

STATEMENT OF CASE TO RENEW THE DESIGNATION OF PALESTINIAN ISLAMIC JIHAD (PIJ) AS A TERRORIST ENTITY

PURPOSE

1. The purpose of this paper is to assess whether the Palestinian Islamic Jihad (PIJ) (also known as Palestinian Islamic Jihad – Shaqaqi Faction; Palestinian Islamic Jihad – Shallah Faction; Islamic Jihad; Islamic Jihad (in/of) Palestine; Islamic Jihad – Palestine Faction and Islamic Holy War; Harakat al-Jihad al Islami fi Filistin; Jihad al-Islami; Abu Ghunaym Squad of the Hizballah Bayt al-Maqdis), including its military wing, the Al-Quds Brigades (also known as the Saraya al-Quds, Jerusalem Battalions, Saraya al-Mujihadeen and Al-Awdah Brigades) meets the statutory criteria to renew its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).
2. The paper concludes that the group meets the criteria for renewal as a designated terrorist entity under the TSA.

STRUCTURE OF THIS PAPER

3. This paper sets out updated information about PIJ's continued involvement in terrorist activity and covers any changes and /or developments to the organisation since its original designation, including to its objectives, structure, weapons and tactics and includes any recent attacks which meet the definition of a terrorist act under the TSA.
4. This updated information, together with the information contained in the original designation paper¹ inform the analysis of whether reasonable grounds for designation still exist and provide the basis for the conclusion that the group meets the legal criteria to renew its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR DESIGNATION RENEWAL UNDER THE TSA

5. Section 35(1) of the TSA provides that a designation of a terrorist entity expires three years after the date of designation unless it is earlier revoked or renewed by the Prime Minister. The original designation is made pursuant to s 22 of the TSA, which provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts (“terrorist act” is defined in s 5). Carrying out a terrorist act includes the planning, preparation or credible threat to carry out the act, whether it is actually carried out or not (s 25(1)(a) and (b)) and also includes an attempt to carry out the act (s 25(1)(c)).
6. The Prime Minister may renew that designation for a further three years under s 35(2) if satisfied that there are still reasonable grounds as set out in s 22 for the entity to be designated under that section.
7. Before the expiry of an order made under s 35(2), the Prime Minister may make another order under s 35(3) renewing the designation concerned for a further three years. The Prime Minister may make any number of orders under s 35(3) in respect of the same designation (s 35(5)).

CREDIBILITY OF SOURCES

8. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are Al-Monitor, Council on Foreign Relations, Foreign Policy, The Guardian, Human Rights Watch, Jane's World Insurgency and Terrorism Monitor, Jane's Terrorism Watch, IRIN, Open Source Center, Reuters and United Press International.
9. A range of regional media sources were referred to, including: Al Jazeera, Haaretz, Gulf News, The Jerusalem Post, Israel National News and The Times of Israel. Statements from the official website of PIJ were also utilised.

CONTINUED INVOLVEMENT IN TERRORIST ACTIVITY

10. PIJ was designated as a terrorist entity on 11 October 2010.
11. Throughout 2011, PIJ conducted numerous indiscriminate rocket attacks on Southern Israel:
 - 11.1 PIJ claimed responsibility for a mortar shell attack on 8 January 2011². The Al-Quds Brigades fired several mortar rounds into a residential area of Israel's Southern district.³ Three Thai agricultural workers, who were working on a kibbutz in the populated area, were wounded - one seriously.⁴
 - 11.2 On 24 August 2011, PIJ claimed responsibility for Grad and Kassam rocket and mortar shells fired into Israel's Southern district in residential areas near Ashkelon and Eshkol.⁵ A nine-month old baby was wounded.⁶ A PIJ spokesman claimed the attack was retaliation for a previous Israeli attack which killed a PIJ operative.⁷
 - 11.3 On 29 October 2011, PIJ fired an unspecified number of rockets into Southern Israel,⁸ piercing the defensive missile shield. The rocket fire killed an Israeli civilian and wounded up to four others.⁹ Cars and buildings were also damaged in the barrage.
12. During an eight day conflict between Palestinian groups and Israel in November 2012, Palestinian groups fired more than 1,500 rockets at Israel, killing six Israelis and wounding over 200.¹⁰ The Al-Quds Brigades claimed to have fired 620 missiles and mortars at Israeli targets during this time,¹¹ including anti-ship missiles, Grad rockets, locally made rockets, C8K missiles and mortars.
13. On 15 November 2012, the Al-Quds Brigades fired a Fajr-5 rocket at Tel Aviv.¹² The group claimed the attack inflicted damage on the city's communication network and forced the closure of Ben Gurion Airport.¹³
14. In May 2013, the Israeli Defence Force announced it had disrupted a plot by PIJ to carry out an attack on Israeli soldiers or civilians and then kidnap them.¹⁴ The members of the PIJ cell confessed that they had intended to approach a hitchhiking station, open fire on Israeli soldiers or civilians waiting there and then kidnap them.¹⁵ The investigation revealed that Motaz Muhammed Taleb Abido, a senior operative of PIJ in the Hebron area who had previously been imprisoned for terror activities, had

