

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

### **PURPOSE**

1. This paper sets out the case demonstrating Palestinian Islamic Jihad (PIJ) (Also known as Islamic Jihad, Islamic Jihad (in/of) Palestine, Islamic Jihad – Palestine Faction and Islamic Holy War, Palestinian Islamic Jihad – Shaqaqi Faction, Palestinian Islamic Jihad – Shallah Faction, Harakat al-Jihad al Islami fi Filistin, Jihad al-Islami, Abu Ghunaym Squad of the Hizballah Bayt al-Maqdis, al-Quds Brigades, Saraya al-Quds (Jerusalem Battalions/The Jerusalem Brigades), Saraya al-Mujihadeen or Al-Awdah Brigades, al-Quds Squads, Islamic Jihad Palestine (IJP)) 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 PIJ's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in October 2010,<sup>1</sup> and renewals in October 2013 and September 2016<sup>2</sup>, including PIJ'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 PIJ 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 Reuters, The New York Times, and Associated Press.
8. Regional news sources include The Times of Israel.

9. Other sources utilised include the United States Department of State.

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

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

10. Since its designation was last renewed in September 2016, PIJ has claimed responsibility for mortar and rocket attacks against both civilian and military targets.
11. In September 2016 Israeli authorities arrested a PIJ operative entering Israel from Gaza.<sup>3</sup> The operative was linked to a plot to murder an Israeli Defence Force soldier, and a second to ‘target’ an events hall in Southern Israel.
12. On 29 May 2018, PIJ (alongside Hamas) claimed responsibility for a barrage of rocket and mortar fire directed throughout the day at military installations and settlements in 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”.<sup>4</sup>
13. In October 2018, PIJ claimed responsibility for an overnight barrage of rocket fire directed towards southern Israel, with eight targeting the city of Sderot. At least 20 short-range rockets were fired over a ten hour period.<sup>5</sup> No casualties were reported. PIJ claimed that the attack was retaliation for Israeli forces’ killing of four Palestinians near the Gaza-Israel boundary fence.<sup>6</sup>
14. In early May 2019, PIJ (alongside Hamas) launched a heavy barrage of rocket and mortar fire into Israel. The day before the attack a Gaza sniper had wounded two Israeli soldiers, following which two Palestinians were shot by Israeli forces and another two were killed in an Israeli airstrike. These events set off a two day assault, during which “about 600 projectiles” were fired at southern Israel. The cross-border fighting left 22 Palestinians (including militants, civilians and children) and four Israeli civilians dead.<sup>7</sup>

### **Ideology and objectives**

15. PIJ continues to violently oppose the existence of the Israeli state. On 16 May 2019, a senior PIJ official called for the removal of the “strangers”, referring to Israel.<sup>8</sup>
16. PIJ continues to reject the Palestinian Liberation Organisation’s (PLO) authority to negotiate with Israel on behalf of all Palestinians. In April 2018, the PIJ (alongside Hamas) boycotted a PLO organised Palestinian national forum.<sup>9</sup>

### **Organisation and structure**

17. PIJ’s leadership has continued to operate from Syria since 1989, when they relocated from Lebanon after Israel expelled them a year earlier. PIJ continues to operate primarily in the Gaza Strip but its members also live in Syria, Lebanon and elsewhere in the Middle East. It has a minimal presence in the West Bank and Israel.<sup>10</sup>
18. In September 2018, PIJ named its new leader, 65-year-old Ziad al-Nakhalah. Nakhalah was a founding member of PIJ and has been based in Syria and Lebanon since 1988.<sup>11</sup>

### **Weapons, tactics and capability**

19. PIJ has continued to primarily use rockets, mortars, bombings and snipers as its preferred attack vectors.
20. In 2018, the US Department of State assessed that PIJ had close to 1,000 members, and reported that Iran continued to provide weapons, training and funding to PIJ.<sup>12</sup>
21. Iran continues to be the primary source of funding for PIJ. In February 2019, PIJ spokesman Abu Hamza told Iran's Al-Alam TV that "since the day of its establishment, the [Iran] has been supporting the Palestinian fighters financially, militarily, in [training], and in all aspects."<sup>13</sup>
22. In 2018, the US Department of State assessed that as of early 2015, 200 PIJ recruits were undergoing training programmes that lasted between 36 days and 6 months.<sup>14</sup>

### **LAW OF ARMED CONFLICT (LOAC)**

23. The situation continues to be one of sporadic violent activity by PIJ and has not reached a level of intensity and continuity on the part of PIJ 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, PIJ's actual or planned targeting of civilians and civilian infrastructure is in breach of the LOAC principle of distinction. Accordingly, the exemption in s 5(4) cannot 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 renewals in October 2013 and September 2016, PIJ has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraphs 11-14) including planning, threatening and attempting attacks. 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 26 September 2019 to be effective.

