

STATEMENT OF CASE TO RENEW THE DESIGNATION OF INDIAN MUJAHIDEEN (IM) AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating Indian Mujahideen (IM) (also known as Indian Mujahidin) 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 IM's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in October 2010,¹ and renewals in October 2013 and September 2016,² including IM's objectives, structure, weapons and tactics and includes 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 IM 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 BBC News, the Guardian, The Times and Time.
8. A range of think tanks were referred to including the Counter Extremism Project, the Combating Terrorism Center at West Point, the Hudson Institute, the Wilson Center and the Institute for National Strategic Studies.
9. A range of regional news sources were also referred to including India Today, Hindustan Times, Times of India and the Quint.
10. Other sources utilised include the South Asia Terrorism Portal, the National Bureau of Asian Research's Asia Policy Journal and the United States Department of State, Country Reports on Terrorism.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

11. IM was designated as a terrorist entity on 11 October 2010. The designation was renewed on 2 October 2013, and again on 26 September 2016.
12. Although IM has not claimed any major terrorist attacks since around 2013-14, it continues to be linked to detected and disrupted plots:
 - 12.1. In 2018, there were media reports that members of IM were planning to revive the group.³ Co-founder of IM Abdul Subhan Usman Qureshi along with former SIMI chief Gulam Sarvar Khan, was arrested by Indian authorities in Delhi in January 2018 after returning to India. Qureshi “told investigators he met the group’s co-founder Riyaz Bhatkal in Saudi Arabia between 2015-17 to revive [IM] across India.”⁴
 - 12.2. In 2017, suspected IM operative Taushif Sagir Khan Pathan was arrested in Gaya. Indian intelligence sources stated that Pathan and former SIMI chief Gulam Sarvar Khan wererecruiting Rohingya refugees and training them to attack prominent Buddhist sites and tourist hubs. According to a senior intelligence officer, these groups were involved in planting explosives near the Mahabodhi Temple in January 2018, to be triggered while the Dalai Lama was visiting.⁵
13. In August 2017 a crude explosive device was discovered and defused on an Akal Takht Express train in Amethi, Uttar Pradesh, India. A note claiming to be from IM was found on the train. It stated that the intended attack was in retaliation for the killing of Abu Dujana, a Lashkar-e-Taiba (LeT) member and warned “India will have to pay for Dujana’s martyrdom”.⁶

Ideology and objectives

14. IM is a Sunni Muslim group consisting of former members of the Students Islamic Movement of India (SIMI).⁷ Both IM and SIMI reject Hinduism, secularism, and democracy. IM’s propaganda has called for spreading Islam throughout India, waging jihad against non-Muslims, and establishing a government based on the Koran.⁸
15. IM have not publicly announced a change in ideology or objectives since original designation or previous designation renewal.

Organisation and structure

16. IM is more of a loose, decentralised, network than a cohesive singular organisation,⁹ and is likely part of a larger militant network across India.¹⁰ Its organisational structure is complicated and its membership is currently unknown.
17. IM has links to a number of other regional terrorist entities, including Lashkaar-e-Tayibba (LeT).¹¹ Over the last few years, there have been increasing reports of links between IM and the Islamic State of Iraq and the Levant (ISIL).¹² One of IM’s known members, Muhammad Sajid, was reported to have been killed fighting on behalf of ISIS in Syria in 2015.¹³ Several IM members appeared in an ISIL propaganda video in 2016.¹⁴ In 2016, ISIL cells linked to IM were arrested for planning attacks in Hyderabad.¹⁵
18. Indian authorities arrested IM’s leader, Abdul Subhan Qureshi, in early 2018¹⁶ and have arrested other members of the group in 2018.¹⁷

Weapons, tactics and capability

19. IM attacks typically feature crude, but effective, bombs against soft targets frequented by civilians.¹⁸

LAW OF ARMED CONFLICT (LOAC)

20. The situation continues to be one of sporadic activity by IM, and has not reached a level of intensity and continuity on the part of IM which would bring the situation within the meaning of “armed conflict” for the purposes of the exemption in section 5(4) of the TSA. Further, IM’s actual or planned targeting of the public and infrastructure is in breach of the LOAC principle of distinction. Accordingly, the exemption in s 5(4) cannot apply, and IM 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 IM to be designated under that section.
22. Since its designation in October 2010, and renewals in October 2013 and September 2016, IM has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraphs 12-13) including planning, threatening and attempting attacks. Accordingly, given there are still reasonable grounds to believe IM has knowingly carried out terrorist acts as set out in s 22 of the TSA, IM 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.

¹ The statement of case, dated 11 October 2010 can be accessed at: <http://www.police.govt.nz/sites/default/files/publications/statement-of-case-indian-mujahideen-terrorist-entity-11-oct-2010.pdf>.

² The statements of case, dated 2 October 2013 and 26 September 2016 respectively, can be accessed at: <http://www.police.govt.nz/sites/default/files/publications/renew-indian-mujahideen-2-oct-2013.pdf> and <http://www.police.govt.nz/sites/default/files/publications/renew-indian-mujahideen-terrorist-entity-26sept2016.pdf>.

