

STATEMENT OF CASE TO DESIGNATE HARKAT-UL-JIHAD-AL-ISLAMI, BANGLADESH AS A TERRORIST ENTITY

PURPOSE

1. The purpose of this paper is to set out the case demonstrating Harkat-ul-Jihad-al-Islami, Bangladesh ("HUJI-B") (also known as Islami Dawat-e-Kafela (IDEK); Harakat ul-Jihad e Islami Bangladesh; Harkatul-Jihad-al-Islam; Harkatul Jihad; Harakat-ul-Jihad-al-Islami; Harkat-ul-Jihad-al-Islami; Harkat-ul-Jehad-al-Islami; and Harakat-ul-Jihad-Islami Bangladesh) meets the statutory criteria for designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 ("TSA").
2. The paper concludes that HUJI-B meets the criteria for designation as a terrorist entity under the TSA.

STRUCTURE OF THIS PAPER

3. This paper sets out background information about HUJI-B covering various aspects of the organisation including its objectives, tactics, weapons and structure, before detailing a case study of an attack which meets the definition of a terrorist act under the TSA.
4. The discussion preceding the case study provides background about HUJI-B which helps inform the analysis of the specific attack in the case study below. The attack detailed in the case study represents an attack attributed to HUJI-B. It is this case study that has been analysed as meeting the definition of a "terrorist act" under s 5 of the TSA, and which provides the basis for the paper's conclusion that HUJI-B meets the legal criteria for designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR THIS DESIGNATION UNDER THE TSA

5. The Prime Minister has the power under the TSA to designate individuals or groups as terrorist entities. Section 22 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.
6. A "terrorist act" is defined in s 5 of the TSA. A number of different acts fall within this definition. The s 5 criteria relevant to this paper are those which deem an act to be a "terrorist act" if that act:
 - 6.1. Is intended to cause the death of, or serious bodily injury to, one or more persons;
and
 - 6.2. Is carried out for the purpose of advancing an ideological, political, or religious cause;
and
 - 6.3. Is intended to either:
 - 6.3.1 Induce terror in a civilian population; or
 - 6.3.2 Unduly compel or force a government or an international organisation to do or abstain from doing any act; and

- 6.4. Is not an act that occurs in a situation of armed conflict and is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.

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: South Asian Terrorism Portal (SATP); Jane's Terrorism & Security Monitor; Jamestown Foundation's Terrorism Monitor; the BBC; Rand and the International Crisis Group. This paper also utilises a report titled "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", by Ryan Clark of the Strategic Studies Institute (SSI), U.S Army War College and a report titled "Interactions of "Transnational" and "Local" Islam in Bangladesh", by Ali Riaz of the National Bureau of Asian Research.

BACKGROUND

Establishment of Harkat-ul-Jihad-al-Islami, Bangladesh ("HUJI-B")

8. The HUJI-B stems from Pakistan's HUJI ("HUJI"), which was established in Pakistan in the early 1980s in support of the Afghan resistance.¹ In the early 1990s HUJI expanded its base to other parts of the world, including Burma, the Philippines, India and Bangladesh; it was at this time that HUJI-B was established. On 30 April 1992, HUJI-B announced its formation at a press conference in Dhaka, Bangladesh, its stated objective being to establish Islamic rule in Bangladesh through waging violent jihad.² While it is clear that HUJI-B retains close links with the Pakistan HUJI, it has proven itself to be a distinct, standalone group with an individual leadership, decision making structure and objective.
9. The extent of HUJI-B's activities were discovered in 1996 when 41 HUJI-B militants were arrested at a training camp in Bangladesh, exposing HUJI-B's operations, bases and a huge arms cache.³ Since this time, HUJI-B has been implicated in a number of attacks including assassinations, plots to kill prominent figures and intellectuals, grenade attacks in public areas and large scale bomb attacks.⁴ At the beginning of its campaign, HUJI-B's attacks were isolated within Bangladesh.⁵ However, recent reports state the group's involvement in urban attacks in main Indian centres, which it has conducted in collaboration with other terrorist groups of known association.⁶ There is general acceptance that HUJI-B has an operational network in India which provides logistical support for attacks within India.⁷
10. On 17 August 2005 HUJI-B in collaboration with Jamaat-ul Mujahideen Bangladesh ("JMB")⁸, carried out a sophisticated, large scale bomb attack in Bangladesh.⁹ This attack saw close to 500 synchronised bombs set off in all but one of Bangladesh's 64 districts, killing at least two people and injuring close to 50.¹⁰ The focus by the Bangladeshi authorities on HUJI-B and JMB following this attack led to arrests of many members, including senior leaders and the government declaring the HUJI-B as terrorist organisation.¹¹ Some of the JMB leaders were subsequently executed by the Bangladeshi Government. Of those HUJI-B members arrested for attacks carried out throughout and prior to 2005, many prosecutions are still ongoing.¹²
11. The Awami League Government, which took power in Bangladesh in January 2009, has invested significant resources in counter-terrorism.¹³ Together with the focus on HUJI-B

