

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),¹ 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 2010² and renewal in October 2013, September 2016, and September 2019³, 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 is defined in s 5A(1) as including planning, other preparations, or credible threats 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 include Reuters, DW, and Al Jazeera.
8. The think tank The Foundation for Defence of Democracies (FDD) was referred to when researching this paper.
9. A range of regional news sources were also referred to including The Jerusalem Post, and The Times of Israel, the Palestine Chronicle, and Haaretz.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

10. Since its designation was last renewed in September 2019, PIJ have incited acts of terror against Israeli targets in the West Bank and Jerusalem and have carried out terrorist attacks targeting Israeli civilians.
11. In 2021, PIJ called for a new intifada (uprising) against Israel. The focus of the intifada is Jerusalem and the West Bank, where all Palestinians living in these areas have been urged by PIJ to “launch all forms of resistance against Israel” including “armed struggle”.⁴
12. In May 2021, PIJ carried out an anti-tank missile attack on an Israeli car near Gaza, posting footage of the attack online. One Israeli civilian was injured in the attack.⁵
13. In May 2022, the Shin Bet reportedly disrupted the PIJ’s attempt to establish a terror cell in the West Bank to carry out attacks on Israel. Members of the cell received training materials from the Gaza Strip and manufactured a high-quality rocket-like explosive device for use in an attack on Israeli farmers in the area.⁶
14. In June 2022, an individual opened fire on worshippers at Joseph’s Tomb in Nablus. Three people, two civilians and one member of the Israel Defence Forces (IDF), were injured. PIJ claimed responsibility for the attack, saying it was a reprisal for the killing of PIJ member Muhammad Marai in Jenin by the IDF.⁷ Joseph’s Tomb has previously been a flashpoint for violence, having been set alight by Palestinian rioters in 2022, 2015 and 2000.⁸
15. In August 2022, PIJ fired over 1,100 rockets and mortars into Jerusalem, Tel Aviv, and small communities close to the Israel-Gaza border, injuring a number of Israelis in the attacks.⁹

Ideology and Objectives

16. Established in the 1980s, PIJ’s primary objective is to establish a sovereign Palestine Islamic State. PIJ continues to violently oppose the existence of the Israeli state, particularly through their armed wing known as the al-Quds Brigades. In August 2022, PIJ’s leader Ziad al-Nakhalah stated “There are no red lines in this battle ... Tel Aviv will also be one of the targets of the resistance’s missiles ... as will all Zionist cities”.¹⁰
17. On International Quds Day 2022, leaders of an alliance that are unified by a goal of opposing NATO (North Atlantic Treaty Organization), Israel and Saudi Arabian activities in the region (which includes PIJ) called for continued jihad against "the temporary entity" Israel and for the liberation of Palestine.¹¹

Organisation and structure

18. PIJ has various “brigades” that act as military wings of the group. The most recent brigade to be established is the Katibat Tubas Brigade, whose establishment was announced by PIJ in July 2022. The Katibat Tubas Brigade is the fourth PIJ subunit to be established in the West Bank.¹²
19. Estimates of PIJ membership vary, though media estimates range from 1,000 to several thousand.¹³ PIJ retains a presence in both the West Bank and Gaza.¹⁴

20. The Secretary General of PIJ is Ziad al-Nakhleh, who has been in the role since late 2018. At an event in 2022 to commemorate International Quds Day, al-Nakhleh stated “it is our duty to wage jihad, resist the occupation with all our might.”¹⁵
21. In May 2021, a top PIJ commander was killed in an Israeli air strike in Gaza. The IDF stated Hussam Abu Harbeed, the individual killed, was behind “several anti-tank missile terror attacks against Israeli civilians” which had injured at least one Israeli citizen.¹⁶
22. In August 2022, IDF forces arrested Bassem Saadi, head of PIJ. Some reports said Saadi was also shot and wounded during the incident. PIJ responded by releasing a statement saying they were “declaring a state of ‘alertness’ and raising its fighters’ ‘readiness’ following the arrest of Saadi”.¹⁷ This shows ongoing organisation for violent acts and an intent for these acts to continue.

