terrorism - 18 December 2020⁵⁰

Deputy Commissioner Linford told reporters police were “trying to understand what Mr Abdi’s motivation is”.

When asked to justify the classification of “terrorism”, she said: “It is a whole combination of things”.

“Yesterday we detailed to you the history of counter-terrorism investigations into that individual.

“Whilst he was not charged with any counter-terrorism offences he was awaiting charges on some more minor offences.

“Clearly the police shooting yesterday gave us indications he wanted to harm police, and then of course today we’ve got the next matter of the investigation into the double homicide, of which we think he is linked.

“So when you put all those things together I think it’s pretty clear we need to treat this as a terrorism event.”

(c) WAKELY INCIDENT - DESIGNATION BEFORE PSYCHIATRIC ASSESSMENT

⁴⁹ [Queensland police declined father's requests for help before son was shot dead, inquest told | Queensland | The Guardian](#)

⁵⁰ <https://www.theguardian.com/australia-news/2020/dec/18/queensland-police-say-alleged-brisbane-double-murder-investigated-as-terrorism-event-raghe-abdi>

The following is provided by the JCTT NSW Statement of Facts:

At the time of admission, the Wakely attacker was scheduled under Section 22 of the Mental Health Act 2007 (NSW) by the hospital in order to assess whether his actions were a result of a manic episode

At 3:24 pm on 16 April 2024, Wakely's attacker was cleared by mental health staff. It was assessed that he was not manic and was not suffering from any psychiatric disorders.

The Wakely accused's legal representation told the Court on Friday, 20 April 2024, that it was seeking a full diagnostic assessment of the accused as there was a history of mental health concerns.

(a) MENTAL ILLNESS AND DISABILITIES IN TERRORISM AND NON-TERRORISM CASE LAW

It remains very unclear how police determine that mental health drives the individual to commit a crime in one case above and that in another, it is apparently immaterial to designate terrorism.

In 2019, Ihsas Khan, a diagnosed schizophrenic at the age of 22, ceased his medication after his mother, who was his primary carer, passed away. He left a pharmacy degree at university and was radicalised online, resulting in him stabbing an innocent man with non-fatal wounds. After being charged with terrorism offences, he pleaded not guilty due to mental illness. After three mistrials, including one trial where he apologised to the victim in court and a second where the court could not proceed due to him having a psychotic episode, Ihsas Khan received a 36-year sentence.

In another case involving a Muslim child with autism and schizophrenia, his emotional and erratic behaviour in court was used against him as a sign of contempt⁵¹, and he was allowed to dispose of his legal representation and seek to represent himself, even though he was clearly not representing himself. He was ultimately convicted of terrorism conspiracy on the

⁵¹ *R v WE* (2022) NSWSC 4.

third trial (the first two being mistrials) and sentenced to 16 years (12 years non-parole) prison.⁵²

In relation to non-Muslims, Court treatment is vastly different as mental health and psychosocial disabilities such as autism are considered mitigating factors in non-terrorism charges.

For example, an Adelaide offender had post-traumatic stress disorder, which was considered. Convicted of a non-terrorism offence, manufacturing an explosive device. Non-parole 1 year and seven months.⁵³

Poor mental health marred by bullying at school was highlighted in R v Homewood [2023] NSWDC 3: The offender received a non-parole period of 1 year 11 months for advocating terrorism (as opposed to terrorism conspiracy that comes with life imprisonment)... The judge notes that he has not resiled from his beliefs. He advocated acts of terrorism against Africans, Muslims and Jews, was in possession of Nazi materials. At his house, police found

- 8 firearms (being 5 bolt action shotguns, 2 break-action shotguns, and a .22 calibre pump action rifle)
- 8,312 rounds of assorted calibre ammunition which were not stored in accordance with the ammunition storage provisions of the Firearms Act (unlawful).

(i) Treatment of Autism

AMAN notes that autism is only a mitigating factor where the person is not Muslim and is being tried for non-terrorism offences. Muslim boys with autism have been targeted by AFP and ASIO⁵⁴ and have ended up in high-security jail while awaiting trial⁵⁵ leading to an exacerbation of behaviour that is then used against them in court, and have, in other cases, been convicted for terrorism conspiracy following undercover operations⁵⁶. AMAN continues to advocate for more consistent treatment of individuals with autism⁵⁷, noting this topic has

⁵² R v WE (No.19) [2020] NSWSC 1569.

⁵³ [Adelaide man arrested as police blow up 'mother of Satan' explosives | SBS News](#)

⁵⁴ [Reviews under way after 13-year-old autistic boy with Islamic State fixation targeted in undercover operation | Australia news | The Guardian](#)

⁵⁵ [Adelaide teen overheard saying he 'would do something' at Anzac service, court hears - ABC News](#)

⁵⁶ R v WE (No.19) [2020] NSWSC 1569.

⁵⁷ <https://www.aman.net.au/wp-content/uploads/2023/08/Sub-117-AMAN.pdf> pp13-14.

been subject to Australian parliamentary inquiry in relation to criminal justice more broadly⁵⁸, and also specific attention in the ‘terrorism’ context in the UK.⁵⁹

Disabilities such as autism: For example, two white offenders had their autism considered. Patmore’s ASD, the court ruled, had resulted in “concrete thinking” that aided his radicalisation and fuelled his refusal to denounce his “abhorrent, disturbing and distasteful” ideology⁶⁰. He was allowed on bail from the beginning and eventually sentenced to home detention.

(ii) Mental health impairment or Cognitive impairment defence

Note that Section 23A Crimes Act 1900 provides a partial defence to murder of substantial impairment because of mental health impairment or cognitive impairment. It was previously termed substantial impairment by abnormality of mind but was amended with effect from 27 March 2021 by the Mental Health and Cognitive Impairment Forensic Provisions Act 2020.

