

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-Aasa 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 regarding AAMB's ongoing involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in December 2010¹.
3. AAMB's designation as a terrorist entity was subsequently renewed in October 2013², September 2016³, and September 2019⁴. Updates include recent attacks; organisation and structure; and weapons, tactics and capability that meet the definition of a terrorist act 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 is defined in s 5A(1) as including planning, other preparations, or credible threat to carry out the act, whether or not the act is actually carried out and includes attempts to carry out the act.
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 was prepared using open or unclassified sources that have a reputation for careful and unbiased reporting. These include Al Jazeera English, Associated Press, BBC, CNN, Council on Foreign Relations, International Crisis Group, the Guardian, New York Times, and Reuters.

8. A range of regional news sources were used including MEMRI (The Middle East Media Research Institute), Jerusalem Post, Times of Israel, and CAMERA (the Committee for Accuracy in Middle East reporting and Analysis).

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, 26 September 2016, and 5 September 2019.
10. Since the last renewal, AAMB continues to commit acts of terrorism in the presence of Israeli citizens and military personnel in the Gaza Strip. While there were no recorded terrorist acts in 2020 (likely due to COVID-19 related lockdowns in Israel and Palestine), AAMB operatives resumed their terrorist activities against Israeli targets in April 2021. AAMB has publicly claimed responsibility for the following recent attacks:
 - 10.1 24 April 2021: AAMB claimed responsibility for involvement in the firing of approximately 32 rockets overnight on 23 April 2021 across the Gaza Strip. An AAMB spokesperson stated, “We will burn the occupation’s settlements for you, O Jerusalem. The greatest [response] has yet to come”.⁵
 - 10.2 12 May 2021: An Israeli soldier was fired upon but was uninjured. An Israeli Security Agency investigation indicates that an AAMB member was responsible for the attack. The gunman was arrested, and subsequently sentenced to 10 months in prison.⁶
 - 10.3 29 March 2022: An AAMB-linked individual shot and killed five people in an ultra-Orthodox enclave of Bnei Brak (located in Tel Aviv). The shooter targeted pedestrians and residents before engaging with Israeli police officers; he later died from his injuries.⁷ AAMB claimed responsibility for the attack and stated it was “a clear message written in blood in response to the Negev Summit”.⁸
 - 10.4 8 April 2022: AAMB claimed responsibility for the killing of two people and wounding of several others in Tel Aviv, conducted by gunman Ra’ad Hazem. However, the group offered no proof Hazem was a member, and the Israeli security service Shin Bet said Hazem had no known links to terrorist groups.⁹
 - 10.5 8 April 2022: In response to an increase in raids by the Israeli Defence Force (IDF) in the West Bank, AAMB spokesperson Abu Mohammad stated the group had officially started a campaign, dubbed “Eye of the Hurricane”, to deter future raids.¹⁰
 - 10.6 30 April 2022: AAMB claimed responsibility for a linked individual’s shooting of a security guard at the entrance of the Ariel Settlement in the West Bank. AAMB stated “we claim responsibility for the heroic operations in the colony of Ariel in which a Zionist officer was killed in response to violations committed by the occupation government in Jerusalem”.¹¹

- 10.7 9 August 2022: An AAMB commander in the West Bank, wanted by Israeli authorities, was killed in Nablus. Following his death, Israeli security forces located a large number of explosive devices and other weapons at the residence.¹²
11. On 20 March 2021, AAMB issued a death threat against Fadi Elsalammen¹³, a Palestinian-born US citizen and academic, while they visited family members in the Hebron Hills. The threat was published in a pamphlet distributed by Fatah, which denounced Elsalammen as a ‘traitor, spy and one of the most prominent US and Israeli agents...and the rifles of al-Aqsa Martyrs brigades will be directed against him and at those with him, without the slightest hesitation’.¹⁴

Ideology and objectives

12. AAMB’s goals and ideology remain unchanged since the last renewal. AAMB remains a secular nationalist group that uses violence and rhetoric to drive Israeli military forces and settlers from the West Bank, with an ultimate aim of establishing a Palestinian state.

Organisation and Structure

13. The current number of AAMB membership is unknown due to the group’s decentralised structure. Ongoing deaths and imprisonment of both its original and younger members have also affected its membership numbers. AAMB is estimated to have a few hundred members primarily based in Nablus and Jenin in the West Bank and there are also small factions based in Gaza¹⁵. AAMB remains affiliated to Fatah and receives financial and operational assistance from Iran via Hezbollah facilitators.^{16&17}
14. AAMB is nominally led by Zakaria Zubeidi who is currently imprisoned in an Israeli maximum-security facility. In May 2022, factions of the AAMB in Gaza elected Salem Thabet as Commander-in-Chief, however the election was rejected by AAMB members in the West Bank.¹⁸ Subsequently, AAMB’s current leadership is not known.

Weapons, tactics and capability

15. Since 2016, AAMB continues to use low-level, sporadic attacks against Israeli targets. Since 2019, its operatives typically use small arms to target Israeli military or security personnel and citizens. One Fatah spokesperson stated that the recent series of attacks in 2022 were planned and carried out by young men with “modest means” who purchased their own bullets.¹⁹
16. AAMB also continues to fire rockets towards Israeli territory.

LAW OF ARMED CONFLICT (LOAC)

17. AAMB’s continuing violent activity in 2021 and 2022 does not fall within the meaning of “armed conflict” for the purposes of the exemption in s 5(4) of the TSA. The AAMB’s rocket attacks on the Gaza Strip in 2021 and random small arms fire by AAMB operatives in public areas such as Bnei Brak in March 2022 show a disregard for the LOAC principle of distinction. Accordingly, the exemption in s 5(4) cannot apply, and AAMB attacks are properly characterised as terrorist acts.

