

STATEMENT OF CASE TO RENEW THE DESIGNATION OF AL-AQSA MARTYRS' BRIGADE (AAMB) AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating Al-Aqsa Martyrs' Brigade (AAMB, also known as Al-Aqsa Martyrs' Brigade, Al-Aqsa Intifada Martyrs' Group, Al-Aqsa Brigades, Martyrs of Al-Aqsa Group, Al-Aqsa Martyrs' Battalion and Armed Militias of the Al-Aqsa Martyr Battalions, meets the statutory criteria for the renewal of its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

STRUCTURE OF THIS PAPER

2. This paper sets out updated information about AAMB's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in December 2010,¹ and subsequent renewals in October 2013² and September 2016³. Updates include AAMB's objectives, structure, weapons and tactics, and recent attacks which meet the definition of a terrorist act under the TSA.
3. This updated information, together with the information contained in the original designation paper and previous renewal papers, provide the basis for the conclusion that AAMB meets the legal criteria for renewal of its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR DESIGNATION RENEWAL UNDER THE TSA

4. 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 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. 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)).
5. 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.
6. 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

7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These include Al Jazeera English, BBC, Council on Foreign Relations, the Guardian and Reuters.
8. A range of regional news sources were used, including Haaretz, JPost, The Times of Israel, Palestine Today, Al-Watan News, Al-Manaar News and Sawa News. Information from TRAC (Terrorism Research and Analysis Centre), MEMRI (The Middle East Media Research Institute) and CAMERA (the Committee for Accuracy in Middle East Reporting and Analysis) were also referred to.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

9. AAMB was designated as a terrorist entity on 15 December 2010. The designation was renewed on 2 October 2013, and again on 26 September 2016.
10. Since the last renewal, AAMB has continued its “armed resistance” to the Israeli occupation of Palestinian lands. AAMB escalated its activities in May 2018 after Israeli Defence Force (IDF) personnel reportedly killed dozens of Palestinian protesters taking part in the weekly “Great March of Return” demonstrations.⁴
11. Over the following year, until a ceasefire was announced on 6 May 2019, Gaza-based militant groups including AAMB fired thousands of crude rockets towards Israeli citizens and targeted Israeli soldiers near the Gaza strip with sniper fire.⁵ AAMB has publicly claimed responsibility for the following recent attacks:
 - 11.1. 15 May 2018: In a statement on 17 May 2018, AAMB claimed full responsibility for “targeting a Zionist military jeep and a number of soldiers” in a shooting east of Beit Hanoun. AAMB claimed the operation resulted in a number of Israeli casualties. According to the statement, this attack was “a preliminary response to the massacre committed by the occupation against peaceful demonstrators east of the Gaza Strip and the fall of more than 63 martyrs.”⁶
 - 11.2. 26 July 2018: AAMB claimed responsibility for launching a number of mortars and 107 rockets towards the areas surrounding Gaza. This included the indiscriminate firing of 10 rockets towards the Israeli towns of Eshkol and Hanegov.⁷
 - 11.3. 3–6 May 2019: On 7 May 2019 AAMB announced the successful launch of 20 rockets and a number of mortar shells towards the city of Ashkelon between 3 and 6 May 2019.⁸
12. In January 2017, Israeli authorities arrested two members of AAMB outside of Jerusalem and charged them with carrying out and planning to carry out terrorist acts. According to media reporting, the men had been responsible for throwing a small pipe bomb at Israeli soldiers resulting in the wounding of one soldier. The men were also reportedly planning to carry out shooting attacks against Israeli forces.⁹

Ideology and objectives

13. AAMB’s goals and ideology have remained unchanged since the last renewal: it remains a secular nationalist group which uses violence to pursue its primary purpose of driving Israel from Gaza and the West Bank and establishing a Palestinian state.
14. Following the US decision to move the US Embassy from Tel Aviv to Jerusalem in late 2017, the Nidal Al-Amoudi faction of AAMB released a statement referring to President Trump as “Satan” and called on the Arab and Muslim *ummah* to support the armed struggle to liberate all Palestinian lands. The group promised, “we will die and live for Jerusalem... It is the heart of our faith and honour, and we will advance towards it with millions of martyrs.”¹⁰
15. On 16 May 2019 AAMB released a statement reaffirming its commitment to the destruction of Israel and to “resist the occupation by all means available.”¹¹

Organisation and structure

16. It is unknown exactly how many operatives AAMB currently has due to the group's decentralized structure and the imprisonment and death of many of its original members.¹² However, AAMB is still believed to comprise only a few hundred members spread across an unknown number of small cells.¹³ AAMB has cooperated with other terrorist groups throughout its existence, however because of its links to Fatah, the group has had at times difficult relations with Hamas and Palestinian Islamic Jihad (PIJ), alternatively cooperating with and acting against these groups.¹⁴
17. On 2 December 2017, a faction within AAMB announced on the group's Facebook page that it had established "The Martyr Yasser Arafat Base, the first Fatah movement military base in the Gaza Strip". The announcement said the base is intended for the training of fighters in all types of military skills for the continuation of the armed struggle in order to complete the project of expelling the occupation from all the lands of occupied Palestine.¹⁵