recruited the other members of the cell and sought to be the shooter in the planned kidnapping attack.¹⁶

Ideology and Objectives

15. PIJ continues its violent opposition to the existence of Israel and maintains its goal of creating an Islamic state.¹⁷ The group maintains a significant presence in both Gaza and the West Bank, with close organisational relations and ideological affinity with the Lebanese Hizbollah and Iran. PIJ continues to receive support in the form of military aid from Iran and has done since it was founded in the 1970s. This includes recent upgrades to its weapon capability and logistical support.¹⁸
16. PIJ have increasingly challenged Hamas' authority in Gaza and Hamas has proved incapable or unwilling to constrain PIJ.¹⁹ However, during the November 2012 escalation, high-level military coordination took place between Hamas and PIJ, despite their political differences.²⁰

Organisation and Structure

17. The organisation of PIJ is shrouded in secrecy. The movement's supreme organisational body is the General Bureau, which has eight members. There are separate committees for military, political, and civil affairs. PIJ's core membership is based largely in the Gaza Strip and is tightly controlled by its leader, Ramadan Abdullah Shallah, and his deputy, Ziyad al-Nakhalah.

Weapons, Tactics and Capability

18. PIJ has been increasing in strength and capability in Gaza since 2011. Rocket attacks make up the majority of recent PIJ attacks.²¹ PIJ missile and mortar attacks are generally indiscriminate, targeting both Israeli civilians and military personnel, seeking to maximize casualties.²²
19. PIJ has also come into possession of more sophisticated and powerful rockets, including the Fajr 5 missile PIJ claimed to have fired into Tel Aviv in 2012.²³
20. The 2013 kidnapping plot demonstrated a new tactical approach for PIJ. Senior PIJ officials have stated that Palestinians need a united strategy to kidnap Israeli soldiers so they could be exchanged with Palestinian prisoners.²⁴

Law of Armed Conflict (LOAC)

21. PIJ attacks since the 2010 designation have been violent, sporadic, and often do not discriminate between military targets and civilian objects. It is possible that some PIJ attacks (such as in November 2012) have occurred in a situation of armed conflict. However, in any instances where there threshold for an armed conflict was met, the PIJ attacks breached the principle of distinction and therefore the exemption in s 5(4) of the Act does not apply.

CONCLUSION

22. On the evidence set out above, this paper concludes that there are still reasonable grounds as set out in s 22 of the TSA for PIJ to be designated under that section.

23. Since its designation in October 2010, PIJ has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA, including preparation for (paragraph 14) and actually carrying out such acts (paragraphs 11-13). Accordingly, given there are still reasonable grounds to believe that PIJ has knowingly carried out terrorist acts as set out in s 22 of the TSA, PIJ meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
24. The designation must be renewed by 11 October 2013 to be effective.

¹ The statement of case, dated 10 October 2010 can be accessed at:

www.police.govt.nz/service/counterterrorism/designated-terrorists.html

² (8/01/2011) "Three foreign workers wounded in mortar attack near Gaza border", Haaretz, <http://www.haaretz.com/misc/article-print-page/three-foreign-workers-wounded-in-mortar-attack-near-gaza-border-1.335906?trailingPath=2.169%2C2.216%2C2.217%2C>. Accessed 27/02/2013.

³ (29/11/2012) "Palestinian Islamic Jihad", Jane's Terrorism and Insurgency - available on subscription. Accessed 28/01/2013.

⁴ (1/03/2011) "Gaza: Stop Rocket Attacks Against Israel Civilians", Human Rights Watch, <http://www.hrw.org/news/2011/03/01/gaza-stop-rocket-attacks-against-israel-civilians>. Accessed 26/02/2013.

⁵ (26/02/2013) "Palestinian Islamic Jihad (PIJ)", Jane's World Insurgency and Terrorism. - available on subscription. Accessed 28/02/2013.