(d) SOCIAL PROCESS

Research highlights that radicalisation to violence is a social process.⁶¹

The Australian Psychological Society writes,

Achieving this task requires an understanding of the radicalisation process. The pathway to radicalisation is different for every individual, comprised of highly complex and nuanced

58

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Autism/autism/Submissions

⁵⁹ Zainab Al-Attar, ‘Autism spectrum disorders and terrorism: how different features of autism can contextualise vulnerability and resilience’, *The Journal of Forensic Psychiatry & Psychology* (2020), 31(6), 926, 937.

⁶⁰ <https://www.dailytelegraph.com.au/news/south-australia/nine-sa-criminals-blamed-autism-for-their-crimes-expert-says-autistic-community-less-likely-to-commit-crime/news-story/5b8c808d9bbcf5d9c726e7b0f838c7>

⁶¹ Cherney, A, Belton, E, Norham, S.A.B and Milts, J (2022) Understanding youth radicalisation: an analysis of Australian data, *Behavioral Sciences of Terrorism and Political Aggression* 14(2): 97-119. <https://doi.org/10.1080/19434472.2020.1819372>.

issues and motivations (Jensen, Atwell, Seate & James, 2018).⁶² At a broad level, there are three key domains of which to be aware:

Social relations – withdrawal from friends and/or family and engagement with a group.

Ideology – holding aggressive, hostile views that are ideologically founded.

Criminal activity – engagement in low-level crime justified by political, religious or ideological views.

Client behaviours in each of these categories will inform the level of concern, treatment target and referral pathways. The Behavioural Indicators Model (Attorney-General's Department, 2015) can provide guidance in identifying, understanding, assessing, and responding to these domains. The model, adapted from Barelle's Pro-Integration Model (2015), identifies three levels of concern in each domain: notable, concerning and attention.⁶³ An understanding of the types of behaviours a client might demonstrate at each of these levels is critical for adequate risk assessment and intervention.

The Australian Government's material on radicalisation states,

"In Australia, people are most vulnerable to involvement in violent extremism through the influence of close personal relationships. This is especially true for young people. As people start to become radical, they will often pull away from normal, mainstream activities and friendship groups. There may be conflict with family and friends over political or ideological views. At the same time, some people will start to interact more often with smaller, tight-knit networks of people who share their specific beliefs. Some extreme groups may even require a person to go through an initiation or take an oath of allegiance to prove their commitment. Radicalisation is most often led by personal face-to-face relationships, but there are some examples of recruitment into radical groups over the internet. A person may become part of an online community of people who share their views and radicalise in a virtual environment."⁶⁴

(e) THE SENTENCING FRAMEWORK IN TERRORISM

The following passage outlines the difference in this area of law⁶⁵:

In terrorism sentencing, the absence of a victim or harm has been found to not be a mitigating circumstance (*Lodhi v The Queen* (2007) 179 A Crim R 470; Weinberg 2021: 770). The amateurish nature of a conspiracy has been found to not reduce the moral culpability of

⁶² Jensen, M. A., Atwell Seate, A., & James, P. A. (2018). Radicalization to violence: A pathway approach to studying extremism. *Terrorism and Political Violence*, DOI: 10.1080/09546553.2018.1442330

⁶³ Barrelle, K. (2015). Pro-integration: disengagement from and life after extremism. *Behavioral Sciences of Terrorism and Political Aggression*, 7, 129-142.

⁶⁴ <https://www.livingsafetogether.gov.au/Documents/understanding-the-radicalisation-process.pdf>

⁶⁵ Jabri Markwell (2023) (n21).

offenders (Weinberg: 770), standing in 'stark contrast in which judges ordinarily deal with sentencing for attempt' (770).

Reviewing Victorian and NSW cases, Weinberg noted that:

principles of general deterrence and protection of the community had to be given paramount weight. Personal circumstances which, in other circumstances, might be regarded as powerfully mitigating would be afforded far less weight. (775)

Youth is not a significant mitigating factor, and the interests of rehabilitation are outweighed by the need for general deterrence, denunciation and retribution (DPP (Cth) v Besim [\[2017\] VSCA 158](#) [116]).

Justice Peter Johnson (2020: 58–59) summarised the principles for sentencing terrorist offenders:

In considering the nature and gravity of terrorist offences, courts in Australia have utilised a number of factors referred to by the UK Court of Appeal ... [which] are:

- (a) the degree of planning, research, complexity and sophistication involved, together with the extent of the offender's commitment to carry out the act(s) of terrorism;
- (b) the period of time involved, including the duration of the involvement of the particular offender;
- (c) the depth and extent of the radicalisation of the offender as demonstrated (inter alia) by the possession of extremist material and/or the communication of such views to others; and
- (d) the extent to which the offender has been responsible, by whatever means, for indoctrinating or attempting to indoctrinate others, and the vulnerability or otherwise of the target(s) of the indoctrination, be it actual or intended.

A judge's interpretation of the defendant's commitment to terrorism and the depth and extent of their radicalisation are salient features of that list. How researchers in the field of countering terrorism, psychologists and judges would make judgements on these features are very different. Judges weigh the evidence and make judgements of character and credibility.

It is noted that radicalisation remains an empirically unverified and not well-defined concept, which makes it prone to ingroup and outgroup bias.

