

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

PURPOSE

1. The purpose of this paper is to set out the case demonstrating Indian Mujahideen (IM), also known as Indian Mujahidin, 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 relevant changes and/or developments to the organisation since its original designation in October 2010¹ and renewal in October 2013², including IM's objectives, structure, weapons and tactics and includes 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 paper, and previous renewal paper, provide the basis for the paper's conclusion that IM meets the legal criteria for renewal of 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 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)).
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: Jane's World Insurgency and Terrorism series, BBC News, The Guardian and Geopolitical Monitor. Local news sources referenced include Times of India, Hindustan Times, International Business Times, The Hindu, The Indian Express, The New Indian Express and Mumbai Mirror.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

9. IM was designated as a terrorist entity on 11 October 2010. The designation was renewed on 2 October 2013.
10. On 27 October 2013, six people were killed and 100 injured when eight explosive devices, some timer-operated, detonated over a three hour period during an electoral campaign rally of now Indian Prime Minister Narendra Modi in Patna, India. The first two bombs exploded at the railway station as some of the approximately 200,000 attendees were arriving for the rally. The remaining six had been planted around the grounds where the rally was being held. Two further bombs were defused by police before detonating. Four alleged IM operatives were detained in relation to the attack, including one in critical condition after being caught in one of the explosions. During interrogation, the operatives reportedly claimed the attack was retaliation for the Muzaffarnagar³ riots.⁴

Ideology and Objectives of IM

11. IM have not publicly announced a change in ideology or objectives since original designation or previous designation renewal. Its aim is to undermine the democratic government and promote the spread of Islam through violent jihad.
12. IM reportedly has links with, and receives support from, LeT, Jaish-e-Mohammed (JeM), HUJI and Pakistan's Directorate of Inter-Services Intelligence (ISI).⁵ In May 2016, Indian military intelligence advised the Indian government that ISI and members of IM were assisting JeM sleeper cells to undertake real-time reconnaissance of north Indian cities. The purpose of the reconnaissance was reportedly in anticipation of JeM replicating attacks similar to JeM's 2 January 2016 Pathankot terrorist attack, and the 27 July 2015 Gurdaspur terrorist attack.⁶
13. On 25 September 2014, India's National Investigation Agency (NIA) told the Delhi High Court IM wanted to form an Islamic State (IS) and create a "Syria-Iraq situation" in India. NIA's investigations indicated IM's intention was to wage religious war against India by establishing "IS terror groups", similar to the Islamic State in Iraq and the Levant (ISIL). NIA alleged intercepted chat and email logs of several IM operatives revealed their desire to travel to Afghanistan and Syria to "learn from the jihadis" and support them in their "holy war".⁷

Organisation and structure of IM

14. IM has been relatively dormant after the arrest of several leaders, including Yasin Bhatkal, a founding leader of IM, and Safdar Nagori, the previous leader of the Students Islamic Movement of India (SIMI).⁸ In May 2015, Nagori and sixteen other SIMI members were subsequently acquitted.⁹ According to Indian government officials, the IM network has been fractured after intense pressure from Indian security services.¹⁰ In July 2014, IM was described by an official as "almost defunct".¹¹
15. A NIA charge sheet dated 20 February 2014 detailed the inclination of IM operatives to fight in Afghanistan and Syria. IM founder Riyaz Ismail Shahbandri (alias Riyaz Bhatkal) had decided to send IM cadres to Afghanistan for training and fighting, but some cadres wanted to travel to Syria. This led to a two way split in IM, one led by IM operative Mohammed Sultan Armar, the other by Shahbandri. Ansar-ul-Tawhid Fi Bilad Al Hind (AuT), led by Armar, was established between late 2013 and early 2014.¹²

16. AuT switched loyalties to ISIL and is now known as the recruitment wing of ISIL in India. Indian policy makers assess AuT constitutes the remnants of IM.¹³ On 19 September 2014, a video of ISIL chief Abu Bakr Al Baghdadi with Hindi, Urdu and Tamil subtitles was uploaded online by AuT. On the sixth anniversary of the Balta House encounter¹⁴, the video hailed IM operatives who had died in the incident as “martyrs”.¹⁵ Armar died fighting in Kobane, Syria in March 2015 and AuT is now headed by his younger brother, Shafi Armar (also known as Yusuf al-Hindi¹⁶). Shafi Armar reportedly uses his old IM contacts for recruitment, procurement of explosives and hawala¹⁷ transactions.¹⁸
17. Shahbandri was last reported to be based in Pakistan in 2013, and may have links to senior al-Qaida leadership in Afghanistan.¹⁹ In December 2015, founding member of al-Qaida in the Indian Subcontinent (AQIS), Mohammed Asif, was arrested in Delhi.²⁰ During interrogation, Asif reportedly claimed Shahbandri met the head of AQIS, Maulana Asim Umar. Shahbandri reportedly sought help and affiliation some time after July 2013 because he no longer wanted to be under the control of ISI.²¹
18. Zainul Abideen, a key explosives supplier of IM, was detained in Saudi Arabia in September 2015, and arrested by Police upon arrival in India on 26 April 2016. Abideen is accused of supplying explosives to IM founder Riyaz Bhatkal, who used them in attacks in Hyderabad and Mumbai in 2013. Abideen fled to Saudi Arabia after the attacks.²²
19. IM operative Abdul Wahid Siddibapa was arrested in May 2016 after being brought to India by the United Arab Emirates (UAE). Siddibapa was initially arrested by UAE authorities in 2014. Siddibapa was involved in identifying and recruiting new IM members, and suspected of raising funds for IM.²³

