

Proscription by Proxy: The Banning of Foreign Groups

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A proscription order was issued in 2017 under the UK's Terrorism Act 2000 against two Bahraini groups (the al-Ashtar Brigades and the al-Mukhtar Brigades). The obscurity of these groups within the UK was underlined by the absence of triggers in terms of terrorist incidents or threats against British nationals. Yet, most recent proscriptions reflect this detached foreign provenance, giving rise to “proscription by proxy”—a ban in the interests of another state. Two aspects of the order serve as a worthy case study. One is the justification of the proxy policy. The other relates to the mechanics of proscription—the making of orders and subsequent review of their operation.

Introduction

On the 21 December 2017, the UK Home Secretary listed two Bahraini groups as proscribed international terrorist organisations.¹ By virtue of the Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2017 (the Bahraini Order),² issued under the Terrorism Act 2000 s.3, the al-Ashtar Brigades (Saraya al-Ashtar) and the al-Mukhtar Brigades (Saraya al-Mukhtar) were designated. This order represented the first reference to any Bahraini-based group and was welcomed by the Bahrain Government as “responsible action in the fight against terrorism”.³ However, the order was not alleged to have been triggered by any specific terrorist incident or threat against UK nationals or assets either at home or abroad.

Though not unique, this detached foreign provenance of proscription offers a telling case study for the analysis and critique of proscription laws and practices in the UK. The outlawry of foreign groups of relative obscurity and impact (as far as the British public are concerned) actually comprises much of the proscription list. It reflects repeated instances of “proscription by proxy”—a ban in the interests of another state more than in the service of British security interests. Illustrated