ANNEXURE A



28 June 2024

Statutory Review of the Online Safety Act 2021

Submissions were prepared by Rita Jabri Markwell on behalf of the AMAN Foundation Ltd and the Australian Muslim Advocacy Network (AMAN) with support from

- Professor Nicole L Asquith, University of Tasmania and Convenor of the Australian Hate Crime Network,
- The Human Rights Law Centre,
- Jewish Council of Australia and
- Alliance Against Islamophobia.

Contents

1. Introduction.....	27
2. PRINCIPLES	28
3. RECOMMENDATIONS.....	30
4. DISCUSSION.....	32

5. ACKNOWLEDGEMENT

We acknowledge the lands of the Jagera, Toorbul, Wurundjeri, Bunurong, Gadigal, Ngunnawal, Darug, and Wadawurrung people, on which we work and live. We pay our respect to Elders of those lands, both past and present. This land always was and always will be Aboriginal and Torres Strait Islander land because sovereignty has never been ceded. We recognise the role of the colonial legal system in establishing, entrenching, and continuing the oppression and injustice experienced by First Nations peoples. We have a responsibility to work in solidarity with Aboriginal and Torres Strait Islander people to undo this.

6. INTRODUCTION

The **AMAN Foundation Ltd (the Foundation)** works to prevent the harms of systemic racism, online hatred and Islamophobia through policy engagement and law reform.

The **Australian Muslim Advocacy Network Ltd (AMAN)** created the Foundation for this harm prevention work.

AMAN has brought a legal complaint against Facebook/Meta under the Racial Discrimination Act 1975 (Cth) and a complaint against Twitter/X under the Queensland Anti-Discrimination Act 1991 (Qld).

AMAN works with a range of civil society involved in considering online harms, including Reset Australia, Purpose, and the Human Rights Law Centre. AMAN also works collaboratively with a range of anti-racism stakeholders, including the Islamophobia Register Australia, the Jewish Council of Australia, the Alliance Against Islamophobia, and individual lawyers and legal scholars from the First Nations community.

Contributors and Reviewers

Nicole L. Asquith is a Professor of Policing in the School of Social Sciences in the College of Arts, Law, and Education. Nicole has worked with and for policing services for over 25 years, primarily in relation to vulnerable victims. Before returning to the University of Tasmania, Nicole was the Associate Professor of Policing and Criminal Justice at Western Sydney University, and Senior Lecturer at Deakin University. In addition to her academic roles at UTas, Nicole is the Convenor of the Australian Hate Crime Network, and has published widely on most forms of hate crime and targeted violence, and contributed to policy and practice development within and outside policing, including advising the Special Commission of Inquiry into LGBTQ Hate Crimes.

Human Rights Law Centre uses strategic legal action, policy solutions and advocacy to support people and communities in eliminating inequality and injustice and building a fairer, more compassionate Australia.

The **Jewish Council of Australia** is a coalition of Jewish academics, lawyers, writers and experts on antisemitism and racism.

Alliance Against Islamophobia promotes policies and practices that support the rights and well-being of Muslim communities. This includes advocating for the implementation of anti-discrimination legislation and engaging in dialogue with government, media, and other key stakeholders to promote a more inclusive and equitable society.

7. PRINCIPLES

- (a) A proactive and resilient architecture must
 - (i) adopt an ‘atrocities-prevention’ approach focused on maintaining collective social barriers to dehumanisation. This will help shift the burden further upstream to digital platforms and away from communities most affected by downstream carceral, securitised and heavy-handed policing approaches.
 - (ii) capture content that socialises people towards violence yet limits the aperture of regulator pro-active intervention to serial or systematic vectors of hate that lower an audience’s barriers to violence.
 - (iii) Ensure that dehumanisation groups based on protected characteristics are treated as a public harm rather than a private problem.
 - (iv) Aim for a public information environment that supports diversity of opinion, veracity and accuracy of information is vital to Australia’s obligations under various international instruments, including the ICCPR (freedom of expression, freedom of opinion, the right to non-discrimination, no advocacy of hatred), IESCR (the right to health). Preventing and moderating the advocacy of hatred enables greater freedom of expression by groups targeted by hatred. It also supports their fulfilment of the right to health by reducing exposure to a social atmosphere that denies their human qualities.
 - (v) Ensure the overall design of the Act supports immediate powers for e-Safety to proactively address well-defined harms effectively and, secondly, to handle community complaints more effectively. **Figure 1 below** outlines the underlying rationale for this approach.
 - (vi) Ensure definitions for online hatred against groups:

(A) encompass hateful material, whether communicated through speech or words; the curation or packaging of information; images; and insignia.

(B) are universally applicable and resilient to cyclical changes in targeted groups.

(C) Are capable of securing public support and consensus about what constitutes hatred across different contexts, and being applied evenly.

(D) Methodically link to one of the most dangerous forms of hatred – hatred that positions a group outside the human family, making them an easier and more deserving target for violence.

