

STATEMENT OF CASE TO RENEW THE DESIGNATION OF IZZ AL-DIN AL-QASSAM BRIGADES (IQB) AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating Izz al-Din al-Qassam Brigades (IQB) (Also known as the Military wing of Hamas, Ezzedeen Al-Qassam Brigades (EQB), or Izz al-Din Al-Qassem Brigades) 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 IQB'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 renewal in October 2013 and September 2016,² including IQB'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 IQB 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 The New York Times, Reuters, Associated Press, the BBC, CNN, and Middle East Monitor.
8. The think tank European Council on Foreign Relations was referred to
9. Regional news sources included The Times of Israel, The Jerusalem Post, and Haaretz.
10. Other sources utilised include the United States Department of State, and the Hamas website.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

11. Since its designation was last renewed in September 2016, IQB has claimed responsibility for mortar and rocket attacks against both civilian and military targets.
12. In February 2018 IQB claimed responsibility for the fatal shooting of a civilian in a small settlement near Nablus in January 2018.³ The attack was carried out by IQB member Ahmad Nasr Jarrar, who was killed by Israeli security forces a few weeks later.⁴
13. In May 2018, IQB and Palestinian Islamic Jihad (PIJ) claimed responsibility for a barrage of rocket and mortar fire into Israel. They said the attacks were in response for Israel's killing of dozens of Palestinians since March 30 in protests at the Gaza-Israel boundary fence, stating: "Bombardment for bombardment and blood for blood".⁵
14. In November 2018, IQB claimed responsibility for a barrage of rockets that killed one civilian and injured dozens more. As many as 400 rockets were fired into Israel over two days, some of them landing in the cities of Ashkelon and Sderot. IQB claimed the attacks were a response to a botched Israeli Defence Force raid in Gaza that left an IQB commander and an Israeli soldier dead.⁶
15. In December 2018, IQB claimed responsibility for two attacks in the northern West Bank. The first shooting in October 2018 in the Barkan Industrial Zone left two civilians dead. In the second, on 9 December, seven civilians were injured in a drive-by shooting at a bus stop in Ofra. Among the injured in the Ofra attack was a 30-weeks pregnant woman who underwent an emergency delivery, but the baby died a few days later.⁷

Ideology and objectives

16. IQB is the military wing of Hamas and thus shares the ideology of its parent organisation. In May 2017, Hamas released a new charter. The charter does not replace the original 1988 charter but rather serves as an update for it. The new charter watered down much of the anti-Semitic language of the original, stating that Hamas has no problem with Jews or any other religions, just the "Zionist project".⁸
17. Hamas leaders were still reportedly calling for the destruction of Israel in October 2017.⁹
18. The 2017 charter no longer references Hamas's early connections with the Muslim Brotherhood movement, which the original charter had highlighted. Despite this, Hamas and IQB paid tribute to Egyptian Muslim Brotherhood leader Mohamed Morsi after his death in June 2019.¹⁰

Organisation and structure

19. IQB continues to operate as a network of independent cells, and is still led by Mohammad Deif with Marwan Issa serving as deputy leader.¹¹ In February 2017, former IQB member Yahya Sinwar took over as Hamas's overall leader in Gaza.¹²

Weapons, tactics and capability

20. In May 2019, Israeli Newspaper Haaretz reported that IQB had roughly 30,000 fighters, 7,000 reservists and an arsenal of 5,000 to 6,000 mostly short-range rockets. Hamas also reportedly

continues to rely on its extensive network of tunnels under the fence separating Gaza from Israel.¹³

21. In January 2017, Israeli defence sources quoted in the Times of Israel stated that Hamas (including IQB) had built back up to the capability level it had prior to its 2014 war with Israel.¹⁴
22. In August 2017 Yahya Sinwar revealed that Hamas (including IQB) had repaired its relations with former primary backer Iran, following a five-year rift created by Hamas's refusal to back Syrian President Bashar al-Assad in the Syrian Civil War. Sinwar, who maintains close ties with IQB, said that Iran is now "the largest backer financially and militarily" to IQB.

LAW OF ARMED CONFLICT (LOAC)

23. The situation continues to be one of sporadic violent activity by IQB, and has not reached a level of intensity and continuity on the part of IQB 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, IQB's actual or planned targeting of civilians is in breach of the LOAC principle of distinction. Accordingly, the exemption in s 5(4) cannot apply, and IQB's attacks are properly characterised as terrorist acts.

