

## **STATEMENT OF CASE TO RENEW THE DESIGNATION OF PALESTINIAN ISLAMIC JIHAD (PIJ) AS A TERRORIST ENTITY**

### **PURPOSE**

1. The purpose of this paper is to set out the case demonstrating Palestinian Islamic Jihad (PIJ),<sup>1</sup> 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 PIJ's continued involvement in terrorist activity and covers any relevant changes and/or developments to the organisation since its original designation in October 2010<sup>2</sup> and renewal in October 2013.<sup>3</sup> Updates include PIJ's objectives, structure, weapons and tactics and 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 PIJ 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, Reuters, Rand Corporation, The Washington Institute, Open Source Centre, BBC News and Al-Monitor. Local news sources referenced include The Jerusalem Post, Times of Israel and Israel Ministry of Foreign Affairs.

## **EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA**

### **Continued involvement in terrorist activity**

9. PIJ was designated as a terrorist entity on 11 October 2010. The designation was renewed on 2 October 2013.
10. On 22 December 2013, a bomb was discovered in an unattended bag on a public bus in Bat Yam, Israel. All passengers were able to disembark shortly before the bomb detonated. The bus suffered broken windows and severe interior damage from the blast. The bomb consisted of two kilograms of explosives and nails and screws stuffed into a pressure cooker. The bomb was activated by mobile phone.<sup>4</sup> During an interview with Al Aqsa TV, PIJ operative Ahmed Almadalel praised the attempted attack but stopped short of claiming responsibility.<sup>5</sup> Four PIJ operatives were later arrested in relation to the attempted attack. Documents filed in court reported that one operative had admitted another large scale attack had been planned in the Tel-Aviv-Jaffa area for the days after the first attempt.<sup>6</sup>
11. On 12 March 2014, PIJ fired over 50 rockets towards towns in Israel's Southern District. Most fell in open areas, although one landed in the centre of the town of Sderot.<sup>7</sup> The rockets caused minimal damage and no casualties. PIJ claimed responsibility, stating the attack was in response to earlier "Zionist aggression".<sup>8</sup>
12. On 12 July 2014, PIJ's armed wing, the Al-Quds Brigades, launched two rockets targeting an Israeli military base in the Negev desert in Israel's Southern District. The attack caused no casualties. The attack was part of a wider rocket assault involving Palestinian militant groups responding to the 8 July launch of Israeli military offensive Operation Protective Edge. Operation Protective Edge targeted Hamas, PIJ and other militant groups responsible for an increasing volume of rocket attacks from the Gaza Strip. PIJ fired numerous rockets over the following weeks and launched attacks targeting Israeli soldiers during a ground offensive.<sup>9</sup> PIJ claimed to have fired more than 3,250 rockets and mortar shells throughout the 50-day operation, targeting the Israeli cities of Netanya, Tel Aviv, Dimona and Jerusalem.<sup>10</sup> A total of 73 people were killed on the Israeli side during the operation, including six civilians.<sup>11</sup>
13. On 10 November 2014, an individual stepped out of a car and stabbed three people at the entrance to the Alon Shvut settlement in the Gush Etzion area of the West Bank. One victim was stabbed to death before a guard stationed at the settlement entrance shot and wounded the attacker. PIJ later claimed responsibility for the attack.<sup>12</sup> In March 2015 the attacker, a PIJ member from Hebron who had previously been imprisoned for throwing fire bombs at an Israeli Defence Force patrol, was sentenced by a military court to two life imprisonment sentences.<sup>13</sup>

### **Ideology and Objectives of PIJ**

14. PIJ continues to violently oppose the existence of Israel and aims to replace it with a sovereign Islamic state. PIJ has always operated alongside other Palestinian militant groups. In a public announcement in 2014, PIJ described Hamas as a "brother" in the decades-old conflict against Israel<sup>14</sup> and thanked Hizbollah for their financial, military and moral support.<sup>15</sup>

15. PIJ has launched a small number of political initiatives, including pushing toward a reconciliation process between Fatah and Hamas in December 2014. PIJ spokesperson Khaled al-Batsh, stated this initiative was in collaboration with national and Islamic forces because the ongoing crisis between Fatah and Hamas was having social and economic repercussions on the Gaza Strip. Al-Batsh noted it was not PIJ's job to find a solution to the internal crisis, but PIJ was required as a mediator given PIJ's balanced relations with all parties.<sup>16</sup>

### **Organisation and structure of PIJ**

16. PIJ is reported to be the second strongest armed movement in Gaza after Hamas, with approximately 2000-3000 fighters.<sup>17</sup> The majority of PIJ's members are recruited from Palestinian communities in Gaza and the West Bank.<sup>18</sup>
17. Ramadan Abdallah Shallah has been PIJ's Secretary-General since 1995. Organisational leadership, known as the General Bureau, consists of eight individuals.<sup>19</sup>