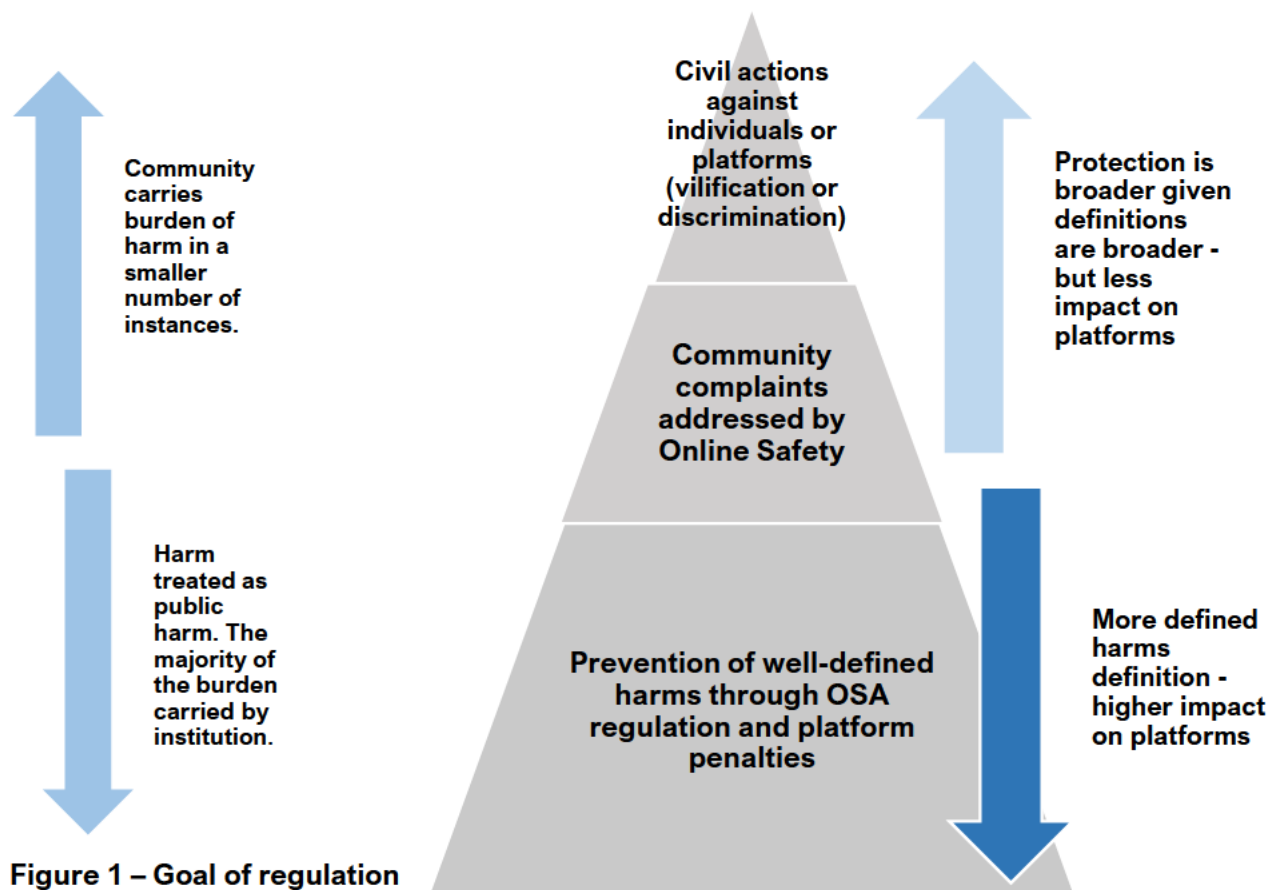
(E) Provide a framework for education that supports critical thinking by applying logic and universal principles that people would like to see applied to them.

(F) Provide clear guidance that opinions about countries, nation-states, governments or militaries do not constitute hate speech or vilification. Individuals or groups raising such examples should be referred to human rights-based judicial complaint processes to allow nuanced assessment.

(b) Process matters.

(i) E-Safety must adopt an approach grounded in multistakeholderism rather than individually and separately consulting each community group.

(ii) E-Safety must not platform groups that engage in public acts of racism or racist nationalism in these consultations. Having clear anti-racism principles will assist e-Safety in governing its approach to consultation.



8. RECOMMENDATIONS

8.1 Improve governance arrangements and capability by

- (a) introducing public reporting by e-Safety about the representativeness of its staff in relation to the natural diversity of Australia's population;
- (b) expanding the mechanisms for monitoring and assessment to include researchers and civil society, who are more equipped to identify emerging trends and patterns in misinformation and disinformation. As a starting point, consider Article 40 of the European Digital Services Act and the 'crowdtangle provision' supporting immediate access to aggregations of public data.

8.2 Amend the *Online Safety Act 2021* (Cth) to prohibit the serial or systematic publication of dehumanising material.

- (a) The e-Safety Commissioner consults with Australian communities on definitions of dehumanising material about protected groups, with a view to including it as a particularly visible, egregious and harmful form of hate speech in the online content scheme. AMAN provides proposed wording as a starting point for discussion in **Schedule 1**. This means that the e-Safety Commissioner would have notice and takedown powers in relation to this content and the power to impose proportionate penalties on serial or systematic actors and the platforms that enable them. There would be a need for both proactive monitoring/action by the Commissioner and a mechanism for responding to complaints. Transparency reporting requirements on platforms would also apply.

8.3 By a further miscellaneous amendments bill, clarify that

- (a) section 18C of the *Racial Discrimination Act 1975* (Cth) has extraterritorial application to foreign-based digital platforms;
- (b) discrimination provisions of various federal discrimination laws have extraterritorial application to foreign-based digital platforms; and
- (c) relevant entities can bring *discrimination* complaints on behalf of groups or communities based on protected characteristics.

8.4 Require Social Media Companies to establish anti-racism or anti-dehumanisation units ("the unit"). The e-Safety Commissioner should publish terms of reference for the compliance unit ("the unit") that includes the following:

- (a) The unit will operate in Australia with Australian staff;
- (b) The purpose of the unit is to demonstrate the social media company's commitment to being antiracist by maintaining compliance with section 18C of the *Racial Discrimination Act 1975* (Cth) and other vilification laws at the state and territory level on its platform for content viewed by Australian audiences.

