

STATEMENT OF CASE TO RENEW THE DESIGNATION OF NEW PEOPLE'S ARMY AND THE COMMUNIST PARTY OF THE PHILIPPINES, (NPA/CPP) AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating New People's Army and the Communist Party of the Philippines, (NPA/CPP) 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 NPA/CPP'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, September 2016, and September 2019², including NPA/CPP'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 NPA/CPP 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 is defined in s 5A(1) as including planning, other preparations, or a 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 has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These are: The New York Times, and The Diplomat.
8. A range of think tanks were referred to, including International Crisis Group, the Counter-Extremism Project, IHS Markit, and Jane's World Insurgency and Terrorism.
9. A range of regional news sources were also referred to including Rappler, ABS-CBN News, Philippine News Agency, Manila Standard
10. Other sources utilised include the Philippines Commission on Human Rights.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

11. The NPA/CPP are active across a wide area of the Philippines, and have seen ongoing clashes with security forces since 2019,³ but reporting on their activity is patchy, and tends to be carried by pro-government media. Some terrorist activity is as follows:
 - 11.1. On 12 November 2019 6 Philippine soldiers were killed and 23 wounded by improvised explosive devices (IED) outside Boronhan City on Samar Island. The military had been called to the area after locals had complained of harassment by “guerrillas”.⁴ The army had attempted to engage these guerrillas and were killed or injured by an ambush of up to 6 IEDs.
 - 11.2. On 6 June 2021 an IED exploded in Masbate City, killing two youths who were out cycling.⁵ NPA/CPP accepted “full responsibility” for the deaths, but maintained it was the result of an “error” in NPA/CPP military action. NPA/CPP was condemned for the use of indiscriminate weapons able to harm both civilians and ‘combatants’.⁶

Ideology and objectives

12. NPA/CPP seeks to overthrow the democratically elected government of the Philippines and establish a communist regime based on Maoist ideology. NPA/CPP try to accomplish their goals by waging peasant-based protracted guerrilla warfare in accordance with the aspirational doctrine of a Maoist revolutionary ‘people’s war’. Support for the NPA/CPP is usually from isolated rural communities where indigenous populations have enduring grievances over land rights, resource exploitation and extraction, and government authority. NPA/CPP also oppose the presence of United States armed forces in the Philippines, viewing it as an encroachment on Philippine sovereignty.⁷
13. Initially proclaimed as a terrorist organisation by President Duterte in December 2017, a move criticised by a range of human rights groups,⁸ the NPA/CPP was formally designated a terrorist organisation by the newly-founded Anti-Terrorism Council on 23 June 2021.⁹ The Philippine government also designated 15 additional groups that it considers linked to the NPA/CPP, although this was likely a case of “red-tagging”, where groups are deliberately undermined by associating linking them to terrorism.
14. The designation of the NPA/CPP has likely stalled peace negotiations for the foreseeable future.¹⁰

Organisation and structure

15. Jose Maria Sison (also known as Joma) continues to be the political figurehead for the Communist insurgency from self-exile in the Netherlands. The organisation and structure of the NPA/CPP is not thought to have changed substantially since the renewal of designation in 2019.
16. Since 2019 the leadership of the NPA/CPP within the Philippines has continued to face pressure from an ongoing string of arrests and deaths of ranking leaders. NPA/CPP activities continue to be concentrated in rural areas in Mindanao, with hotspots in Central and Southern Luzon,¹¹ but violent incidents occur across all regions of the Philippines.¹²

Weapons, tactics and capability

17. Activity by the NPA/CPP is typically represented by a low-level insurgency across most rural districts of the Philippines. Attacks carried out by the NPA/CPP are however not sophisticated, not coordinated nationally, and are unlikely to threaten Western interests in most instances. Costs for this insurgency are met by the imposition of 'revolutionary taxes' on rural farmers and businessmen.
18. Current estimates suggest the NPA/CPP has between 4,000 and 5,000 members.¹³ This number will however vary depending on the party stating numbers of members, with both the Philippines government and NPA/CPP arguing that there are a larger or smaller number of fighters depending on the nature of the communications.
19. NPA/CPP weaponry tends to be small arms and infantry support weapons such as pistols, automatic rifles, machine guns and/or grenade launchers seized from the Armed Forces.

LAW OF ARMED CONFLICT (LOAC)

20. The activities of the NPA / CPP do not occur in a situation of armed conflict for the purposes of section 5(4) of the TSA. Further, NPA's / CPP's actual or planned activities would not comply with rules of international law applicable to an armed conflict. Accordingly, the exemption in s 5(4) cannot apply.

