

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

PURPOSE

1. This paper sets out the case demonstrating The Shining Path (SP)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 SP's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in September 2011² and renewal in July 2014³, 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 paper, 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 (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 are: Reuters, IHS Jane's 360, IHS Jane's World Insurgency and Terrorism, BBC News, U.S. Department of the Treasury, GlobalSecurity.org, The Jamestown Foundation, Al Jazeera English, Global Terrorism Database and The Guardian. Local news sources referenced include Peru This Week, Peru Reports, La Razon, Diario Correo, Terra Peru, Latin American Herald Tribune, America Television, Semanaeconomica, Peruvian Times, El Comercio and InSight Crime.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

8. SP was designated as a terrorist entity on 12 September 2011. The designation was renewed on 20 July 2014.
9. On 3 October 2014, a four-vehicle convoy carrying 28 police officers through Ayacucho, Valle de los Rios Apurimac (also known as the Valley of the Rivers Apurimac, Ene and Mantaro (VRAEM)), tasked with safeguarding voting materials for the 5 October 2014 regional and municipal elections, was ambushed by SP insurgents. Two officers were killed and at least five wounded. In the days leading up to the attack, SP had disseminated pamphlets in local VRAEM towns which read “no to elections” and contained pictures of two SP fighters killed by security forces in 2013.⁴
10. On 13 October 2014, one soldier was confirmed killed and four soldiers and a 15-year-old civilian injured when suspected SP militants attacked a military outpost in the San Francisco-Limontayocc area of VRAEM. The outpost came under fire by attackers hiding in the dense jungle.⁵
11. On 21 March 2015 Cipriano Calderon Pizarro, a former justice of the peace for Huancamayo, Junin, was shot dead in his home in front of his young children. At the same time four blocks away, former community president and cousin of Pizarro, Ruben Alfaro Ventura, was also shot dead in his home. Leaflets left by the assailants displayed SP’s sickle and hammer, and contained the phrase “thus die gossipers, traitors of the people and popular power”. VRAEM’s Armed Forces Special Command later reported that SP militants had also threatened to kill the families of the deceased, and security had to be provided at the wake and burial of the victims due to fears of further attacks.⁶
12. On 9 September 2015, two homemade explosives were discovered and defused near Huaycoloro bridge in Huchipa town, Lima province. A further two explosive devices found on a street in Jicamarca, San Antonio de Huarochiri, were safely detonated by the National Police of Peru’s (PNP) Explosives Deactivation Unit (UDEX). UDEX had to isolate the area before detonation to ensure neighbouring residents were not injured. Red flags attributed to SP were also discovered at both scenes, and Peruvian Communist Party propaganda was also found at the latter.⁷
13. On 6 October 2015, UDEX defused two homemade explosive devices which had been placed at the base of an electrical transmission tower in San Martin de Porres, Lima. The explosives were initially discovered by local residents. Alongside the explosives was a SP banner and leaflets.⁸
14. On 9 April 2016, SP rebels attacked a six vehicle military caravan transporting presidential election material and security personnel in Santo Domingo de Acobamba, Junin. Conflicting reports exist on total soldiers and civilians killed; however, conservative reports indicate at least two soldiers and one civilian driver were killed, and six soldiers injured, by guerrillas armed with long-range rifles and grenades.⁹

Ideology and objectives

15. SP continues to seek to destroy existing state institutions in Peru, rid Peru of foreign influences and replace the current democratic system with a peasant revolutionary authority. SP aims to achieve these objectives by waging a protracted guerrilla conflict based on Maoist principles of people’s war.¹⁰

16. According to the United States Department of the Treasury, SP also directs violent acts against PNP and Peruvian Army installations and personnel in order to protect its interests in the cocaine trade. SP funds its terrorist activities in part via cocaine trade proceeds.¹¹

Organisation and structure

17. SP continues to operate in the Upper Huallaga valley and VRAEM areas in the Peruvian highlands.¹² The Huallaga faction has reportedly weakened drastically following the capture of leader Florindo Eleuterio Flores Hala (also known as Comrade Artemio) in 2012.¹³ Brothers Victor Quispe (also known as Comrade Jose) and Jorge Quispe (also known as Comrade Raul) continue to command the VRAEM faction of SP.¹⁴
18. Peruvian authorities continue to arrest or kill SP insurgents and leaders. Reported SP member arrests and deaths, in date order, include the following:
 - 18.1. SP members Angelo Fasabi Hidalgo (also known as Comrade Brony, Brouny or Bravo), Italo Gutierrez Pisco (also known as Ruben) and Yoel Saldana Cachique (also known as Tomas) were captured in Huallaga valley during a joint Peruvian Armed Forces and PNP operation on 23 May 2014. In addition to their capture, weapons, uniforms and miscellaneous supplies were seized.¹⁵
 - 18.2. On 18 June 2014, three suspected SP militants were killed in a clash with army forces following an encounter in Cuzco province. One civilian bystander was also wounded. The Peruvian Army had been deployed to the area since 11 June as part of an operation to track SP militants.¹⁶
 - 18.3. In January 2015, SP insurgent Teofilo Guerra Puentes (also known as Julinho) was captured and detained by Peru's Special Intelligence Brigade. Puentes is accused of killing at least fifteen police officers and one prosecutor.¹⁷
 - 18.4. Two SP militants, Alexander Alarcon Soto (also known as Comrade Renan) and Dionisio Ramos (also known as Comrade Yuri), who led a rebel unit in VRAEM's Cusco State were captured by the Peruvian Army in August 2015. The pair had assumed control of the rebel unit following the deaths of Martin Quispe and Orlando Borda in 2013. The Peruvian Army advised that following capture, the pair led authorities to weapons caches in Cusco. The caches included assault rifles and explosives which were being collected for use in assaults against natural gas facilities.¹⁸
 - 18.5. On 2 September 2015, Peru's security forces killed six SP rebels, including Comrade Antonio, during a firefight in Huanta Province, Ayacucho. Peruvian authorities claimed the formerly 12-man SP unit had been reduced by half, and weapons and other military equipment were recovered from those who fled. Security forces, five of whom suffered bullet wound injuries in the exchange, had been in the area searching for SP leader Victor Quispe.¹⁹
 - 18.6. The Peruvian Army killed SP commander Abel Auqui (also known as Comrade Alejandro) on 20 May 2016. Auqui reportedly led SP's strongest unit of 16-20 fighters armed with machine guns. Auqui had taken over leadership of SP's military operations following the death of Comrade Antonio in September 2015.²⁰
19. In May 2015 following a five year investigation, PNP's anti-drug directorate Dirandro revealed SP's close working relationship with Colombian drug trafficking group Cafeteros. Recordings between now-deceased SP military commander Martin Quispe Palimino and