Weapons, tactics and capability

23. In February 2020, the IDF claimed PIJ launched 80 rockets at Israeli targets in response to the IDF shooting and killing Mohammad al-Naim, a member of PIJ. Al-Naim was allegedly attempting to place an explosive device at the heavily secured Israeli fence east of Khan Younis in the Southern Gaza Strip.¹⁸
24. In June 2022, PIJ launched large scale military manoeuvres on the Gaza Strip. The military drills simulated multiple field military operations and included the Al-Quds Brigades’ missile and artillery units. In a press statement, Abu Hamza, the military spokesman for the Al-Quds Brigades, said “the manoeuvres are in preparation for any future battle with the Israeli occupation”.¹⁹
25. In August 2022, the military spokesperson for the Al-Quds Brigades stated ‘our missile capabilities revealed so far are but a small portion of our actual abilities.’²⁰ PIJ’s weaponry includes small arms, mortars, rockets, and anti-tank missiles.²¹ It is reported PIJ have military installations and weaponry stores in Syria.²²
26. On International Quds Day 2022, PIJ published footage of a previously unknown drone which they referred to as “Jenin”. PIJ claims the drone was added to the group’s military capabilities to reinforce the Gaza Strip. The footage shows a room that appears to contain several types of drones operated by PIJ. The video concludes with a brief clip of “Jenin” operating over what appears to be the Gaza Strip. However, the video fails to show any significant operational activity despite the clip’s description of the drone being on “one of its jihadist missions”.²³

LAW OF ARMED CONFLICT (LOAC)

27. 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

28. On the evidence set out above, there are still reasonable grounds as set out in s 22 of the TSA for PIJ to be designated as a terrorist entity.

29. Since its designation in October 2010, and renewals in October 2013 and September 2016, and September 2019, PIJ has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 5A of the TSA (paragraphs 10-15). These activities include planning, threatening, attempting, and carrying out 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.
30. The designation must be renewed by 5 September 2022 to be effective.

¹ also known as Palestinian Islamic Jihad - Shaqaqi 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 alMujihadeen; Al-Awdah Brigades, and; Islamic Jihad Palestine (IJP).

² The statement of case, dated 11 October 2010 can be accessed at: <http://www.police.govt.nz/sites/default/files/publications/statement-of-case-palestinian-islamic-jihad-terrorist-entity-11-oct-2010.pdf>.

³ The statements of case, dated 2 October 2013, 26 September 2016, and 5 September 2019 respectively, can be accessed at: <http://www.police.govt.nz/sites/default/files/publications/renew-pij-2-oct-2013.pdf> and <http://www.police.govt.nz/sites/default/files/publications/renew-palestinian-islamic-jihad-terrorist-entity-26sept2016.pdf> and <https://www.police.govt.nz/sites/default/files/publications/renew-pij-terrorist-entity-26-september-2019.pdf>

⁴ (06/12/2021) Incitement behind rise in Palestinian terrorist attacks, The Jerusalem Post, accessed via, <https://www.jpost.com/israel-news/incitement-behind-rise-in-palestinian-terror-attacks-688005> on (20/07/2022).

⁵ (21/05/2021) Islamic Jihad releases footage of anti-tank missile attack, The Times of Israel, accessed via, https://www.timesofisrael.com/liveblog_entry/islamic-jihad-releases-footage-of-anti-tank-missile-attack/ on (05/08/2022).

⁶ (25/05/2022) Shin Bet foils Palestinian Islamic Jihad terror cell in the West Bank, The Jerusalem Post, accessed via, <https://www.jpost.com/breaking-news/article-705039> on (05/08/2022).

⁷ (30/06/2022) Three Israelis Wounded by Palestinian Gunmen at Joseph's Tomb, Haaretz, accessed via, <https://www.haaretz.com/israel-news/2022-06-30/ty-article/.premium/three-injured-as-palestinian-gunmen-open-fire-at-josephs-tomb-idf-says/00000181-b20c-d21b-a1eb-f25ca2700000> on (21/07/2022).