### **Weapons, tactics and capability of PIJ**

18. In July 2014, Israeli Prime Minister Benjamin Netanyahu stated Iran was financing, arming and training PIJ and Hamas.<sup>20</sup> During a meeting with Shallah in Iran in October 2014, Iranian Foreign Minister Mohammad Javad Zarif expressed Iran's full support for Palestinian resistance and congratulated Shallah for the "victory" in the Gaza War (referring to attacks on Israeli elements during Operation Protective Edge).<sup>21</sup>
19. In May 2015, PIJ was reportedly on the verge of bankruptcy after losing favour with Iran when PIJ refused to comment in support of Iran on the war in Yemen. Iran reportedly began diverting funds to a group that split from PIJ named Al-Sarabin (also known as As-Sabirin), headed by former PIJ operative Hisham Salem.<sup>22</sup> PIJ funding from Iran was suspended for several months. Al-Sarabin has successfully attracted disgruntled cadres from PIJ, largely due to arrears over member salaries.<sup>23</sup> In May 2016, however, Shallah led a PIJ delegation that met with Iranian Supreme Leader Ayatollah Ali Khamenei in Tehran where Shallah thanked him for Iran's "firm support" for Palestine.<sup>24</sup>
20. PIJ increased the intensity of its rocket and mortar fire from Gaza for the duration of Operation Protective Edge in July/August 2014. Although PIJ suffered losses during this conflict, it still retains the capability to attack Israel, primarily through indiscriminate rocket fire. PIJ also seeks to renew its asymmetric warfare capabilities, and has been linked to rudimentary attacks using basic weapons against Israeli targets.<sup>25</sup>
21. Following a six month ceasefire, by February 2015 PIJ had reportedly rearmed and replenished their ranks in anticipation of a future confrontation with Israel. The al-Quds Brigades possess mortars, stored underground in mortar pits near the Israeli border and linked to escape tunnels used in previous conflicts.<sup>26</sup> Militants from al-Quds Brigades were identified undertaking military training in the south of the Gaza Strip on 3 March 2015.<sup>27</sup> Al-Quds Brigades also maintain a website ([www.saraya.ps](http://www.saraya.ps)) and create videos for propaganda purposes.<sup>28</sup>
22. On 11 March 2016, Israeli security forces closed Falastin Al-Yom (also known as Filastin al-Yawm), a PIJ-affiliated television broadcast station in Ramallah. According to Israeli security agency Shin Bet, the channel and its social media outlets had called for the carrying out of terror attacks against Israel and its citizens. The channel's manager, PIJ operative Faruq Aliat, was arrested.<sup>29</sup>

### **Law of armed conflict (LOAC)**

23. It is possible attacks under taken by PIJ during Operation Protective Edge in July and August 2014 occurred in a situation of armed conflict. However, PIJ activities during this time did not comply with the LOAC principle of distinction as they attacked Israeli towns and cities using indiscriminate rocket fire. Outside of this Operation, PIJ attacks have been sporadic and do not amount to an armed conflict. Accordingly, the exemption in section 5(4) of the TSA does not apply and PIJ 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 PIJ to be designated under that section.
25. Since its designation in October 2010 and renewal in October 2013, PIJ has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraphs 10-13). Accordingly, given there are still reasonable grounds to believe PIJ has knowingly carried out terrorist acts as set out in s 22 of the TSA, PIJ meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
26. The designation must be renewed by 2 October 2016 to be effective.

<sup>1</sup> also known as Palestinian Islamic Jihad - Shafaqi Faction; Palestinian Islamic Jihad - Shallah Faction; Islamic Jihad; Islamic Jihad (in/of) Palestine; Islamic Jihad - Palestine Faction and Islamic Holy War; Harakat al-Jihad al Islami fi Filistin; Jihad al-Islami; Abu Ghunaym Squad of the Hizballah Bayt al-Maqdis; al-Quds Brigades; al-Quds Squads; Saraya al-Quds (Jerusalem Battalions/The Jerusalem Brigades); Saraya al-Mujhadeen; Al-Awdah Brigades, and; Islamic Jihad Palestine (IJP).

<sup>2</sup> (11/10/2010) "Statement of case to designate Palestinian Islamic Jihad (PIJ) as a terrorist entity", available at: <http://www.police.govt.nz/sites/default/files/publications/statement-of-case-palestinian-islamic-jihad-terrorist-entity-11-oct-2010.pdf>.

<sup>3</sup> (02/10/2013) "Statement of case to renew the designation of Palestinian Islamic Jihad (PIJ) as a terrorist entity", available at: <http://www.police.govt.nz/sites/default/files/publications/renew-pij-2-oct-2013.pdf>.

<sup>4</sup> (03/01/2014) "Thwarted Israeli bus blast similar to Boston bombings", Times of Israel, accessed via <http://www.timesofisrael.com/thwarted-israeli-bus-blast-similar-to-boston-bombings/> on 03/03/2016.

<sup>5</sup> (22/12/2013) "Tragedy averted in bus bombing in Bat Yam", Israel Ministry of Foreign Affairs, accessed via <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Palestinian/Pages/Tragedy-averted-in-bus-bombing-in-Bat-Yam-22-Dec-2013.aspx> on 03/03/2016.