Weapons, tactics and capability of IM

20. While IM’s operational tempo is low, IM has demonstrated an ongoing intent to execute terrorist operations in India’s urban centres and continues to represent a domestic militant Islamist threat to the Indian state.²⁴
21. Consistent with historical attacks, IM has continued to use, or plan attacks using, improvised explosive devices.

Law of armed conflict (LOAC)

22. Activities carried out by IM do no amount to an armed conflict for the purposes of the exemption in section 5(4) of the TSA. Further, the attack undertaken by IM in 2013 was not in accordance with the LOAC principle of distinction. Accordingly, the exemption in s 5(4) cannot apply and 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 and renewal in October 2013, IM has continued to carry out, attempt or plan activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraph 10). 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.
25. The designation must be renewed by 2 October 2016 to be effective.

- ¹ (11/10/2010) “*Statement of case to designate the Indian Mujahideen as a terrorist entity*”. Available at: <http://www.police.govt.nz/sites/default/files/publications/statement-of-case-indian-mujahideen-terrorist-entity-11-oct-2010.pdf>.
- ² (02/10/2013) “*Statement of case to renew the designation of Indian Mujahideen (IM) as a terrorist entity*”. Available at: <http://www.police.govt.nz/sites/default/files/publications/renew-indian-mujahideen-2-oct-2013.pdf>.
- ³ Known as the 2013 Muzaffarnagar riots, clashes between Hindu and Muslim communities in Muzaffarnagar District, Uttar Pradesh, India occurred between August and September 2013. Open source reporting indicates the clashes resulted in 62 deaths, multiple injuries and the displacement of over 50,000 individuals. Members of Modi’s political party, Bharatiya Janata Party (BJP), have been indicted for their role in the riots.
- ⁴ (28/10/2013) “*6 killed in 8 explosions as IM targets Modi’s Patna rally*”, Times of India, accessed via <http://timesofindia.indiatimes.com/india/6-killed-in-8-explosions-as-IM-targets-Modis-Patna-rally/articleshow/24785956.cms> on 29/12/2015.
- ⁵ (04/10/2015) “*Ansar-ut Tawhid: Seizing the Reins from Indian Mujahideen in India?*”, Geopolitical Monitor, accessed via <http://www.geopoliticalmonitor.com/ansar-ut-tawhid-seizing-the-reins-from-indian-mujahideen-in-india/> on 30/12/2015, and; (31/03/2014) “*Indian Mujahideen*”, IHS Janes Terrorism Monitoring Series accessed 30/12/2015. Available on subscription.
- ⁶ (25/05/2016) “*Aided by ISI & IM, Jaish planning a Patankot-IP*”, Times of India, accessed via <http://timesofindia.indiatimes.com/india/Aided-by-ISI-IM-Jaish-planning-a-Patankot-IP/articleshow/52425601.cms> on 27/05/2016.
- ⁷ (26/09/2014) “*Indian Mujahideen wanted to form Islamic State in India, says NIA*”, International Business Times, accessed via <http://www.ibtimes.co.in/indian-mujahideen-wanted-form-islamic-state-india-says-nia-610008> on 29/12/2015, and; (04/10/2015) “*Ansar-ut Tawhid: Seizing the Reins from Indian Mujahideen in India?*”, Geopolitical Monitor, accessed via <http://www.geopoliticalmonitor.com/ansar-ut-tawhid-seizing-the-reins-from-indian-mujahideen-in-india/> on 30/12/2015.
- ⁸ (11/08/2015) “*Indian Mujahideen eyes Kerala youth*”, The Hindu, accessed via <http://www.thehindu.com/news/national/kerala/im-plans-to-recruit-from-kerala/article7523501.ece> on 29/12/2015.
- ⁹ (01/05/2015) “*Seven years later, 17 ‘SIMI men’ acquitted*”, The Indian Express, accessed via <http://indianexpress.com/article/india/india-others/former-simi-chief-nagori-16-other-suspected-activists-acquitted-by-court/> on 16/03/2016.