Cafeteros' second-in-command 'Bellota' indicate that in exchange for money and equipment, SP assists Cafeteros with military assistance and protection. Local news sources do not believe SP is directly involved in cocaine production or trafficking, but rather charge a protection tax on drug shipments that move through the VRAEM region.²¹ However, in June 2015 the United States Department of the Treasury described SP as a "significant foreign narcotics trafficker" which taxed the "production, processing and transport of cocaine" and had evolved into a "criminal narco-terrorist organisation responsible for trafficking cocaine throughout South America".²²

Weapons, tactics and capability

20. SP's insurgency continues to have a low-level impact on the Peruvian state and companies operating in its areas of influence. SP's ability to successfully target Peru's security forces has also persisted despite a limited number of fighters. SP primarily sources its equipment from the regional black market and via links with Colombian drug cartels. SP also steals arms from military and police, and explosives from industrial and mining centres.²³ SP's arsenal includes explosives, AK-series assault rifles, FN rifles, rocket-propelled grenades, anti-personnel mines, handguns and machetes, though some of these may have deteriorated beyond operational use.²⁴ SP also continue to distribute printed propaganda material.²⁵
21. SP has continued to target pipeline gas expansion projects in their area of operation. In mid-October 2014, the general manager of Transportadora de Gas del Peru (TGP) stated SP attacks had delayed gas pipeline expansion project works, including on a pipeline which supplies almost 50% of Peru's energy requirements, for almost a year.²⁶
22. Local media estimate SP's strength as a few hundred fighters, many of whom are child soldiers.²⁷ In August 2015 Peruvian Defence Minister Jakke Valakivi described SP as "weakened...but it continues to operate" and Counter-terror chief Jose Baella estimated SP comprised 350 members and 80 fighters.²⁸ In May 2016, Valakivi stated subversive actions by SP had declined from 60 in 2011 to 16 in 2015.²⁹ SP's strength has reportedly diminished through arrests, desertions and targeted operations by the PNP and the Peruvian Armed Forces, but may again be growing due to SP's involvement in narcotics trafficking.³⁰
23. On 30 June 2015, Peru President Ollanta Humala announced the end of a three decade long state of emergency in Upper Huallaga, and on 9 December 2015 extended the expiration to other areas of VRAEM following capture of SP leaders and improvement in security in the region.³¹ However, on 11 October 2016 the government declared a 60-day state of emergency in several VRAEM districts. Defence Minister Mariano Gonzalez claimed the renewed state of emergency allowed deployment of soldiers into the area to combat terrorist remnants, drug trafficking and other illicit activities.³² The Ministry of Defense announced a further extension to the state of emergency on 25 January 2017.³³
24. On 28 July 2015, the Peruvian army rescued 39 people, including 26 children, from a "production camp" in Junin State where SP had been holding them as slaves. Some of the captives had been kidnapped approximately 30 years earlier, and some were born in captivity. Vice-Defence Minister Ivan Vega Loncharich stated child captives had been forced to work on farms and received ideological and weapons training prior to joining SP rebel units. Female captives were expected to procreate and give birth to future SP rebels. At the time, PNP estimated a further 100 individuals were likely held captive by SP in similar circumstances.³⁴ A second operation liberated an additional 15 captives at a second camp three days later. Many of the captives were found suffering from chronic malnutrition and tuberculosis.³⁵

Law of armed conflict (LOAC)

25. The situation continues to be one of sporadic violent activity by SP, and has not reached a level of intensity and continuity on the part of SP 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, SP’s actual or planned targeting of police officers, military, and infrastructure is in breach of the LOAC principle of distinction. Accordingly, the exemption in s 5(4) cannot apply, and SP attacks are properly characterised as terrorist acts.

CONCLUSION

26. 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.
27. Since its designation in September 2011 and renewal in July 2014, SP has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 25 of the TSA (paragraphs 9-14) including planning, threatening 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.
28. The designation must be renewed by 20 July 2017 to be effective.

- ¹ Also known as Sendero Luminoso; 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.
- ² The statement of case, dated 12 September 2011 can be accessed at: http://www.police.govt.nz/sites/default/files/publications/statement-of-case-the-shining-path-terrorist-entity-12-sept-2011_0.pdf.
- ³ The statement of case, dated 20 July 2014 can be accessed at: <http://www.police.govt.nz/sites/default/files/publications/shining-path-renewal-september-2014.pdf>.
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