following its role in the 2005 attacks [see paragraph 10 above], these measures have restricted the current capacity of the group to operate. It is still active, although it has recently been restricted to collaborating with other groups to plan and carry out attacks within Bangladesh and India for which it provides both operational and financial support.¹⁴

12. HUJI-B is listed as a terrorist organisation by the Bangladesh Government,¹⁵ the US Government¹⁶ and the UK Government.¹⁷

Organisation and structure of HUJI-B

13. Reports state HUJI-B members may number as many as 15,000,¹⁸ although this is difficult to confirm due to a large number of arrests of HUJI-B cadres since 2005 and does not distinguish between active members and those who simply support HUJI-B's cause.
14. HUJI-B draws its members from both local residents and foreigners.¹⁹ Refugees from Burma (Rohingyas) are also a significant source of cadres.²⁰ The majority of locals are recruited from private Madrassas, over which the Bangladeshi Government has little or no oversight.²¹ The non-regulation of the majority of these Madrassas and their curricula potentially increases the risk posed by HUJI-B. The training of HUJI-B recruits focuses on radical Islam.²²
15. HUJI-B has a hierarchical structure with a Central Executive Body, an Advisory Council and several branches across Bangladesh, of which each has a leader. The size of the branches and whether they possess any autonomy from the Central Executive Body is unclear. It is believed that the group is led by Shawkat Osman (alias Sheikh Farid) and the general secretary is Imtiaz Quddus.²³
16. HUJI-B has as many as 12 training establishments throughout Bangladesh²⁴ and is known to have shared training with other groups in Bangladesh,²⁵ including managing some camps for the separatist rebel group United Liberation Front of Assam ("ULFA") camps.²⁶ These training camps are reported to focus on the use of sophisticated arms and explosives.²⁷ Following training, some HUJI-B cadres are reported to move across to the north east of India and West Bengal, where they blend in with the local population due to their ability to speak the local language and common ethnic background.²⁸ HUJI-B cadres are also known to have recently travelled to Pakistan, India and Afghanistan to receive training from associated groups such as Pakistan's Jaish-i-Muhammad and Lashkar-e-Taiba ("LeT").²⁹
17. HUJI-B is known to operate along the coastal area stretching from the port city of Chittagong south through to Cox's Bazaar to the border with Burma.³⁰ Reports directly link the porous nature of the Indo-Bangladesh border to the ability of HUJI-B to move easily between the two countries.³¹
18. HUJI-B has known links with both international and domestic terrorist groups with similar extremist ideologies.³² In mid 2002, HUJI-B cemented some of these links when representatives of nine Islamic groups (including Rohingya forces, the Islamic Oikya Jote and the ULFA) met in Ukhia and formed the Bangladesh Islamic Manch, a united council under HUJI-B's leadership.³³ The objective of Islamic Manch is to create a transnational

Islamic state encompassing all of Bangladesh, Assam³⁴ and north Bengal (India) and Burma's Arakan province.³⁵ Some reports assert that this group may have received training from al-Qaida and the Taliban, although this is difficult to verify.³⁶

