

STATEMENT OF CASE TO RENEW THE DESIGNATION OF THE SHINING PATH AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating the **Shining Path** (SP), also known as the Peruvian Communist Party, PCP-SL, PCP, SL, Partido Comunista del Peru en el Sendero Luminoso de Jose Carlos Mariategui, Communist Party of Peru on the Shining Path of Jose Carlos Mariategui, Partido Comunista del Peru, Communist Party of Peru, The Communist Party of Peru by the Shining Path of Jose Carlos Mariategui and Marxism, Leninism, Maoism and the Thoughts of Chairman Gonzalo, Revolutionary Student Front for the Shining Path of Mariategui, Communist Party of Peru - By Way of the Shining Path of Mariategui, PCP - por el Sendero Luminoso de Mariategui, Ejercito Guerrillero Popular, Ejercito Popular de Liberacion, EGP, EPL, People's Aid of Peru, People's Guerrilla Army, People's Liberation Army, the Militarizado Partido Comunista del Perú (MPCP, the Militarized Communist Party of Peru), and Sendero Luminoso 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 SP's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in September 2011¹ and renewals in July 2014², July 2017³ and June 2020⁴, including SP'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 SP 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 (ss 5 and 5A) and also includes an attempt to carry out the act (s 5A(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.
8. A range of international and regional news sources were also referred to including Andina, CNN, BBC, Peru Reports, and Dialogo Americas.
9. Other sources utilised include the US Department of State, the Peruvian State, Insight Crime and the Bertelsmann Stiftung's Transformation Index (BTI).

Continued involvement in terrorist activity

10. Since its most recent renewal of designation in June 2020, SP has continued to operate in Valle de los Ríos Apurímac, Ene y Mantaro (VRAEM), a geopolitical area in Peru.
11. Peruvian authorities report the following activity over the 2020 to 2023 period:
 - 11.1. On 21 December 2020, SP ambushed a joint Navy-National Police operation in the VRAEM, killing one police officer and injuring three others.⁵
 - 11.2. On 23 May 2021, 16 civilians, including two children, were killed inside a bar in the VRAEM region. The attack was focused on the LGBTQIA+ community, sex workers, and drug users, and was referred to by SP as 'social cleansing'. Peruvian authorities and Peru's armed forces confirmed the attack was undertaken by SP using firearms, with some bodies being burned beyond recognition.⁶ Pamphlets signed by the group claiming responsibility for the attack, and warning people not to vote in the upcoming presidential election, were located at the scene. The pamphlets also stated the group would clean the area of "informants", "traitors" and "parasites".⁷
 - 11.3. On 22 March 2022, SP ambushed an Armed Forces Patrol and injured an officer.⁸
 - 11.4. On 24 March 2022, SP fired shots at soldiers patrolling in Ayacucho's Huanta province, requiring extraction from air assets. Two soldiers were injured in the attack.⁹
 - 11.5. On July 15 2022, a joint military-police raid on SP in Junin's Satipo province resulted in the death of one Special Forces soldier.¹⁰
 - 11.6. On August 11 2022, the Peruvian Armed Forces launched an air assault against suspected SP strongholds along the border between Ayacucho and Junin. SP members opened fire on the teams' helicopters resulting in one injury. According to military and Police sources, the operation resulted in the recovery of weapons, communication materials, laptops, propaganda material, and additional intelligence. The following day, additional exchanges of fire resulted in the death of two soldiers.¹¹
 - 11.7. On 12 February 2023, an SP faction ambushed a group of police officers in the VRAEM region. Seven police officers were killed.¹²
 - 11.8. On 13 March 2023, a military patrol in the VRAEM region came under fire from SP.¹³ The incident resulted in SP killing one of the patrol's soldiers. The attack occurred in the same town, and around the time, as Peruvian Military forces attempted to capture SP leader Victor Quispe Palomino, (alias "Comrade José"). The operation was unsuccessful, and five members of SP and one Peruvian soldier were killed.¹⁴

11.9. On 25 March 2023, the Peruvian National Police reported the National Police's Directorate against Terrorism captured one SP suspect responsible for the terrorist attack carried out on Tara Street in Lima's Miraflores District in 1992 which killed 25 people and injured 250.¹⁵

11.10. On 13 April 2023, the Peruvian National Police confirmed the capture of three alleged SP members who had been carrying out illegal activities, including illegal trafficking of weapons and people, in the town of Aucayacu, in the area of Magdalena.¹⁶