⁸ 9 August 2022 "What is the Palestinian Islamic Jihad?", DW, accessed via <https://amp.dw.com/en/what-is-the-palestinian-islamic-jihad/a-62746894> retrieved on 10/08/2022

⁹ UN, 8 August 2022, 'Fresh Israel-Palestine Islamic Jihad truce prevents full scale war', <https://news.un.org/en/story/2022/08/1124212> BBC, 7 August 2022, Ceasefire between Israel, Gaza militants holds after deadliest clashes in a year, <https://edition.cnn.com/2022/08/07/middleeast/israel-gaza-islamic-jihad-ceasefire-intl/index.html>

¹⁰ (06/08/2022) Gaza attack: What is the Palestinian Islamic Jihad?, Al Jazeera, accessed via <https://www.aljazeera.com/news/2022/8/6/gaza-attack-what-is-the-palestinian-islamic-jihad> on (08/08/2022).

¹¹ (04/05/2022) On International Qods Day, Instituted By The Iranian Regime, Hamas, Palestinian Islamic Jihad, Hizbullah And Other Iran Allies Call For Jihad Against Israel, Threaten Regional War, The Middle East Media Research Institute, accessed via, <https://www.memri.org/reports/international-qods-day-instituted-iranian-regime-hamas-palestinian-islamic-jihad-hizbullah> on (05/08/2022).

¹² (17/07/2022) Palestinian Islamic Jihad Purportedly Establishes New Formation in the West Bank, FDD's Long War Journal, accessed via, <https://www.longwarjournal.org/archives/2022/07/palestinian-islamic-jihad-purportedly-establishes-new-formation-in-the-west-bank.php> on (02/08/2022).

¹³ Al Jazeera, 6 August 2022, 'What is the Palestinian Islamic Jihad?' <https://www.aljazeera.com/news/2022/8/6/gaza-attack-what-is-the-palestinian-islamic-jihad>

¹⁴ DW, 9 August 2022, What is the Palestinian Islamic Jihad? <https://amp.dw.com/en/what-is-the-palestinian-islamic-jihad/a-62746894>

Al Jazeera, 6 August 2022, 'What is the Palestinian Islamic Jihad?' <https://www.aljazeera.com/news/2022/8/6/gaza-attack-what-is-the-palestinian-islamic-jihad>

¹⁵ <https://www.memri.org/reports/international-qods-day-instituted-iranian-regime-hamas-palestinian-islamic-jihad-hizbullah>

¹⁶ 17/05/2021) Israeli Air Strike Kills Islamic Jihad Commander in Gaza, Reuters, accessed via <http://reuters.com/world/middle-east/israeli-air-strike-kills-islamic-jihad-commander-gaza-militant-group-says-2021-05-17/> on (08/02/2022).

¹⁷ (02/08/2022) IDF arrests senior PIJ member in Jenin; Palestinian teen killed during the raid, The Times of Israel, accessed via, <https://www.timesofisrael.com/palestinian-teen-killed-during-idf-raid-of-jenin-to-arrest-senior-pij-member/> on (02/08/2022).

¹⁸ (25/02/2020) Shaky Ceasefire Holds Between Islamic Jihad, Israel in Gaza, Al Jazeera, accessed via, <https://www.aljazeera.com/news/2020/2/25/shaky-ceasefire-holds-between-islamic-jihad-israel-in-gaza> on (02/08/2022).

¹⁹ (20/06/2022) Islamic Jihad Movement Launches Large-Scale Military Drill in Gaza, The Palestine Chronicle, accessed via, <https://www.palestinechronicle.com/islamic-jihad-movement-launches-large-scale-military-drill-in-gaza/> on (27/07/2022).

²⁰ DW, 9 August 2022, What is the Palestinian Islamic Jihad? <https://amp.dw.com/en/what-is-the-palestinian-islamic-jihad/a-62746894>

²¹ Al Jazeera, 6 August 2022, 'What is the Palestinian Islamic Jihad?' <https://www.aljazeera.com/news/2022/8/6/gaza-attack-what-is-the-palestinian-islamic-jihad>

²² DW, 9 August 2022, What is the Palestinian Islamic Jihad? <https://amp.dw.com/en/what-is-the-palestinian-islamic-jihad/a-62746894>

²³ (29/04/2022) Palestinian Islamic Jihad Claims New Drone Added to its Military Capabilities, FDD's Long War Journal, accessed via, <https://www.longwarjournal.org/archives/2022/04/palestinian-islamic-jihad-claims-new-drone-added-to-its-military-capabilities.php> on (02/08/2022).