Ideology and Objectives of HUJI-B

19. HUJI-B follows an extremist version of the Deobandi ideology and rejects the secular views of the Bangladeshi state. Its main objective is to create an Islamic state in Bangladesh by overthrowing the secular government and establishing a Taliban-style state.³⁷ HUJI-B is deeply hostile to organisations and individuals which support secularism.
20. The HUJI-B leadership endorsed Osama bin Laden's 1998 "World Islamic Front for Jihad Against the Jews and Crusaders" fatwa.³⁸ The slogan that has been issued by the group is "*Amra Sobai Hobo Taliban, Bangla Hobe Afghanistan*" (We will all become the Taliban and we will turn Bangladesh into Afghanistan).³⁹
21. In May 2008, in an attempt to pursue its goals through politics, HUJI-B formed a political offshoot called the Islamic Democratic Party ("IDP").⁴⁰ Its application to register the IDP as a political party was rejected by the Bangladeshi authorities in November 2008, due to the party's non-compliance with Bangladesh's constitution and the registration conditions.⁴¹ Since this time, HUJI-B has not entertained the possibility of a ceasefire nor attempted to negotiate directly with the Bangladeshi Government.

Weapons, tactics and capability of HUJI-B

Weapons

22. There are limited details known about the weapons currently possessed by HUJI-B. Based on past attacks attributed to the group, together with prosecutions and arrests of HUJI-B members, the group is known to have access to, and has used firearms, grenades and explosives.⁴² This is further evidenced through its training of recruits in the use of explosives, its proven experience in bomb making and reports by Jane's that state the group has access to rocket launchers, light machine guns, AK-47 rifles, mines and explosives.⁴³ It is also reported to be a major source of weapons for groups in Northeast India; these weapons are sourced from South East Asia and smuggled into Bangladesh by HUJI-B.⁴⁴

Tactics

23. Since 1996, HUJI-B has used the tactics of terrorism to pursue its objectives. Its role in assassinations, plots to kill prominent political figures and intellectuals, and large bomb attacks both within Bangladesh and India are well documented.⁴⁵ HUJI-B adapts its tactics based on opportunities that arise. It is increasingly identifying itself with global terrorism⁴⁶ and may be using its position as an influential leader of a wider Islamist movement to conceal its role in recent attacks. This tactic is likely due to its current limited operational capacity while under pressure from the Bangladeshi Government.

24. HUJI-B does not generally claim responsibility for attacks it is involved in.

Capability

25. The clandestine activities of HUJI-B make it difficult to assess its full capability. Since taking office in January 2009, the Awami League's concentrated effort to reduce the capability of terrorist groups operating in Bangladesh has had an impact on the ability of HUJI-B to operate.⁴⁷ Nonetheless, there is general acceptance that HUJI-B, although diminished in numbers and currently lying low, retains a presence in Bangladesh. Some reports also suggest it may be regrouping.⁴⁸
26. Reports throughout 2010 suggest HUJI-B and JMB have been holding meetings to open up new areas of co-operation and it is possible that Bangladesh and India may see further collaborative attacks by these groups in the future, as in the past.⁴⁹

CASE STUDY

Co-ordinated bombing of Government offices and market places, Assam, India - 30 October 2008

The facts

27. On Thursday 30 October 2008, at least 9 bomb blasts occurred in the cities of Guwahati, Kokrajhar, Barpeta and Bongaigaon in the state of Assam, India.⁵⁰ The co-ordinated bomb blasts occurred within an hour of each other, beginning around 1100hrs local time.⁵¹ The targets included a Deputy Commissioner's office, State's Secretariat and Assembly and market places.⁵² Reports attribute more than 50 deaths and more than 200 injuries to the attacks.⁵³ Jane's reports that approximately half the deaths were a result of the explosions in Guwahati (the capital of Assam) where at least two busy market places filled with shoppers were targeted.⁵⁴ Although there have been numerous attacks in this area in the past, this was the biggest attack seen to date.
28. Reports by Jane's, the BBC and South Asia Terrorism Portal (SATP) attribute the attack to the ULFA, but point out that the ULFA did not act alone and must have had assistance from a larger, more experienced militant group, due to the construction of the bombs being well beyond the capability of the ULFA or any of the other groups that operate in the area. These reports note that this 'experienced' group may be HUJI-B. Indeed, there are reasonable grounds to believe that HUJI-B at least knowingly participated in the carrying out of this bomb attack.
29. First, HUJI-B has known links with the ULFA, through HUJI-B providing training to ULFA and the objective shared by both groups through the Bangladesh Islamic Manch (see paragraphs 16 and 18 above). Further, HUJI-B is also reported to be active in Assam, using many locations along the border with Bangladesh as exit and entry points and utilising its close connections with illegal immigrants from Bangladesh for new recruits, safe houses and logistical support within Assam.⁵⁵ This attack also shows the same hallmarks as HUJI-B's bombing attack in August 2005 (see paragraph 10 above), including acting in collaboration with another group and staging a co-ordinated bombing attack with synchronised bombs set to explode in multiple different locations.
30. Finally, HUJI-B has been specifically identified as participating in the attack. The SATP identifies HUJI-B as having masterminded the attack, with the ULFA providing logistical