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 NPA/CPP to be designated under that section.
22. Since its designation in October 2010 and renewals in October 2013 and September 2016, NPA/CPP has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 5A of the TSA including planning, threatening and attempting attacks (paragraph 11 above). Accordingly, given there are still reasonable grounds to believe NPA/CPP has knowingly carried out terrorist acts as set out in s 22 of the TSA, NPA/CPP 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 2022 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-new-peoples-army-communist-party-philippines-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-cpp-npa-2-oct-2013.pdf>,

<http://www.police.govt.nz/sites/default/files/publications/renew-npa-cpp-terrorist-entity-26sept2016.pdf>, and

<https://www.police.govt.nz/sites/default/files/publications/renew-npa-cpp-terrorist-entity-26-september-2019.pdf>

³ “Tracking Conflict Worldwide: Philippines”, *International Crisis Group*, accessed via <https://www.crisisgroup.org/crisiswatch/print?page=1&location%5B0%5D=46&t=CrisisWatch+Database+Filter> on 4/4/2022.

⁴ (12/11/2019) Jason Gutierrez, “Philippine Guerrillas Kill at Least 6 Soldiers in Bombing”, *New York Times*, accessed via <https://www.nytimes.com/2019/11/12/world/asia/philippines-communist-soldiers-samar.html> on 13/11/2019.

i. (12/11/2019) JC Gotinga, “6 soldiers killed, 20 wounded in Eastern Samar clash with communist rebels”, *Rappler.com*, accessed via <https://www.rappler.com/nation/244731-soldiers-killed-wounded-eastern-samar-clash-communist-guerrillas/> on 4/4/2022.

⁵ (8/6/2021) “CPP, NPA take ‘full responsibility’ for Masbate blast killing football player, cousin”, *ABS-CBN News*, accessed via <https://news.abs-cbn.com/news/06/08/21/cpp-npa-take-full-responsibility-for-masbate-blast-killing-football-player-cousin> on 11/03/2022.

⁶ (11/6/2022) “Statement of the Commission on Human Rights on the CPP-NPA owning full accountability for the mine blast and death of two civilians in Masbate”, *Commission on Human Rights*, accessed via <https://chr.gov.ph/statement-of-the-commission-on-human-rights-on-the-cpp-npa-owning-full-accountability-for-the-mine-blast-and-death-of-two-civilians-in-masbate/> on 11/03/2022

⁷ 17/07/2017 “New People’s Army (NPA)”, *Jane’s World Insurgency and Terrorism*, accessed on 25/02/2019. Available on subscription

i. 24/11/2016 “Duterte’s anti-US rhetoric not enough for communist rebels”, *The Washington Times*, accessed via <https://www.washingtontimes.com/news/2016/nov/24/communist-rebels-see-philippine-us-ties-troubling/> on 27/05/2019.

⁸ Counter-Extremism Project, “The Philippines: Extremism and Terrorism”, accessed via <https://www.counterextremism.com/countries/philippines> on 4/4/2022.

⁹ (23/02/2021) Benjamin Pulta, “16 organizations linked to Reds designated as ‘terror groups’”, *Philippine News Agency*, accessed via <https://www.pna.gov.ph/articles/1168356> on 29/03/2021.

¹⁰ (18/06/2021) Ruben D. Torres, “Peace talks with CPP-NPA doomed”, *Philippine News Agency*, accessed via <https://www.manilatimes.net/2021/06/18/opinion/columns/peace-talks-with-cpp-npa-doomed/1803617> on 29/03/2021.

¹¹ (17/07/2017) *New People’s Army*, accessed via *Jane’s World Insurgency and Terrorism* on 25/07/2019, available via subscription.

¹² (9/3/2021) Anton Alifandi, “Terrorism in the Philippines: Examining the data and what to expect in the coming years”, *IHS Markit*, accessed via <https://ihsmarkit.com/research-analysis/terrorism-philippines-examining-data.html> on 4/4/2022.

¹³ (20/7/2021) “Why the CPP-NPA insurgency persists”, *Manila Standard*, accessed via <https://manilastandard.net/opinion/columns/business-class-by-rudy-romero/360158/why-the-cpp-npa-insurgency-persists.html> on 11/03/2022.

i. (31/03/2020) Prashanth Parameswaran, “What’s Next for the Philippines Communist Insurgency Under Duterte?”, *The Diplomat*, accessed via <https://thediplomat.com/2020/03/whats-next-for-the-philippines-communist-insurgency-under-duterte/> on 16/4/2020.