- (c) The unit will proactively identify, assess, de-monetise and deplatform actors that use the platform to engage in dehumanisation, systematically or serially, through text, imagery or the curation and packaging of stories about a group on the basis of **a protected characteristic**. In that regard, the social media companies will review:
 - (i) the material posted on the page or group over six months since the date of the last post or for the time that the page or group has been open if less than six months (“the Posts”);
 - (ii) the content of the Posts, including text, files, video and images;
 - (iii) the imagery and headlines that appear in the ‘preview box’ accompanying the post of a third-party link;
 - (iv) the content hosted at third-party sites referred to by third-party links in the Posts; and
 - (v) the comments on the Posts;
- (d) Criticism or even hatred of nation-states, governments or militaries will continue not to constitute hate speech for the purposes of content moderation;
- (e) The unit publishes a yearly transparency report that provides disaggregated data and qualitative information about the contraventions it identifies and takes action on. Specifically, this report will provide a breakdown by the protected group targeted by racial hatred (“type of racial hatred”) and, within such breakdown, a further breakdown of what type of moderation action was taken;
- (f) The unit must notify users about the moderation of their content that the company finds to contravene Australian racial hatred and vilification laws. This notification should outline the type of action taken and the reason for the action;
- (g) The unit will notify the Australian public on its website when any law enforcement or Government requests that the company moderate content to maintain compliance with section 18C. That notification will include the date of the request, the source of the request, the type of racial hatred covered by the request, and
- (h) Per Australian privacy principles, the unit will grant independent researchers access to data to conduct methodological and evaluative reviews of its work and transparency reports.

8.5 Do not allow exemptions for ‘professional news content’ in relation to online hatred against groups.

- (a) If an exemption is allowed, ensure the definition is strong enough, unlike that proposed in the News Bargaining Code of Exposure draft of the Misinformation and Disinformation Bill.

- (b) It is in the public interest for this Bill to not allow well-resourced and far-reaching news outlets to continue inciting hatred online and failing to moderate their comment threads. At the very least, the Bill must increase their requirements for transparency and accountability to benefit from that exemption.
- (c) AMAN recommends that the Australian Government work with Australian researchers, anti-racist civil society and the Global Disinformation Index to formulate these requirements. AMAN provides proposed wording as a starting point for discussion in **Schedule 2**.

8.6 Improve the function of existing cyberabuse and cyberbullying provisions in situations involving volumetric attacks on an individual's protected attributes.

9. DISCUSSION

- (a) We seek to ensure that the responsibility for monitoring and acting in relation to actors that engage in serial or systematic dehumanisation on social media platforms be owned and discharged by the platforms, rather than placing that burden on targeted communities, including their community members and organisations.
- (b) We have identified technology-based experts who will point to the ease with which the platforms can identify actors engaged in serial or systematic racial dehumanisation of groups based on a protected characteristic and take preventative steps (which they have failed to do).
- (c) In the 2019 federal election, approximately 12 fringe parties were running with a discriminatory anti-Muslim policy – this is the most significant number of groups we have recorded. There was an open license to dehumanise and denigrate Muslims as part of their online activity to recruit members and gather votes.
- (d) In the 2022 federal election, there was a substantial contraction in fringe parties running explicit anti-Islam policies. This reflected an overall re-orientation of far-right groups toward electoral misinformation (originally, US Politics based), dehumanisation based on gender diversity (especially cissexism/transphobia), and medical misinformation (Covid vaccines and the narrative that Covid was overstated/a hoax), and climate misinformation (portraying climate science as part of a reset global conspiracy).
- (e) However, it is predicted that the 2025 federal election will invigorate race-based campaigns, especially if we also see a transition to Donald Trump's Presidency in the United States.

9.2 Current regulatory environment

- (a) The *Online Safety Act 2021* (Cth) and *Broadcasting Services Act 1992* (Cth) do not address dehumanising disinformation operations platformed and profited from by international digital platforms. As such, regulators like e-Safety and ACMA are not positioned to act.

- (b) The current Australian Code of Practice on Disinformation and Misinformation applies to international digital platforms. However, it has no effective enforcement mechanism and is self-regulatory.
- (c) The Broadcasting Services Act contains some safeguards against vilification by media, but they are rarely enforced and do not apply in relation to online content.⁶⁶

9.3 Regulating International Digital Platforms

- (a) While systems that promote safety by design are critical, we cannot escape the need for definitional clarity on harms. For example, seeking transparency on algorithms or hate speech data won't help if our framework is ambiguous on how we define harm.
- (b) The UK online safety bill developments in December 2022 underscore the pitfalls of not providing definitional clarity, with previous efforts to address online hate and misinformation erased from the bill.

9.4 The effect of dehumanisation

- (a) Referring to the Australian terrorist who carried out the Christchurch attack, Lentini (2019, 43) explains that,

*Tarrant's solution to the crisis – indeed one on which he felt compelled to enact – was to annihilate his enemies (read Muslim migrants). This included targeting non-combatants. In one point in his 'manifesto', he indicates that they constitute a much greater threat to the future of Western societies than terrorists and combatants. Thus, he argues that it is also necessary to kill children to ensure that the enemy line will not continue... Tarrant indicated that, when trying to remove a nest of snakes, the young ones had to be eradicated. Regrettably, children were among those whom he allegedly shot and killed.*⁶⁷

- (b) A similar narrative inspired Anders Breivik, the Oslo terrorist who murdered 77 people in 2011. Breivik cited the author of JihadWatch, one of the information operations cited in Australian research.⁶⁸ The historical links between these two attacks, in terms of their relationship to 'counter jihad' dehumanising information operations considerable.⁶⁹ With respect to dehumanisation, Kaldor (2021) notes,

⁶⁶ Refer to supplementary submission from AMAN containing evidence of unmoderated hate speech on Sky News Australia Facebook page.