⁶ (24/08/2011) "9-Month Old Baby Hurt in Rocket Attack on Southern Israel", Arutz Sheva, <http://www.israelnationalnews.com/News/News.aspx/147181>. Accessed 27/02/2013.

⁷ (25/08/2011) "Toddler wounded as Gaza militants renew 'steel rain' on Israel", Xinhuanet News, http://news.xinhuanet.com/english2010/world/2011-08/25/c_131074560.htm

⁸ (26/02/2013) "Palestinian Islamic Jihad (PIJ)", Jane's World Insurgency and Terrorism. - available on subscription. Accessed 28/02/2013.

⁹ (3/11/2011) "Islamic Jihad ready for all-out war with Israel", Reuters, <http://www.reuters.com/article/2011/11/03/us-palestinians-israel-islamicjihad-idUSTRE7A24RR20111103>. Accessed 27/02/2013.

¹⁰ (11/01/2013) "Hamas", Jane's World Insurgency and Terrorism. Access available on subscription. Accessed 28/02/2013.

¹¹ (15/04/2013) "A who's who of fighters in Gaza", IRIN, <http://www.irinnews.org/Report/97847/A-who-s-who-of-fighters-in-Gaza>. Accessed 16/04/2013.

¹² United Nations Human Rights Council (March 2013) *Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council Resolutions S-9/1 and S-12/1: Concerns related to adherence to international human rights and international humanitarian law in the context of the escalation between the state of Israel, the de facto authorities in Gaza and Palestinian armed groups in Gaza that occurred from 14 to 21 November 2012*. United Nations Human Rights Council. Accessed 13/03/2013.

¹³ (15/11/2012) " ", Al-Quds Brigades, Military Communiqué, <http://www.saraya.ps/index.php?act=Show&cid=29086>. Accessed...

¹⁴ (21/05/13) "Israel: Terror Attack, Kidnapping in Hebron Area Foiled as HAMAS, Islamic Jihad Cells Nabbed", The Jerusalem Post, accessed via opensource.govt on 21/06/2013.

¹⁵ (21/05/2013) "More Palestinian kidnapping plots thwarted by Israel", Long War Journal, http://www.longwarjournal.org/threat-matrix/archives/2013/05/more_palestinian_kidnapping_pl.php. Accessed 18/06/2013.

¹⁶ (21/05/2013) "Security forces discovered and arrested terror cells", Israeli Defence Forces, <http://www.idf.il/1283-19015-en/Dover.aspx>. Accessed 18/05/2013

¹⁷ (10/10/2008) "Palestinian Islamic Jihad", Council on Foreign Relations, www.crf.org. Accessed 7/02/2013.

¹⁸ (9/01/2013) "Iran Top Backer of Palestinian Islamic Jihad", Al-Monitor: the Pulse of the Middle East, <http://www.al-monitor.com/pulse/originals/2013/01/palestinian-islamic-jihad.html>. Accessed 26/02/2013.

¹⁹ (20/11/2012) " Israelis ponder alternatives to 'mowing the lawn' in Gaza ", The Christian Science Monitor, <http://www.csmonitor.com/World/Middle-East/2012/1120/Israelis-ponder-alternatives-to-mowing-the-lawn-in-Gaza-video>

²⁰ (15/04/2013) "A who's who of fighters in Gaza", IRIN, <http://www.irinnews.org/Report/97847/A-who-s-who-of-fighters-in-Gaza>. Accessed 16/04/2013.

The military wing of Hamas, Izz al-Din al-Qassam Brigades, was designated as a terrorist entity in New Zealand on 11 October 2010.

²¹ (10/10/2008) "Palestinian Islamic Jihad", Council on Foreign Relations, www.crf.org. Accessed 7/02/2013.

²² (15/04/2013) "A who's who of fighters in Gaza", IRIN, <http://www.irinnews.org/Report/97847/A-who-s-who-of-fighters-in-Gaza>. Accessed 16/04/2013.

²³ (15/11/2012) " Islamic Jihad says it fired rocket at Tel Aviv", Reuters, <http://www.reuters.com/article/2012/11/15/palestinians-israel-telaviv-jihad-idUSL5E8MFJTV20121115>. Accessed 27/02/2013.

²⁴ (6/02/2013) "4 Threat Matrix: Weeks after thwarted plot, Islamic Jihad threatens to kidnap Israeli soldiers", Long War Journal, http://www.longwarjournal.org/threat-matrix/archives/2013/02/islamic_jihad_threatens_to_kid.php. Accessed 26/02/2013.