³ (21/2/2018) “Abdul Subhan Qureshi met IM founder in Saudi, planned group’s revival in India” accessed via The Hindustan Times, <https://www.hindustantimes.com/india-news/abdul-subhan-qureshi-met-im-founder-in-saudi-planned-for-group-s-revival-in-india/story-PCoB16JMY8YqAiy4Q1WOXN.html>

i. (24/11/2018) “Probe agencies intensify search on terrorist trying to revive Indian Mujahideen” accessed via India Today <https://www.indiatoday.in/india/story/probe-agencies-intensify-search-on-bangladesh-terrorist-trying-to-revive-indian-mujahideen-1395568-2018-11-24> ;

ii. (21/11/2018) “Indian Mujahideen (IM)” accessed via Public Safety Canada <https://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx#31>

⁴ (22/01/2018) “On the run for 10 years, IM co-founder arrested” accessed via The Hindu <https://www.thehindu.com/news/national/2008-gujarat-blasts-mastermind-and-indian-mujahideen-leader-arrested-say-delhi-police/article22489747.ece>

i. (21/2/2018) “Abdul Subhan Qureshi met IM founder in Saudi, planned group’s revival in India” accessed via the Hindustan Times, <https://www.hindustantimes.com/india-news/abdul-subhan-qureshi-met-im-founder-in-saudi-planned-for-group-s-revival-in-india/story-PCoB16JMY8YqAiy4Q1WOXN.html>

⁵ (20/1/2018) “Terrorist groups make inroads into Gaya, say intelligence agencies” accessed via The Hindustan Times, <https://www.hindustantimes.com/india-news/terrorist-groups-make-inroads-into-gaya-say-intelligence-agencies/story-Va1z3wkp0dmxZi7X7ALA4M.html>

⁶ (11/8/2017) “Crude bomb found on Akal Takht Express” accessed via The Tribune India <https://www.tribuneindia.com/news/punjab/crude-bomb-found-on-akal-takht-express/450421.html>

i. Global Terrorism Database, <https://www.start.umd.edu/gtd/search/IncidentSummary.aspx?gtid=201708100016>

⁷ “Students Islamic Movement of India and the Indian Mujahideen: An Assessment” accessed via http://www.christinefair.net/pubs/APX_x_IndiaIslam_111109.pdf

i. *Indian Mujahideen*, accessed by Public Safety Canada, <https://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx#31> on 25/07/2019

⁸ *ibid.*

⁹ “Jihadist Violence: The Indian Threat” accessed via The Wilson Centre <https://www.wilsoncenter.org/sites/default/files/JihadistViolence.Tankel.pdf>

¹⁰ (29/8/2013) “Profile: Indian Mujahideen” accessed via <https://www.bbc.com/news/world-asia-india-23876150>

¹¹ “India: Extremism & Counter-Extremism” accessed via Counter Extremism, <https://www.counterextremism.com/countries/india>

i. Fair, C. Christine, “Students Islamic Movement of India and the Indian Mujahideen: An Assessment” accessed via http://www.christinefair.net/pubs/APX_x_IndiaIslam_111109.pdf

¹² (3/11/2017) “India’s Invisible Jihad” accessed via Hudson Institute <https://www.hudson.org/research/13974-india-s-invisible-jihad>

¹³ “India: Extremism & Counter-Extremism” accessed via Counter Extremism, <https://www.counterextremism.com/countries/india>

¹⁴ (3/11/2017) “India’s Invisible Jihad” accessed via Hudson Institute <https://www.hudson.org/research/13974-india-s-invisible-jihad>;

ii. (29/11/2016) “How Isis recruiters found fertile ground in Kerala, India’s tourist gem” accessed via The Guardian <https://www.theguardian.com/world/2016/nov/29/isis-recruiters-fertile-ground-kerala-indias-tourist-gem>

¹⁵ (1/7/2016) “Islamic State using Indians against India, hiring Muslim youth to carry out local attacks” accessed via India Today, <https://www.indiatoday.in/mail-today/story/isis-hyderabad-nia-syria-326642-2016-07-01>

¹⁶ (23/1/2018) “2008 Gujarat blasts mastermind arrested after decade-long manhunt” accessed via The Times of India, <https://timesofindia.indiatimes.com/india/2008-gujarat-blasts-mastermind-arrested-after-decade-long-manhunt/articleshow/62600348.cms>;

i. (22/1/2018) “India’s Bin Laden, Abdul Subhan Qureshi, in custody after Delhi shootout” accessed via The Times, <https://www.thetimes.co.uk/article/abdul-subhan-qureshi-held-over-indian-bombings-campaigns-delhi-shootout-wn5866ckf>

¹⁷ (14/2/2018) “Indian Mujahideen bomb-maker arrested in Nepal” accessed via The Hindu,

<https://www.thehindu.com/news/cities/Delhi/indian-mujahideen-terror-suspect-ariz-khan-arrested/article22750767.ece>;

i. (13/6/2018) “Indian Mujahideen now returns as ISIS; NIA arrests 6 radicals” accessed via The Economic Times, <https://m.economictimes.com/news/defence/indian-mujahideen-now-returns-as-isis-nia-arrests-6-radicals/articleshow/50690476.cms>

¹⁸ Fair, C. Christine, “Students Islamic Movement of India and the Indian Mujahideen: An Assessment” accessed via http://www.christinefair.net/pubs/APX_x_IndiaIslam_111109.pdf