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AUSTRALIAN LEGISLATION TO COMBAT TERRORISM: HISTORY AND NOWADAYS

Terrorism is, in its broadest sense, the use of intentionally indiscriminate violence (terror) in order to achieve a political, religious, or ideological aim. It is classified as fourth-generation warfare and as a violent crime. In modern times, terrorism is considered a major threat to society and therefore illegal under antiterrorism laws in most jurisdiction. It is also considered a war crime under the laws of war when used to target non-combatants, such as civilians, neutral military personnel, or enemy prisoners of war [1]. There is no universally agreed definition of terrorism making it a difficult object to quantify. While acts of terrorism across the globe have increased markedly in recent decades, in most parts of the world it continues to be a relatively rare event and is instead focused in particular countries or regions of instability [2]

According to data from the Global Terrorism Database, more than 61,000 incidents of non-state terrorism claiming over 140,000 lives have been recorded from 2000 to 2014 [1].

Australia has long played a leading role in the development of laws to combat terrorism. The Australian Government has an

extensive legislative regime around counter-terrorism, national security and other cross-jurisdictional offences.

Key pieces of Australia's national security legislation include the following.

Defence Act, 1903 - Part IIIAAA. The provisions within Part IIIAAA allow the Australian Defence Force (ADF) to be called out to respond to an incident of domestic violence within Australia. The legislation contains a range of safeguards to ensure that the ADF would only be called out in extreme circumstances.

Crimes Act, 1914. The legislation which deals with crime, the powers of the authorities to investigate it and many other related issues including sabotage, treachery, disclosure of information and other issues. *Part IAAA* "Delayed notification search warrants" provides for the authorizing, issuing and reporting obligations with respect to delayed notification search warrants. *Part IAA* includes search, information gathering, arrest and related powers, including stop and search powers in relation to terrorist acts and terrorism offences. *Part IA* says that bail not to be granted in certain cases. Places stricter bail requirements for those charged with terrorism offences. *Part IB* "Non-parole periods for sentences for certain offences" places certain non-parole periods for terrorism offences. *Part IC* provides for the detention of people arrested for Commonwealth offences and imposes obligations on investigating officials in relation to those people arrested and certain other people who are being investigated for Commonwealth offences. *Part II* "Offences against the Government" contains offences such as treachery and sabotage. *Part IV* "Piracy" contains offences for acts of piracy.

Charter of the United Nations Act, 1945. This legislation contains terrorism related offences, including offences dealing with freezable assets and giving assets to a proscribed entity or person.

Telecommunications (Interception and Access) Act, 1979. The legislation permits ASIO to intercept telecommunications under warrant for intelligence gathering purposes including in relation to threats of terrorism. It also provides authority, where a warrant is obtained for Australian law enforcement bodies to intercept

telecommunications in respect of investigations into serious offences, including a range of terrorism offences.

Australian Security Intelligence Organisation Act, 1979. The legislation which sets out the functions of the Australia Security Intelligence Organisation (ASIO) - Australia's security service. This legislation, amongst other things, empowers ASIO to obtain warrants for the purpose of undertaking surveillance and to detain and question a person who may have information important to the gathering of intelligence in relation to a terrorist activity.

Crimes (Hostages) Act, 1989. The legislation contains offences relating to hostage-taking, attempted hostage-taking and participating as an accomplice in hostage-taking or attempted hostage-taking.

Crimes (Aviation) Act, 1991. The legislation contains offences relating to aircraft, aerodromes, airports and air navigation facilities.

Crimes (Ships and Fixed Platforms) Act, 1992. The legislation contains offences relating to the safety of a ship or a fixed platform.

Criminal Code Act, 1995 (Criminal Code). The central and most important law to combat terrorism. The Criminal Code contains a range of offences for terrorism and terrorism related acts. *Division 72* "International terrorist activities using explosive or lethal devices" creates offences relating to international terrorist activities using explosive or lethal devices and gives effect to the International Convention for the Suppression of Terrorist Bombings. *Part 5.1* "Treason, urging violence and advocating terrorism offences" contains offences relating to treason, urging of another person or group to use violence in certain circumstances and advocating terrorism. *Part 5.3* "Terrorism" contains a range of offences relating to terrorist acts, terrorist organisations and financing terrorism. The Part also contains provisions for control orders and preventative detention orders. *Part 5.4* "Harming Australians" contains provisions making it an offence to murder, commit manslaughter or intentionally or recklessly cause serious harm to an Australian outside of Australia. *Part 5.5* "Foreign incursions and recruitment" contains offences and provisions based on the Crimes (Foreign Incursions and Recruitment) Act 1978 which was repealed by the Counter-Terrorism Legislation Amendment (Foreign Fighters) 2014

Act. The Part also contains provisions for the offence of entering, or remaining in, declared areas. *Part 10.5* “Postal offences” contains offences relating to the sending of dangerous, threatening or hoax material through the post or similar services.

Maritime Transport and Offshore Facilities Security Act, 2003. The legislation which establishes a scheme to safeguard against unlawful interference with maritime transport and establishes security levels.

Aviation Transport Security Act, 2004. The legislation establishes a number of mechanisms to safeguard against unlawful interference against aviation.

National Security Information (Criminal and Civil Proceedings) Act, 2004. The NSI Act gives courts a structure to follow where national security information is disclosed, or is to be disclosed, in federal criminal proceedings and civil proceedings.

Surveillance Devices Act, 2004. The legislation that establishes procedures for officers to obtain warrants, emergency authorisations and tracking device authorisations for the installation and use of surveillance devices in relation to criminal investigations and other initiatives. [3]

So, as can be seen, the Australia's national legislation has developed a wide range of laws, codes and acts providing and fighting terrorism problem.

Список використаних джерел:

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