CONCLUSION

24. 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 IQB to be designated under that section.
25. Since its designation in October 2010, and renewal in October 2013 and September 2016, IQB has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraphs 12-15) including planning, threatening and attempting attacks. Accordingly, given there are still reasonable grounds to believe IQB has knowingly carried out terrorist acts as set out in s 22 of the TSA, IQB meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
26. 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: <https://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>

² The statement of case, dated [2 October 2013 and 26 September 2016] can be accessed at: <https://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>

³ ¹⁰ (06/02/2018) “مصادر صحفية: كتائب القسام تتبنى عملية ‘حفات جلعاد’ التي نفذت قبل شهر بنابلس”, Palestine News Network, accessed via <http://pnn.ps/news/301242> on 22/07/2019

i. (10/01/2018), *Terror victim Raziel Shevach remembered as unique, kindhearted man*, The Times of Israel, accessed via <https://www.timesofisrael.com/terror-victim-raziel-shevach-remembered-as-unique-kindhearted-man/> on 22/07/2019

⁴ (6/02/2018) *Hamas praises suspected mastermind behind killing of Havat Gilad Rabbi*, The Jerusalem Post, accessed via <https://www.jpost.com/Arab-Israeli-Conflict/Hamas-praises-suspected-killer-of-Havat-Gilad-Rabbi-540823> on 25/07/2017

⁵ (29/05/2018) *Gaza militants launch barrages across border, Israel hits back with air strikes*, Reuters, accessed via <https://www.reuters.com/article/us-israel-palestinians-sirens/gaza-militants-launch-barrages-across-border-israel-hits-back-with-air-strikes-idUSKCN1IU0BX> on 22/05/2019

⁶ 14/1/2018 *Biggest Israel-Gaza firefight since 2014 ends in ceasefire*, CNN, accessed via <https://edition.cnn.com/2018/11/13/middleeast/israel-gaza-tesnions-escalate-intl/index.html> on 27/05/2019

⁷ (12/12/2018) *Hamas spokesman praises ‘heroic’ West Bank terror attack*, The Times of Israel, accessed via <https://www.timesofisrael.com/hamas-spokesman-praises-heroic-west-bank-terror-attack/> on 27/05/2019

⁸ (1/05/2017) *A Document of General Principles & Policies*, Hamas, accessed via <https://hamas.ps/en/post/678/a-document-of-general-principles-and-policies> on 8/07/2019.

⁹ (22/10/2017) *UN envoy chides Hamas leaders for urging Israel’s destruction*, The Times of Israel, accessed via <https://www.timesofisrael.com/un-envoy-chides-hamas-leaders-for-urging-israels-destruction/> on 9/07/2019

¹⁰ (18/06/2019) *Hamas mourns Morsi, but the PA bans public expressions of sympathy*, Middle East Monitor, accessed via <https://www.middleeastmonitor.com/20190618-hamas-mourns-morsi-but-the-pa-bans-public-expressions-of-sympathy/> on 9/07/2019.

¹¹ (27/05/2019) *Izz al-Din al-Qassam Brigades (IQB) – Hamas*, European Council on Foreign Relations (ECFR), accessed via https://www.ecfr.eu/mapping_palestinian_politics/detail/izz_al_din_al_qassam_brigades on 27/05/2019

¹² (13/02/2017) *Election of new Hamas Gaza Strip leader increases fears of confrontation*, The Guardian, accessed via

<https://www.theguardian.com/world/2017/feb/13/hamas-elects-hardliner-yahya-sinwar-as-its-gaza-strip-chief> on 27/05/2019

¹³ (05/05/2019) *Explained: Mortars, Rockets and Drones: A Look at Hamas’ Arsenal*, Haaretz, accessed via <https://www.haaretz.com/israel-news/.premium-mortars-rockets-and-drones-a-look-at-hamas-arsenal-1.7061438> on 9/07/2019.

¹⁴ (31/01/2017) *Hamas military capabilities said restored to pre-2014 war strength*, The Times of Israel, accessed via <https://www.timesofisrael.com/hamas-military-capabilities-said-restored-to-pre-2014-war-strength/> on 9/07/2019