Weapons, tactics and capability

18. Since 2016 AAMB has continued to use low-level, sporadic attacks against Israeli targets. Its units typically use small arms, home-made bombs and crude, short-range missiles. While AAMB's activities by themselves pose only a minor threat to the Israeli state, combined with the activities of other Gaza-based militant groups they remain a significant source of instability.
19. AAMB claims to have fired more than 100 rockets and mortar rounds into Israel from Gaza since mid-2018. In May 2019 this included 'storm 2' and 'storm 3' variant short range rockets, as well as the first successful firing of a 'storm 4' variant.¹⁶ Like the more common Qassem and Quds rockets, the storm rockets are likely to be home-made, "fire and forget" rockets that are manually targeted but with no control over where the projectile will land.¹⁷

LAW OF ARMED CONFLICT (LOAC)

20. Despite escalation of violent activity in May 2018, the situation continues to be one of sporadic violent activity by AAMB, and has not reached a level of intensity and continuity on the part of AAMB which would bring the situation within the meaning of "armed conflict" for the purposes of the exemption in section 5(4) of the TSA. The AAMB's rocket attacks on towns show a disregard for the LOAC principle of distinction. Accordingly, the exemption in section 5(4) cannot apply, and AAMB attacks are properly characterised as terrorist acts.

CONCLUSION

21. 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 AAMB to be designated under that section.
22. Since its designation in December 2010, and renewal in October 2013 and September 2016, AAMB has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraphs 11-12) including planning, threatening and attempting attacks. Accordingly, given there are still reasonable grounds to believe AAMB has knowingly carried out terrorist acts as set out in s 22 of the TSA, AAMB meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
23. The designation must be renewed by 26 September 2019 to be effective.

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- ¹ (15/12/2010) “Statement to designate Al-Aqsa Martyrs’ Brigades as a terrorist entity”, available at <https://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>.
- ² (02/10/2013) “Statement to renew the designation of Al-Aqsa Martyrs’ Brigades as a terrorist entity”, available at <https://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>.
- ³ (26/09/2016) “Statement to renew the designation of Al-Aqsa Martyrs’ Brigades as a terrorist entity”, available at <https://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>.
- ⁴ (08/07/2019) “Five years after Operation Protective Edge, deterrence has been lost”, Jerusalem Post, accessed via <https://www.jpost.com/Arab-Israeli-Conflict/Five-years-after-Operation-Protective-Edge-deterrence-has-been-lost-594855> on 12/07/2019
- i. (07/05/2019) “Background: Al-Aqsa Martyrs’ Brigades”, Committee for Accuracy in Middle East Reporting and Analysis (CAMERA), accessed via <https://www.camera.org/article/backgrounder-al-aqsa-martyrs-brigades/> on 29/05/2019
 - ii. (15/05/2018) “Jerusalem embassy and
 - iii. Gaza protests: 59 Palestinians killed by Israeli gunfire at border”, Haaretz News, accessed via <https://www.haaretz.com/middle-east-news/u-s-embassy-gaza-protests-and-nakba-day-live-updates-1.6078190> on 29/05/2019
 - iv. (30/03/2019) “Gaza’s Great March of Return protests explained”, Al Jazeera, accessed via <https://www.aljazeera.com/news/2019/03/gaza-great-march-return-protests-explained-190330074116079.html> on 29/05/2019.
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- ⁷ (26/07/2018) “Al-Aqsa Brigades claim bombing”, Sawa, accessed via <https://palsawa.com/post/160890> on 29/05/19 [translated from Arabic].
- ⁸ (07/05/2019) “Al-Aqsa Martyrs’ Brigades document shelling of settlements around the Gaza Strip”, accessed via <https://paltoday.ps/ar/post/348112> on 29/05/2019 [translated from Arabic].
- ⁹ (15/03/2017) Israel: Shin Bet Announces January Arrests of Several Palestinians Planning Terror Attacks, The Times of Israel, accessed via <https://www.timesofisrael.com/shin-bet-nabs-two-palestinian-terror-cells-planning-attacks/> on 30/05/2019.
- ¹⁰ (10/12/2017) “Reactions to US President Trump’s Jerusalem announcement: Hamas, resistance axis call for violence, attacks on US interests”, The Middle East Media Research Institute (MEMRI), accessed via <https://www.memri.org/reports/arab-reactions-to-trump-jerusalem-announcement> on 30/05/2019.
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