⁶⁷ Lentini, Peter. 2019. "The Australian Far-Right: An International Comparison of Fringe and Conventional Politics" in Mario Peucker and Debra Smith, eds. *The Far-Right in Contemporary Australia*. Singapore, 43.

⁶⁸ Abdalla, Mohamad, Mustafa Ally, Rita Jabri-Markwell. 2021. "Dehumanisation of Out-Groups on Facebook and Twitter: Towards an Assessment Framework for Online Hate Actors and Organisations." *SN Social Sciences* (1) 9; Peucker et al (2022), op cit.

⁶⁹ Rita Jabri Markwell, "The online dehumanisation of Muslims made the Christchurch massacre possible" *ABC Religion and Ethics*, 31 August 2020, <https://www.abc.net.au/religion/the-online-dehumanisation-of-muslims/12614148>

Breivik also refers to Muslims as “wild animals,” who he argues are freely bringing about European “genocide” because “traitors... allowed these animals to enter our lands, and continue to facilitate them.” In keeping with the naturalistic theme, Tarrant’s text is also rife with mixed metaphors describing how individuals such as himself can no longer escape Western civilisation’s contamination: “there is no sheltered meadow... there is not a single place left where the tendrils of replacement migration have not touched.” Comparing immigrants to a “vipers [sic] nest”, he implores followers to “burn the nest and kill the vipers, no matter their age.” Crusius similarly bewails how those without the means to “repel the millions of invaders” “have no choice but to sit by and watch their countries burn.” The repetition of animalistic metaphors is no accident: the perpetrators intentionally dehumanise immigrants by depicting them as beastly, thereby making their complaint about Western society’s perceived decline more justifiable to their readers.⁷⁰

- (c) 'Dangerous speech', a category expounded in detail by Maynard and Benesch (2016), is speech that constructs an 'outgroup' as an existential threat to the 'in-group,' whether this threat is real or otherwise (81).⁷¹ Dehumanisation and another technique called 'threat construction' are two techniques used in dangerous speech. They are often inextricably linked: 'where dehumanization makes atrocities seem acceptable, threat construction takes the crucial next step of making them seem necessary' (82).
- (d) Researchers from Macquarie and Victoria Universities published the first study mapping the online activity of right-wing extremists (RWE) in New South Wales, Australia.⁷² The study identified the dehumanisation of out-groups to in-group audiences as a core component of their online socialisation.⁷³
- (e) Significantly, their research found that dehumanisation existed on 'low-risk' platforms like Facebook and Twitter 'without violating platform moderation policies.'
- (f) An investigation by Guardian news revealed an overseas commercial enterprise that was
 - (i) using its 21-page network to churn out more than 1,000 coordinated faked news posts per week to more than 1 million followers, funnelling audiences to a cluster of 10 ad-heavy websites and milking the traffic for profit.
 - (ii) The posts stoke deep hatred of Islam across the Western world and influence politics in Australia, Canada, the UK and the US by amplifying far-right

⁷⁰ Sophie Kaldor, 'Far-Right Violent Extremism as a Failure of Status: A New Approach to Extremist Manifestos through the Lens of Ressentiment' (Research Paper, International Centre for Counter-Terrorism – The Hague, May 2021) 17 <https://icct.nl/app/uploads/2021/05/Far-Right-Violent-Extremism-as-a-Failure-of-Status.pdf>.

⁷¹ Maynard, Jonathan Leader and Susan Benesch. 2016. "Dangerous Speech and Dangerous Ideology: An Integrated Model for Monitoring and Prevention." *Genocide Studies and Prevention: An International Journal* 9(3): 70.

⁷² Department of Security Studies and Criminology. (2020, October 9). Mapping Networks and Narratives of Online Right-Wing Extremists in New South Wales (Version 1.0.1). Sydney: Macquarie University.

⁷³ Maynard and Benesch, op cit.

parties such as Australia's One Nation and vilifying Muslim politicians such as the London mayor, Sadiq Khan,, and the US congresswoman Ilhan Omar.

9.5 Algorithmic impact

- (a) There are three main categories of algorithms⁷⁴

Algorithms for content recommendations: Platforms may use algorithms to recommend content in ways that personalise recommendations for individual users based on their past behaviors (as well as inferred characteristics) and optimize expected value to the company by maximizing individual users' expected engagement with recommended content. When platforms use algorithms to maximize engagement, they cannot fully prevent harmful third-party contents from being recommended to users if those users have consumed similar contents in the past.

Algorithms for content moderation and safety: Platforms use algorithms to prevent and reduce harms by semi-automating the process of flagging, removing, and re-ranking third-party contents likely to violate platform policies or laws. When this process is performed at scale, the algorithms cannot perform perfectly and are continuously optimized to balance between precision and accuracy. If a platform prioritizes accuracy over precision in using algorithms for content moderation, its process would have a high false positive rate. Most large platforms therefore choose to prioritize precision over accuracy, which allows most users to post contents but can sometimes lead to extensive harm when false negatives are shared widely.

Algorithms for advertising and commerce: Platforms use algorithms to serve targeted ads to individuals through "retargeting," which relies on expressed and inferred information about those individuals that the platforms had already compiled. Algorithms that are used in techniques like "retargeting" primarily benefit companies, and this encourages companies to collect more and more data about users.

(b) The above is important to note as it applies to state and non-state-sponsored information operations.

(c) Research into algorithmic impact still requires well-defined definitions from the Online Safety Act to make assessments.

