

Parliamentary Joint Committee on Intelligence and Security

Further information in response to issues raised by Senator the Hon John Faulkner

Islamic State

Evolution of organisation's name

The Australian Government's listing of this terrorist group under the *Criminal Code Act 1995* (Criminal Code) was updated because on 29 June 2014 the group changed its name to *Dawla al-Islamiya*, which translates as the *Islamic State*, following its proclamation of an Islamic caliphate in areas it controls. In its official statement the group announced:

... the "Iraq and Shām" in the name of the Islamic State is henceforth removed from all official deliberations and communications, and the official name is the Islamic State from the date of this declaration.

The use of the name *Islamic State* does not represent a change in the leadership, membership or methods of the group that was originally proscribed in 2005, but reflects the explicit name change in the announcement as well as the expansion of its operating area and announcement of an Islamic caliphate.

Prior to this, the group was listed under the name the *Islamic State in Iraq and the Levant* (ISIL). This is the translation of the group's Arabic name *Dawla al-Islamiya fi al-Iraq wa al-Sham*. This name has also been represented as *Islamic State in Iraq and the Syria* (ISIS) and *Islamic State in Iraq and al-Sham* (ISIS). The Arabic *al-Sham* can be translated to 'Syria' but in the context of this group and its intention of including this terminology in its name is more accurately translated to 'the Levant'; a term that represents a region that includes Lebanon, Jordan, Israel, Palestine, Cyprus and parts of Turkey.

This is a single group, but one which has evolved over many years and undergone numerous name changes. The first Australian listing of this group for proscription purposes in 2005 was under the Arabic name it used, *Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn*. It was relisted in 2007 under the same name. In 2008, 2010 and July 2013 it was relisted under the name al-Qa'ida in Iraq (AQI) as the most commonly recognised label for the group. AQI was never used by the group itself, but was devised by Western intelligence services to reflect the group's al-Qa'ida affiliation. The name was adopted widely and used by many sources as the most convenient term for a group that has undergone several name changes since its inception.

The end of its allegiance to al-Qa'ida

The group became an al-Qa'ida affiliate in October 2004 when its former leader, Abu Musab al-Zarqawi, pledged allegiance to Usama bin Laden. In late 2011, the group established operations in Syria through its former subordinate organisation, Jabhat al-Nusra. In April 2013,

the group's leader Abu Bakr al-Baghdadi announced the creation of ISIL to replace the Islamic State of Iraq, subsume Jabhat al-Nusra and consolidate operations across Iraq and Syria. Jabhat al-Nusra leader Abu-Muhammad al-Jawlani, attempted to annul the announcement by pledging allegiance to al-Qa'ida leader Ayman al-Zawahiri. In June 2013, al-Zawahiri ruled that Jabhat al-Nusra was the only al-Qa'ida affiliate in Syria and annulled the creation of ISIL. However, al-Baghdadi refused to follow this ruling and confirmed the creation of ISIL, which continues to operate in both Syria and Iraq as one consolidated organisation, with its operations in Syria remaining separate to those of Jabhat al-Nusra. This resulted in a bitter dispute and open conflict between the two groups that persists to this day. The relationship between ISIL (now Islamic State) and al-Qa'ida was severed as a result.

The relisting of the group in December 2013 was under the name the *ISIL*, reflecting the expansion of its operating area to include both Iraq and Syria, and the name that was most commonly used by the group until the June 2014 announcement and name change to *Islamic State*. This change in name was reflected in the *Criminal Code (Terrorist Organisation – Islamic State) Regulation* made in July 2014.

Relevance of name to listing under the Criminal Code

For legal certainty and validity, a Criminal Code regulation listing a terrorist organisation needs to adequately identify the organisation. Following the organisation's change of name (to Islamic State) in June 2014, for reasons of legal certainty, the Attorney-General decided, on advice from ASIO, the Attorney-General's Department and the Australian Government Solicitor, that it would be appropriate to make new regulations under the new name of *Islamic State* but with the retention of aliases including *ISIS* and *ISIL*. Maintaining appropriate contemporary names or identifiers of terrorist organisations ensures currency of the listing and clear application of terrorist organisation offences.

There is also a community messaging and deterrence element to listing. Utilising the name or names under which a group identifies itself, informs the Australian community as to which organisations have been listed and it enables citizens to avoid conduct that is criminalised under Australian law (eg associating with a terrorist organisation).

While use of the label *Islamic State* may be criticised as legitimising the organisation's claim to have established a Caliphate, to the extent that the organisation is known by that label, it is the clearest way to ensure that the terrorist listing legislation has its intended effect, both in criminalising conduct and in deterrence.