

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

PURPOSE

1. The purpose of this paper is to assess whether the Indian Mujahideen (also known as Indian Mujahidin or IM) 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 IM'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 THIS 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: BBC, Foreign Policy, The Guardian, The Jamestown Foundation, Jane's World Insurgency and Terrorism Monitor, the Institute for Defence Studies and Analyses, Reuters, Royal United Services Institute and the South Asian Intelligence Review.

9. A range of regional media sources were referred to including The Economic Times, India Today, The Times of India, DNA India, The Indian Express and NDTV.

CONTINUED INVOLVEMENT IN TERRORIST ACTIVITY

10. IM was designated as a terrorist entity on 11 October 2010.
11. On 7 December 2010, IM planted an Improvised Explosive Device (IED) which exploded on the banks of the Holy Ganges River in Varanasi, one of Hinduism's holiest cities. The explosion killed two people, including a young child², and injured at least 34 people who were attending an evening prayer ceremony. The explosive was hidden in a milk canister on the banks of the river.³ IM sent an email to local media claiming responsibility for the attack,⁴ stating it was revenge for "the loss of their beloved Babri Masjid"⁵, referring to the destruction of the 16th Century Babri mosque by Hindu extremists in 1992.
12. On 13 July 2011, three IEDs were detonated almost simultaneously across Mumbai. The blasts, which targeted the crowded Zaveri Bazaar, Opera House district and Dadar⁶, killed 27 people and injured over 100. The explosives were planted in tiffin tins and rigged to motorcycles.⁷ The attacks were immediately attributed to IM as the explosives used and the tactic of synchronised bomb attacks in crowded places was typical of IM⁸. In May 2012, the Maharashtra anti-terrorism squad (ATS) named IM leaders (Ahmed Zavar Siddibappa, also known as Yasin Bhatkal, and Riyaz Bhatkal) as responsible in a charge sheet filed in court, claiming they had planned the attack from Pakistan.⁹
13. In October 2012, Indian authorities foiled a plot to carry out a 'massive strike' during the festive season in New Delhi and also to target foreign tourists at Bodhi Gaya, a major Buddhist pilgrimage site.¹⁰ Three IM members were arrested in the operation. These attacks were to be in response to ongoing clashes between ethnic Rohingya Muslims and ethnic Rakhine Buddhists in Myanmar.¹¹ Explosives, detonators, batteries and nails were in their possession at the time of the arrest.¹²
14. On 21 February 2013, 16 civilians were killed and over 100 injured when twin IEDs were detonated in a crowded shopping district in Hyderabad's Dilsukhnagar, a Hindu-dominated area.¹³ The bombs were rigged to two bicycles.¹⁴ In the months leading up to the attacks members of an IM cell had surveyed the area at the instruction of Riyaz Bhatkal, a senior IM operative.¹⁵ This attack is believed to be in response to a hanging four days earlier of Mohammed Afzal Guru¹⁶, a man convicted of colluding with Jaish-e-Mohammad (JeM) to conduct an attack on India's Parliament in 2001.¹⁷

Ideology and objectives

15. IM is a Sunni Islamist militant group and offshoot of the Student's Islamic Movement of India (SIMI). After SIMI was banned by the Indian government, the IM was formed around 2005.¹⁸ IM evolved as increasing numbers of the group acquired a violent pan-Islamic, but India-focused, agenda¹⁹ pursuing the creation of an exclusive Islamic state in India and the implementation of fundamentalist sharia (Islamic law). IM explicitly rejects the principles of nationalism, secularism and democracy. There is a strong anti-Hindu element to its ideology.²⁰

Organisation and Structure

16. Many IM operatives are ex-SIMI members²¹. The top level command of IM comprises educated professionals, especially from the IT sector.²² Other members of IM are recruited from the lower-middle class.²³
17. IM comprises a cluster of groups spread throughout north, west and south India. Each group consists of four to five sleeper cells which work independently.²⁴ The primary members, known as ansars, gather information, provide nesting facilities and recruit like-minded individuals for operations. The cells are formed with particular missions in mind.
18. Despite a number of arrests of top IM members in recent years, IM retains significant capacity to carry out terrorist acts due to its widespread network of affiliated terrorist groups.²⁵ IM has continued working relationships with several transnational terror groups, primarily militant groups in Pakistan and Bangladesh, including Lashkar-e-Tayyiba (LeT)²⁶, JeM, Harakat-ul-Jihad-ul-Islami (HUJI)²⁷ and Harakat-ul-Jihad-ul-Islami Bangladesh (HUJI-B)²⁸, which work together as part of a larger jihadist project across the region.²⁹ Despite these strong alliances, IM has maintained an independent decision-making structure.³⁰
19. Many of IM's leaders have gone underground following intensive operations to shut the group down.³¹ On 29 August 2013, Yasin Bhaktal, the alleged head of IM and a key member and enabler of IM's attacks and planning, was arrested with another IM member in Bihar state.³² IM has established a safe haven in Pakistan, which hosts the top IM membership.³³ Members of IM have also fled to other countries, including Bangladesh and the United Arab Emirates.³⁴

Weapons and Tactics

20. IM conducts attacks in India³⁵ and has demonstrated an ongoing capability to execute significant mass casualty operations in India's urban centres.³⁶
21. The group frequently uses the synchronised detonation of multiple IEDs in heavily populated locations to maximise casualties and damage.³⁷ The use of remote controlled detonation or timers and the use of ammonium nitrate and fuel oil are common characteristics of IM attacks.³⁸ The explosives are commonly hidden in small containers or rigged to bicycles or motorcycles. The attacks are often timed to occur in the early evening when the areas are the busiest.³⁹ IM has also used small arms in earlier attacks⁴⁰ and have often used email to claim responsibility, issue demands and list grievances.⁴¹

Law of Armed Conflict (LOAC)

22. There have been no significant changes in the status of the conflict or in the conduct of IM to invalidate the legal analysis contained in the original designation. The situation continues to be one of sporadic violent activity by IM, and has not reached a level of intensity and continuity on the part of IM that would bring the situation within the meaning of "armed conflict" for the purposes of the exemption in section 5(4) of the TSA. Accordingly, the exemption in s 5(4) cannot apply, and the IM attacks are properly characterised as terrorist acts.

CONCLUSION

23. 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.
24. Since its designation in October 2010, IM has continued to carry out attacks which meet the definition of terrorist acts in ss 5 and 25 of the TSA (see paragraphs 11-14). Accordingly, given there are still reasonable grounds to believe that 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 s35.
25. The designation must be renewed by 11 October 2013 to be effective.

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- Lashkar-e-Tayyiba (LeT), Jaish-e-Mohammad (JeM) and Harakat-ul-Jihad-ul-Islami (HUJI) are all designated in New Zealand via United Nation Security Council Resolution 1267. Harakat-ul-Jihad-ul-Islami Bangladesh (HUJI-B) is designated in New Zealand pursuant to United Nation Security Council Resolution 1373.
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