<sup>6</sup> (02/01/2014) "Bat Yam bus bombers caught, were planning larger blast in Tel Aviv", The Times of Israel, accessed via <http://www.timesofisrael.com/four-islamic-jihad-members-arrested-over-bat-yam-bus-bombing/> on 03/03/2016, and;

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<sup>7</sup> (12/04/2014) "Gaza terrorists bombard southern Israel in massive rocket attack", The Times of Israel, accessed via <http://www.timesofisrael.com/gazans-pelt-southern-israel-with-massive-rocket-barrage/> on 26/05/2016.

<sup>8</sup> (12/08/2014) "Palestinian Islamic Jihad (PIJ)", Jane's World Insurgency and Terrorism - available on subscription. Accessed 24/02/2016.

<sup>9</sup> (12/08/2014) "Palestinian Islamic Jihad (PIJ)", Jane's World Insurgency and Terrorism - available on subscription. Accessed 24/02/2016.

<sup>10</sup> (29/08/2014) "Islamic Jihad: 121 of our fighters killed in Gaza", The Times of Israel, accessed via <http://www.timesofisrael.com/islamic-jihad-121-of-our-fighters-killed-in-gaza/> on 26/05/2016.

<sup>11</sup> (26/08/2014) "Gaza-Israel conflict: Is the fighting over?", BBC News, accessed via <http://www.bbc.com/news/world-middle-east-28252155> on 26/05/2016.

<sup>12</sup> (10/11/2014) "Woman stabbed to death in West Bank, Islamic Jihad claims responsibility", The Jerusalem Post, accessed via <http://www.jpost.com/Arab-Israeli-Conflict/At-least-one-seriously-hurt-in-stabbing-attack-in-West-Bank-terrorist-killed-381351> on 01/03/2016.

<sup>13</sup> (26/03/2015) "Dalya Lemkus' terrorist murderer sentenced to 2 life prison terms", The Jerusalem Post, accessed via <http://www.jpost.com/Arab-Israeli-Conflict/Dalya-Lemkus-terrorist-murderer-sentenced-to-life-in-prison-395179> on 26/05/2016.

<sup>14</sup> (12/11/2013) "Single-minded Islamic Jihad grows in Gaza's shadows", Reuters, accessed via <http://www.reuters.com/article/us-palestinians-islamicjihad-idUSBRE9AB08720131112> on 03/03/2016.

<sup>15</sup> (13/07/2014) "Sunni Palestinian Islamic Jihad thanks Iran and Hezbollah (English Subtitles)", Monitor Mideast, accessed via <https://www.youtube.com/watch?v=xKHp1TvfAIQ> on 03/03/2016.

<sup>16</sup> (28/02/2016) "How to become a politician in Gaza", Al-Monitor, accessed via <http://www.al-monitor.com/pulse/originals/2016/02/palestine-political-action-gaza-failure.html#> on 01/03/2016.

<sup>17</sup> (26/05/2015) "Iran said to pull Islamic Jihad's funding over group's neutrality on Yemen", Times of Israel, accessed via <http://www.timesofisrael.com/iran-said-to-pull-islamic-jihads-funding-over-groups-neutrality-on-yemen/> on 01/03/2016, and;

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<sup>18</sup> (11/08/2015) "Palestinian Islamic Jihad", Australian Government, accessed via <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/PalestinianIslamicJihad.aspx> on 08/03/2016.

<sup>19</sup> (12/08/2014) "Palestinian Islamic Jihad (PIJ)", Jane's World Insurgency and Terrorism - available on subscription. Accessed 24/02/2016.

<sup>20</sup> (28/07/2014) "Gaza and the Nuclear Negotiations", Rand Corporation, accessed via <http://www.rand.org/blog/2014/07/gaza-and-the-nuclear-negotiations.html> on 03/03/2016.

<sup>21</sup> (20/10/2014) "Iran FM meets Palestinian Jihad leader, voices support for Palestinian 'resistance'", The Jerusalem Post, accessed via <http://www.jpost.com/Arab-Israeli-Conflict/Iran-FM-meets-Palestinian-Jihad-leader-voices-support-for-Palestinian-resistance-379325> on 22/03/2016.

<sup>22</sup> (26/05/2015) "Iran said to pull Islamic Jihad's funding over group's neutrality on Yemen", Times of Israel, accessed via <http://www.timesofisrael.com/iran-said-to-pull-islamic-jihads-funding-over-groups-neutrality-on-yemen/> on 01/03/2016.

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- <sup>28</sup> (03/03/2016) “*Al-Quds Brigades*”, Al-Quds Brigades, the military wing of Islamic Jihad in Palestine, accessed via <http://saraya.ps/> on 03/03/2016.
- <sup>29</sup> (11/03/2016) “*Israeli security forces close Islamic Jihad ‘media channel’ in Ramallah for urging ‘terror attacks’*”, Voice of Israel, accessed via Open Source Centre on 21/03/2016.