Ideology and objectives

12. SP continues to seek to destroy existing state institutions in Peru, remove foreign influence from Peru and replace the current democratic system with a peasant revolutionary authority.¹⁷ SP aims to achieve these objectives by waging a protracted guerrilla conflict against Peruvian security forces, and through participation in the illegal narcotics trade.¹⁸

13. SP's main objective is to use ambushes and assassination of police and military forces to re-establish its control of the territories in which it historically had influence.¹⁹

Organisation and structure

14. Since its most recent renewal of designation in July 2020, SP has continued to operate in VRAEM, a region with a high concentration of coca plantations and a centre of cocaine production.²⁰ SP activity in the region is led by Victor Quispe Palomino, alias "José".²¹

15. Estimates vary, but as of 2017 most experts and the Peruvian security services assessed SP remnants as numbering between 250 and 300 members, including between 60 and 150 armed fighters.²² It is currently unknown to what extent group numbers have changed since 2017.

16. Peruvian authorities continue to target, arrest or kill SP insurgents and leaders. SP member arrests and deaths reported over the 2020 to 2023 period include:

16.1. On 30 March 2021, Peruvian authorities reported security forces had fatally wounded SP second in command, Jorge Quispe Palomino, alias "Raúl", in a military operation on 29 October 2020.²³ An additional three SP members were killed in the operation and five injured.

16.2. On 3 July 2021, Peruvian authorities reportedly destroyed four camps belonging to the SP in a joint operation between Peru's Ministry of Defense and Ministry of the Interior. Three SP members were killed in the operation, and a remaining six were injured and placed into custody.²⁴

16.3. On 11 September 2021, SP founder, Abimael Guzman, died in prison.²⁵ Guzman was imprisoned in 1992 and sentenced to life imprisonment for terrorism-related charges.

Weapons, tactics and capability

17. Firearms were used in the May 2021 attack and propaganda espousing the group's ideals were allegedly left at the scene. Additionally, raids undertaken by Peruvian authorities in 2021 targeting SP sites located rifles, handguns, grenades, ammunition, dynamite, homemade explosives, firearm ammunition and terrorist propaganda.²⁶

18. SP collects “revolutionary taxes” from drug trafficking organisations operating in the VRAEM region to support its activity.²⁷

LAW OF ARMED CONFLICT (LOAC)

19. Section 5(4) of the TSA provides that an act does not constitute a terrorist act for the purposes of the TSA if the act occurs in a situation of armed conflict and is, at the time and place that it occurs, in accordance with rules of international law applicable to the conflict. The activities of SP do not meet either of these conditions. The sporadic violence has not reached a level of intensity and continuity on the part of SP which would bring the situation in Peru within the meaning of “armed conflict”. Accordingly, the exemption in s 5(4) cannot apply, and SP attacks are properly characterised as terrorist acts

CONCLUSION

20. 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 SP to be designated under that section.
21. Since its designation on 12 September 2011 and renewals on 20 July 2014, 17 July 2017, and 20 July 2020, SP has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 5A of the TSA (paragraph 11) including conducting and attempting attacks. Accordingly, given there are still reasonable grounds to believe SP has knowingly carried out terrorist acts as set out in s 22 of the TSA, SP meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
22. The designation must be renewed by 30 June 2023 to be effective.