9.6 The formula of dehumanising information operations

- (a) Abdalla et al. (2021) studied the operation of five (5) online information operations located within the extreme right 'counter jihad' movement. The leading actor studied conveyed a similar demographic invasion narrative in Tarrant's manifesto. They found that Facebook and Twitter's automatic detection tools could not detect explicit dehumanising slurs or violent fantasy in the fantasies threads, meaning that online communities could react together to information towards a targeted group without disruption.⁷⁵ In this phenomenon, we see a combination of the cognitive, behavioural and social license granted to

⁷⁴ Integrity Institute, *Summary: Integrity Institute's Amicus Brief on Gonzalez v. Google*, 9 December 2022, <https://integrityinstitute.org/amicus-brief-summary-sheet>

participants in the comment threads to erase the humanity of the target group and indulge in violent fantasy. It is contended by Abdalla et al. that,

- (i) the marshalling of stories to create an overwhelming sense of crisis and disgust does not always rely on explicit dehumanising descriptors, verbs, or coded language in the headlines. Where an audience had been primed over time, implied properties in text are capable of triggering entire sub-texts.
 - (ii) Further, actors often attributed subhuman actions to Muslims in the headlines to dehumanise all Muslims overtime. Platforms could not detect this technique as they were focused exclusively on dehumanising comparisons, synonyms and adjectives (e.g., disease, filth, cancer, weeds, insects).
- (b) Abdalla et al's research points to several predictors that could be used to make competent and consistent assessments of hate actors running purposed information operations.

9.7 Volumetric 'pile on' attacks

- (a) We ask e-Safety to acknowledge that coordinated 'pile-ons' on people, causing a person to receive a large volume of hatred about their protected attribute(s), is inherently harmful. A person reporting this experience should not need to demonstrate psychological harm arising from it. The evidence of hatred based on a protected attribute should be sufficient. Online material initiating such activity should be quickly actionable under existing cyberbullying and cyber abuse provisions.
- (b) Adopting definitions of dehumanising material may also help e-Safety in analysing the impact of particular complaints.

9.8 Access to data for research

- (a) The Digital Services Act to Article 40 of the digital services act (Europe) enables platform-to-researcher data sharing, with guardrails for privacy protection.
- (b) The Digital Services Act requires very large online platforms or very large online search engines to provide access to data to vetted researchers for the sole purpose of conducting research.⁷⁶ Researchers become vetted upon application if their application fulfils the following requirements:⁷⁷
 - (i) Affiliation with a scientific research organisation;
 - (ii) Independence from commercial interests;
 - (iii) Disclosure of the funding of their research;

⁷⁶ Single Market For Digital Services and amending Directive 2000/31/EC, Regulation (EU) 2022/2065 of the European Parliament and of the Council, 19 October 2022 art 40(4).

⁷⁷ Ibid art 40(8).

- (iv) Capability of fulfilling specific confidentiality and data security requirements in relation to protecting personal data and a description of their specific technical and organisational measures;
 - (v) Their access to the data is necessary for the purposes of their research;
 - (vi) Their research is for the purpose of the detection, identification, and understanding of specific risks to the EU or the assessment of the adequacy, efficiency and impacts of the risk mitigation measures of very large online platforms and very large online search engines; and
 - (vii) They make their research results public, free of charge, within a reasonable period after their research is completed, subject to the rights and interests of the recipients of the service concerned.
- (c) The procedure to underpin this law is being developed in subordinate legislation.
- (d) The specific risks to the EU to which the purpose of research may relate are:⁷⁸
- (i) The dissemination of illegal content;
 - (ii) Actual or foreseeable negative effects on fundamental rights enshrined in the Charter of Fundamental Rights of the European Union;
 - (iii) Actual or foreseeable negative effects on civic discourse and electoral processes, and public security; and
 - (iv) Actual or foreseeable negative effects in relation to gender-based violence, the protection of public health and minors, and serious negative consequences to the person's physical and mental well-being.
- (e) We note these categories are broad and not well-defined because the DSA, as European legislation, leaves that definitional work to member states. Australia cannot escape from the definition question if it is looking to empower the research sector with such a mechanism. This is again, where definitions such as the dehumanising material definition in **Schedule 1** become important.
- (f) Providers of very large online platforms and very large online search engines are required to give vetted researchers access without undue delay to data (known as the "crowdtangle provision").⁷⁹

⁷⁸ Ibid art 34(1).

⁷⁹ Ibid art 40(12).

SCHEDULE 1

[AMAN's working definition of dehumanising material, updated 15 July 2023](#)

Note this definition is subject to ongoing revision until it is formally published.

(1) Dehumanising material is the material produced or published, which an ordinary person would conclude, portrays the class of persons identified on the basis of a protected characteristic (“class of persons”) as not deserving to be treated equally to other humans because they lack qualities intrinsic to humans. Dehumanising material includes portraying the class of persons:

(a) to be or have the appearance, qualities, or behaviour of

(i) an animal, insect, filth, form of disease or bacteria;

(ii) inanimate or mechanical objects; or

(iii) a supernatural alien or demon.

(b) are polluting, despoiling, or debilitating an ingroup or society as a whole;

(c) have a diminished capacity for human warmth and feeling or to make up their own mind, reason or form their own individual thoughts;

(d) homogeneously pose a powerful threat or menace to an in-group or society, posing overtly or deceptively;

(e) are to be held responsible for and deserving of collective punishment for the specific crimes, or alleged crimes of some of their “members”;

(f) are inherently criminal, dangerous, violent or evil by nature;

(g) do not love or care for their children;

(h) prey upon children, the aged, and the vulnerable;

(i) was subject as a group to past tragedy or persecution that should now be trivialised, ridiculed, glorified or celebrated;

(j) are inherently primitive, coarse, savage, intellectually inferior or incapable of achievement on a par with other humans;

(k) must be categorised and denigrated according to skin colour or concepts of racial purity or blood quantum; or

(l) must be excised or exiled from public space, neighbourhood or nation.