CONCLUSION

18. Based on the evidence set out above, this paper concludes that there are still reasonable grounds for AAMB to be designated as a terrorist entity under s 22 of the TSA.
19. Since its designation in December 2010, and subsequent renewals in October 2013, September 2016, and September 2019, AAMB continues to carry out activities that meet the definition of terrorist acts in ss 5 and 5A of the TSA (paragraphs 10-11). These activities include planning, threatening, attempting, and carrying out attacks.
20. 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.
21. The designation must be renewed by 5 September 2022 to be effective.

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- ¹ 15/12/2010 “Statement to designate Al-Aqsa Martyrs’ Brigade as a terrorist entity”, available at <https://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>.
- ² 2/10/2013, “Statement to designate Al-Aqsa Martyrs’ Brigade as a terrorist entity”, available at <https://www.police.govt.nz/sites/default/files/publications/renew-aamb-2-oct-2013.pdf>.
- ³ 26/09/2016, “Statement to designate Al-Aqsa Martyrs’ Brigade as a terrorist entity”, available at <https://www.police.govt.nz/sites/default/files/publications/renew-aamb-terrorist-entity-26sept2016.pdf>.
- ⁴ 26/09/2019, “Statement to designate Al-Aqsa Martyrs’ Brigade as a terrorist entity”, available at <https://www.police.govt.nz/sites/default/files/publications/renew-aamb-terrorist-entity-26-september-2019.pdf>.
- ⁵ (24/04/2021), “Gaza Terror Groups Say Rockets Fired Over Jerusalem Unrest, Warn Worse to Come”, accessed via <https://www.timesofisrael.com/gaza-terror-groups-say-rockets-fired-over-jerusalem-unrest-warn-worse-to-come/> on 27 July 2022.
- ⁶ (10/08/2022) <https://www.ipost.com/arab-israeli-conflict/shin-bet-investigation-uncovers-palestinian-who-shot-idf-soldier-in-may-678240>
- ⁷ (29/03/2022), “Palestinian Gunman Kills 5 in Israel’s Fifth Attack in Recent Days” accessed via <https://www.nytimes.com.wclidm.oclc.org/2022/03/29/world/middleeast/israel-shooting-deaths.html?searchResultPosition=1> on 19 July 2022.
- ⁸ (30/03/2022), “Five People Shot Dead Near Tel Aviv, the Third Attack in Israel In a Week”, accessed via <https://edition.cnn.com/2022/03/29/middleeast/shooting-near-tel-aviv-intl/index.html> on 14 July 2022. The Negev Summit involved foreign ministers from four Arab countries, the USA and Israel.
- ⁹ (10/08/2022) <https://www.timesofisrael.com/tel-aviv-terrorist-shot-and-killed-near-mosque-named-as-raad-hazem-from-jenin/>
- ¹⁰ (10/08/2022) <https://www.longwarjournal.org/archives/2022/04/analysis-palestinian-factions-respond-to-idf-operations-exploit-terror-wave.php>
- ¹¹ (30/04/2022), “Israeli Forces Arrest Suspected Killers of Jewish Settlement Guard”, accessed via <https://www.theguardian.com/world/2022/apr/30/israeli-and-palestinian-killed-in-separate-west-bank-shootings> on 11 July 2022.
- ¹² (10/08/2022) <https://www.timesofisrael.com/wanted-terror-operative-among-3-said-killed-in-idf-raid-in-nablus-30-injured/>
- ¹³ Fadi Elsalamen is a non-resident fellow at the Foreign Policy Institute, John Hopkins School of Advanced Studies. He has openly criticised Mahomoud Abbas and accused the Palestinian Authority regime of corruption in the media.
- ¹⁴ (15/04/2021), “Palestinian American Activist: Abbas’s Fatah Threatening to Kill Me”, Jerusalem Post, accessed via <https://www.ipost.com/middle-east/palestinian-american-activist-abbas-fatah-threatening-to-kill-me-665633> on 22 July 2022 and (15/04/2021), “US Said to Scold P.A Over Death Threats toward Palestinian-American Abbas Critic”, accessed via <https://www.timesofisrael.com/us-said-to-scold-pa-over-death-threats-towards-palestinian-american-abbas-critic/> on 22 July 2022.
- ¹⁵ (21/05/2022), “Is Hamas Trying to Establish a New Fatah Armed Wing?”, Jerusalem Post, accessed via <https://www.ipost.com/middle-east/article-707305> on 22 July 2022.
- ¹⁶ “Country reports on Terrorism 2020”, US Department of State, accessed via <https://www.state.gov/reports/country-reports-on-terrorism-2020/#AAMB> on 19 July 2022.
- ¹⁷ (17/05/2019), “Backgrounder: Al-Aqsa Martyrs’ Brigades”, accessed via <https://www.camera.org/article/backgrounder-al-aqsa-martyrs-brigades/> on 2 August 2022.
- ¹⁸ (21/05/2022), “Is Hamas Trying to Establish a New Fatah Armed Wing?”, Jerusalem Post, accessed via <https://www.ipost.com/middle-east/article-707305> on 22 July 2022.
- ¹⁹ (19/05/2022), “Fatah Revolutionary Council Member Jamal Al-Huwail Praises Terrorists, Calls for Violence Against Israelis At Upcoming Jerusalem Day Flag March: Rise Up, Be Fedayeen!”, accessed via <https://www.memri.org/reports/fatah-officials-pay-condolence-calls-families-terrorists-jenin-who-carried-out-bnei-brak-tel> on 21 July 2022.