<sup>1</sup> 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>

<sup>2</sup> 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>

<sup>3</sup> (19/08/2018) *Country Reports on Terrorism 2017 - Foreign Terrorist Organizations: Palestine Islamic Jihad* accessed via <https://www.refworld.org/docid/5bcf1f30a.html>. Details on both plots are withheld by Israeli authorities.

- i. (20/10/2016) *ISA thwarts Islamic Jihad plan to carry out large-scale terrorist attack in Israel*, accessed via <https://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/ISA-thwarts-Islamic-Jihad-plan-to-carry-out-large-scale-terrorist-attack-in-Israel-20-October-2016.aspx>.
- ii. (20/10/2016) *Terror attack on wedding hall in south foiled* — security agency accessed via <https://www.timesofisrael.com/large-terror-attack-on-southern-wedding-hall-foiled-security-agency/>

<sup>4</sup> (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

<sup>5</sup> (26/10/2018) *Six rocket salvos fired at Israel from Gaza, IDF strikes Strip in response* accessed via <https://www.timesofisrael.com/iron-dome-intercepts-salvo-of-rockets-fired-at-southern-israel-from-gaza/>

<sup>6</sup> (27/10/2018) *Israel Accuses Iran of Ordering Palestinian Rocket Fire From Gaza*, The New York Times, accessed via <https://www.nytimes.com/2018/10/27/world/middleeast/israel-gaza-rockets-iran-syria.html?searchResultPosition=4> on 22/05/2019

<sup>7</sup> (6/05/2019) *Fragile Cease-Fire Takes Hold Between Israel and Gaza After Weekend Attacks*, The New York Times, accessed via <https://www.nytimes.com/2019/05/06/world/middleeast/cease-fire-israel-gaza.html?searchResultPosition=2> on 22/05/2019

<sup>8</sup> (16/05/2019) *Nearly 50 Palestinians wounded in 'Catastrophe' anniversary protests on Gaza-Israel border*, Reuters, accessed via: <https://www.reuters.com/article/us-israel-palestinians-nakba/nearly-50-palestinians-wounded-in-catastrophe-anniversary-protests-on-gaza-israel-border-idUSKCN1SL1TP> on 22/05/2019

<sup>9</sup> (30/04/2018) *Palestinian forum convenes after 22 years, beset by division*, Reuters, accessed via: <https://www.reuters.com/article/us-israel-palestinians-plo/palestinian-forum-convenes-after-22-years-beset-by-division-idUSKBN1I1101> on 22/05/2019

<sup>10</sup> (09/2018) *Country Reports on Terrorism 2017*, United States Department of State, Bureau of Counterterrorism, accessed via: [https://www.state.gov/wp-content/uploads/2019/04/crt\\_2017.pdf](https://www.state.gov/wp-content/uploads/2019/04/crt_2017.pdf) on 27/05/2019(09/2018)

<sup>11</sup> (29/09/2018) *Iran-backed Palestinian Islamic Jihad names new leader*, Associated Press, accessed via: <https://apnews.com/d14e7e6a4a68481980b6db8052853f03> on 27/05/2019

<sup>12</sup> (09/2018) *Country Reports on Terrorism 2017*, United States Department of State, Bureau of Counterterrorism, accessed via: [https://www.state.gov/wp-content/uploads/2019/04/crt\\_2017.pdf](https://www.state.gov/wp-content/uploads/2019/04/crt_2017.pdf) on 27/05/2019

<sup>13</sup> (1/03/2019) *Islamic Jihad shows off tunnels, rocket workshop on Iran TV*, The Times of Israel, accessed via: <https://www.timesofisrael.com/islamic-jihad-shows-off-tunnels-rocket-workshop-on-iran-tv/> on 27/05/2019.

<sup>14</sup> (09/2018) *Country Reports on Terrorism 2017*, United States Department of State, Bureau of Counterterrorism, accessed via: [https://www.state.gov/wp-content/uploads/2019/04/crt\\_2017.pdf](https://www.state.gov/wp-content/uploads/2019/04/crt_2017.pdf) on 27/05/2019