(2) Without limiting how the material in section (1) is presented, forms of presentation may include,

(a) speech or words;

(b) the curation or packaging of information;

(c) images; and

(d) insignia.

Intention component

If the above definition was used as a standalone civil penalty, it should be complemented by an intention component:

in circumstances in which a reasonable person would conclude that the material was intended to portray the class of persons as not deserving to be treated equally to other humans or to incite hatred, serious contempt or severe ridicule toward the class of persons.

Adding an intention element may make enforcement more difficult and may not be necessary, especially if the definition is used as part of a legal framework where there are already intention components or exceptions available.

How did we develop this working definition?

AMAN developed this working definition after spearheading a study of five information operations online (Abdalla, Ally and Jabri-Markwell, 2021). The first iteration of this definition was published in a joint paper with UQ researchers (Risius et al, 2021). It continues to be developed with input received from researchers, lawyers and civil society.

Possible dehumanising conceptions are surfaced through research and then tested against [Haslam](#)'s frame of whether it deprives a group of qualities that are intrinsic to humans. If a subject is dehumanised as a mechanistic form, they are portrayed as 'lacking in emotionality, warmth, cognitive openness, individual agency, and, because [human nature] is

essentialized, depth.' A subject that is dehumanised as animalistic, is portrayed as 'coarse, uncultured, lacking in self-control, and unintelligent' and 'immoral or amoral' (258).

Some conceptions are found to fall outside the frame of dehumanisation but could still qualify as vilification or discrimination, for example, using anti-discrimination laws.

The three categories of dehumanising comparisons or metaphors in Clause (a) are drawn from [Maynard and Benesch](#) (80), and fleshed out with further examples from tech company policies (refer to Meta for example).

Clause (b) is derived from Maynard and Benesch (80).

Clause (c) is derived from [Haslam](#) (258).

Clauses (d) and (e) are elements of dangerous speech that Maynard and Benesch refer to as 'threat construction' and 'guilt attribution' respectively (81). However, [Abdalla, Ally and Jabri-Markwell's](#) work shows how such conceptions are also dehumanising, as they assume a group operates with a single mindset, lacking independent thought or human depth (using Haslam's definition), and combine with ideas that Muslims are inherently violent, barbaric, savage, or plan to infiltrate, flood, reproduce and replace (like disease, vermin)(15). The same study found that the melding and flattening of Muslim identities behind a threat narrative through headlines over time was a dehumanisation technique (17). Demographic invasion theory-based memes (9) or headlines that provided 'proof' for such theory (20) elicited explicit dehumanising speech from audiences.

Maynard and Benesch write, 'Like guilt attribution and threat construction, dehumanization moves out-group members into a social category in which conventional moral restraints on how people can be treated do not seem to apply' (80).

Clauses (f), (h), (i) are drawn from the 'Hallmarks of Hate', which were endorsed by the Supreme Court of Canada in *Saskatchewan (Human Rights Commission) v. Whatcott* 2013 SCC 11, [2013] 1 S.C.R. 467. These Hallmarks of Hate were developed after reviewing a series of successful judgements involving incitement of hatred to a range of protected groups. These clauses were tested using Haslam's definitional frame for the denial of intrinsic human qualities.

Clauses (f) ('criminal') and (g) are drawn from harmful characterisations cited in the Uluru Statement of the Heart.

Clauses (j) and (k) were updated following AMAN's observations of online information operations generating disgust toward First Nations Peoples. Disgust is a common effect of dehumanising discourse. These clauses were tested using Haslam's definitional frame for the denial of intrinsic human qualities.

Clause (l) was drawn from Nicole Asquith's Verbal and Textual Hostility Framework. (Asquith, N. L. (2013). The role of verbal-textual hostility in hate crime regulation (2003, 2007). Violent Crime Directorate, London Metropolitan Police Service.) The data and process used to formulate this Framework is exceptional. Reassuringly, this research had surfaced examples that were already captured by this Working Definition of Dehumanising Material.

This working definition is a work in progress. AMAN welcomes feedback as it continues to be developed.

Updated 15 July 2023

SCHEDULE 2

Possible improved wording for 'professional news content' definition

- (i) Professional news content produced by a news source who
 - (a) Is subject to
 - i. The rules of the Commercial Television Industry Code of Practice, the Commercial Radio Code of Practice or the Subscription Broadcast Television Codes of Practice; or
 - ii. Rules of code of practice mentioned in paragraph 8(1)(e) of the Australian Broadcasting Corporations Act 1983 or paragraph 10(1)(j) of the Special Broadcasting Services Act 1991; and
 - (b) Is subject to internal editorial standards that
 - i. Relate to the provision of quality journalism;
 - ii. Ensure that factual information is reported without bias;
 - iii. Implement labels that assist readers and audiences in distinguishing between news and opinion content;
 - iv. Require diversity of opinion on controversial issues;
 - v. Require pre-publication fact-checking and post-publication corrections that are adequately and transparently disseminated;
 - vi. Prohibit material that is hateful or incites hatred against individuals or groups on the basis of protected characteristics;
 - vii. Are published on its website and easily accessible; and
 - viii. Provide an electronic email address and postal address for complaints.
 - (c) Publishes current information on their website that
 - i. Provides full transparency as to its sources of funding; and
 - ii. Provides full transparency as to the number of executive or board-level financial and editorial decision-makers.
 - (d) Has editorial independence from the subjects of the news source's news coverage.