- ¹⁰ (26/11/2014) “*Terror threat to India rising again six years after Mumbai attacks*”, The Guardian, accessed via <http://www.theguardian.com/cities/2014/nov/26/india-terror-threat-mumbai-attacks> on 29/12/2015.
- ¹¹ (28/07/2014) “*Mumbai police gets letter threatening Gaza revenge*”, The Times of India, accessed via <http://timesofindia.indiatimes.com/city/mumbai/Mumbai-police-gets-letter-threatening-Gaza-revenge/articleshow/39142276.cms> on 30/12/2015.
- ¹² (04/10/2015) “*Ansar-ut Tawhid: Seizing the Reins from Indian Mujahideen in India?*”, Geopolitical Monitor, accessed via <http://www.geopoliticalmonitor.com/ansar-ut-tawhid-seizing-the-reins-from-indian-mujahideen-in-india/> on 30/12/2015.
- ¹³ (04/10/2015) “*Ansar-ut Tawhid: Seizing the Reins from Indian Mujahideen in India?*”, Geopolitical Monitor, accessed via <http://www.geopoliticalmonitor.com/ansar-ut-tawhid-seizing-the-reins-from-indian-mujahideen-in-india/> on 30/12/2015.
- ¹⁴ The Balta House encounter (Operation Balta House) took place in Delhi on 19 September 2008 with Delhi Police targeting IM operatives. Two suspected IM operatives were killed and two arrested. The Balta House encounter took place a week after the 13 September bombings in Delhi by IM which killed at least 30 individuals and injured over 100.
- ¹⁵ (20/09/2014) “*ISIS-linked terror group vows to avenge Balta House encounter*”, The Times of India, accessed via <http://timesofindia.indiatimes.com/india/ISIS-linked-terror-group-vows-to-avenge-Balta-House-encounter/articleshow/42944960.cms> on 30/12/2015.
- ¹⁶ (19/07/2016) “*NIA confirms ex-IM operative from Karnataka’s Bhatkal town ‘Main Recruiter’ of ISIL Indian module*”, Daily News and Analysts Online, accessed via Open Source Center on 19/07/2016.
- ¹⁷ Hawala is a traditional money transfer system which operates outside formal banking systems.
- ¹⁸ (30/03/2016) “*Islamic State ‘recruit’ tells probe team he panicked, threw explosives in Delhi drain*”, The Indian Express, accessed via <http://indianexpress.com/article/india/india-news-india/islamic-state-recruit-tells-probe-team-he-threw-explosives-in-delhi-drain/> on 27/05/2016.
- ¹⁹ (18/12/2015) “*Yasin Bhatkal’s interrogation led to busting of the first al-Qaeda module in India*”, The Times of India, accessed via <http://economictimes.indiatimes.com/news/defence/yasin-bhatkals-interrogation-led-to-busting-of-the-first-al-qaeda-module-in-india/articleshow/50226103.cms> on 30/12/2015.
- ²⁰ (17/12/2015) “*Delhi, Odisha cops arrest India chief of Al-Qaida, Close Aide*”, The New Indian Express, accessed via <http://www.newindianexpress.com/nation/Delhi-Odisha-Cops-Arrest-India-Chief-of-Al-Qaida-Close-Aide/2015/12/17/article3181466.ece> on 30/12/2015.
- ²¹ (26/12/2015) “*IM Affiliation with Al-Qaeda Indian Subcontinent*”, Mumbai Mirror, accessed via <http://www.mumbaimirror.com/mumbai/crime/IM-affiliation-with-Al-Qaeda-Indian-Subcontinent/articleshow/50328283.cms> on 30/12/2015.
- ²² (08/10/2015) “*Indian Mujahideen explosives supplier detained in Saudi*”, Hindustan Times, accessed via <http://www.hindustantimes.com/india/indian-mujahideen-explosives-supplier-detained-in-saudi/story-SVH11BycbpVOXtp7Mp5dqL.html> on 29/12/2015, and; (27/04/2016) “*Suspected Indian Mujahideen terrorist held in Mumbai for 2011 serial blasts*”, The Indian Express, accessed via <http://indianexpress.com/article/india/india-news-india/suspected-im-terrorist-held-in-mumbai-for-2011-serial-blasts/> 27/05/2016.
- ²³ (21/05/2016) “*India gets bold of key IM fundraiser with UAE help*”, Times of India, accessed via <http://epaperbeta.timesofindia.com/Article.aspx?eid=31808&articlexml=India-gets-hold-of-key-IM-fundraiser-with-21052016012039> on 27/05/2016.
- ²⁴ (31/03/2014) “*Indian Mujahideen*”, IHS Janes Terrorism Monitoring Series accessed 29/12/2015. Available on subscription.