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- ¹ The statement of case, dated 12 September 2011 can be accessed at: https://www.police.govt.nz/sites/default/files/publications/statement-of-case-the-shining-path-terrorist-entity-12-sept-2011_0.pdf
- ² The statement of case, dated 20 July 2014 can be accessed at: <https://www.police.govt.nz/sites/default/files/publications/shining-path-renewal-september-2014.pdf>
- ³ The statement of case, dated 17 July 2017 can be accessed at: <https://www.police.govt.nz/sites/default/files/publications/renew-the-shining-path-terrorist-entity-27july2017.pdf>
- ⁴ The statement of case, dated 30 June 2020 can be accessed at: <https://www.police.govt.nz/sites/default/files/publications/renew-the-shining-path-terrorist-entity-30june2020.pdf>
- ⁵ 04/04/2023 “Country Reports on Terrorism 2020: Peru”, U.S Department of State, accessed via https://www.state.gov/reports/country-reports-on-terrorism-2020/peru__trashed/
- ⁶ 04/04/2023 “Peru’s Shining Path rebel group kills 16 ahead of presidential elections, says military”, CNN, accessed via <https://edition.cnn.com/2021/05/25/americas/peru-shining-path-rebels-killings-intl/index.html>
- ⁷ 25/05/2021 “Peru’s Shining Path kills 16, including children, ahead of polls”. BBC, accessed via <https://www.bbc.com/news/world-latin-america-57239680> on 3/3/2023
- ⁸ Peru: Country Report on Terrorism Submission, Received on 25/02/2023
- ⁹ Peru: Country Report on Terrorism Submission, Received on 25/02/2023
- ¹⁰ Peru: Country Report on Terrorism Submission, Received on 25/02/2023.
- ¹¹ Peru: Country Report on Terrorism Submission, Received on 25/02/2023
- ¹² 21/03/2023 “Shining Path on the Offensive in Peru, Again”. InSight Crime, accessed via <https://insightcrime.org/news/shining-path-offensive-peru-again/>
- ¹³ 04/04/2023 “Communication No. 005-2023-CCFA”, Joint Command of the Armed Forces, accessed via <https://www.gob.pe/institucion/ccffaa/noticias/727394-comunicado-n-005-2023-ccffaa>
- ¹⁴ 21/03/2023 “Shining Path on the Offensive in Peru, Again”. InSight Crime, accessed via <https://insightcrime.org/news/shining-path-offensive-peru-again/>
- ¹⁵ 25/03/2023 “Peru: Police capture participant in Tarata Street terrorist attack”, Andina, accessed via Peru: Police capture participant in Tarata Street terrorist attack | News | ANDINA - Peru News Agency
- ¹⁶ 13/04/2023, Peru: National Police confirms capture of three alleged terrorists in Huanuco, Andina, accessed via Peru: National Police confirms capture of three alleged terrorists in Huanuco | News | ANDINA - Peru News Agency
- ¹⁷ 25/02/2019 “Sendero Luminoso: salen a la luz documentos del plan de los terroristas para 2021”, *América TV*, accessed via <https://www.america.com.pe/noticias/actualidad/sendero-luminoso-salen-luz-documentos-plan-terroristas-2021-n360700> on 12/02/2020.
- ¹⁸ 2022 “BTI 2022 Country Report — Peru”. Bertelsmann Stiftung’s Transformation Index, accessed via <https://bti-project.org/en/reports/country-report/PER> on 09/03/2023.
- ¹⁹ 23/05/2023 “Shining Path”, Insight Crime, accessed via <https://insightcrime.org/peru-organized-crime-news/shining-path-profile/> on 09/03/2023.
- ²⁰ 28/09/2017 “Indecisión del Gobierno frente a erradicación de cultivos de coca en el Vraem”, *La República*, accessed via <https://larepublica.pe/politica/1104193-indecision-del-gobierno-frente-a-erradicacion-de-cultivos-de-coca-en-el-vraem/> on 10/02/2020.
- ²¹ 25/05/2021 “Peru’s Shining Path kills 16, including children, ahead of polls”. BBC, accessed via <https://www.bbc.com/news/world-latin-america-57239680> on 3/3/2023
- ²² (19 September 2018) “Country Reports on Terrorism 2017 – Foreign Terrorist Organisations: Shining Path”, Refworld UNHCR, accessed via <https://www.refworld.org/docid/5bcf1f2913.html> on 10/03/2023.
- ²³ 31/03/2021 “Shining Path Commander’s Death Strikes Blow to Peru Rebel Group”, *InSight Crime* accessed via <https://insightcrime.org/news/shining-path-death-peru/> on 3/3/2023.
- ²⁴ 25/08/2021 “Peru Destroys Coca Leaf Maceration Wells, Terrorist Camps”, *Dialogo Americas*, accessed via <https://dialogo-americas.com/articles/peru-destroys-coca-leaf-maceration-wells-terrorist-camps/> on 09/03/2023.
- ²⁵ 11/09/2021 “Abimael Guzman: Peru’s Shining Path guerrilla leader dies at 86”, BBC, accessed via <https://www.bbc.com/news/world-latin-america-49110427> on 09/03/2023.
- ²⁶ 27/02/2023 “Country Reports on Terrorism 2021: Peru”, U.S Department of State, accessed via <https://www.state.gov/reports/country-reports-on-terrorism-2021/peru/> on 03/03/2023.
- ²⁷ 27/02/2023 “Country Reports on Terrorism 2021: Peru”, U.S Department of State, accessed via <https://www.state.gov/reports/country-reports-on-terrorism-2021/peru/> on 03/03/2023.