support. India's Home Ministry has also accepted HUJI-B's involvement in these attacks, identifying it as the perpetrator, with support provided by the ULFA and National Democratic Front of Bodoland ("NDFB").⁵⁶

The act meets the TSA criteria for designation

31. The bombing of the Assam market places and Government offices is consistent with the definition of a terrorist act under s 5 of the TSA.
32. This was a coordinated mid-week daytime bombing attack on multiple locations including government buildings and crowded market places. This clearly shows an intention to cause the death of, or serious bodily injury to, people in those places (s 5(3)(a) TSA). The nature of the attack and the targeting of busy locations in several different cities demonstrates that this attack was intended to induce terror in the civilian population (s 5(2)(a) TSA).
33. As with the earlier August 2005 bombing, this attack is another example of HUJI-B's campaign of violent jihad to compel the overthrow of the secular government and to establish an Islamic state in Bangladesh (s 5(2)(b) TSA). This attack was therefore also carried out with the purpose of advancing the HUJI-B's own ideological, political and religious cause (s 5(2) TSA).

LAW OF ARMED CONFLICT

The law of armed conflict exemption

Is there an armed conflict and are HUJI-B members combatants?

34. For the s 5(4) exemption to apply, two conditions must be satisfied. First that at the time the attacks detailed in the case studies were carried out, a state of armed conflict existed in Bangladesh; and second, that the attacks carried out complied with the law of armed conflict ("LOAC"). If one of these conditions is not met, the exemption does not apply.
35. A non-international armed conflict exists where the conflict is fought between government forces and opposing non-state forces, or amongst armed groups, none of whom qualify as a legitimate government. Additional Protocol II (1977) to the 1949 Geneva Conventions adopted a higher threshold, requiring the insurgent forces fighting the government to be under responsible command and to control territory such that it would be able to implement Additional Protocol II. Such violence may even be classified as an international armed conflict when people are fighting against colonial domination, alien occupation or racist regimes in the exercise of their right to self determination.⁵⁷ LOAC distinguishes, however, between armed conflict, and other internal disturbances or tensions such as riots and isolated and sporadic acts of violence.
36. There is no evidence of violence reaching a degree of intensity and continuity between HUJI-B and the Bangladesh government to bring the situation within the meaning of "armed conflict." Given that there has not been, and that there is not currently a situation of armed conflict in Bangladesh, the exemption in s 5(4) cannot apply to the HUJI-B attack detailed in the case study.
37. Even if it is accepted that during the time of the attack detailed in the case study there was a situation of armed conflict, the second threshold requiring the application of LOAC during the attacks is not reached. Only combatants⁵⁸ have the right to conduct attacks in accordance with LOAC. This generally means members of armed forces, however

irregular forces can still qualify provided that they distinguish themselves from the civilian population while engaged in an attack or operations preparatory to an attack.⁵⁹ Members of HUJI-B, by not distinguishing themselves from the civilian population during operations or by otherwise not conducting operations according to LOAC, do not qualify for combatant status.⁶⁰ Again, this means that the exemption in s 5(4) cannot apply.

Were the acts carried out in accordance with the applicable rules of LOAC?

38. There is no evidence of violence reaching a degree of intensity and continuity between HUJI-B and the Bangladesh government to bring the situation within the meaning of “armed conflict.” Given that there has not been, and that there is not currently a situation of armed conflict in Bangladesh, the exemption in s 5(4) cannot apply to the HUJI-B attack detailed in the case study.
39. For completeness, even the two threshold questions were answered in the affirmative and LOAC currently applied or had applied to HUJI-B activities in the past, in the instances detailed in the case study, HUJI-B, assuming that they bear responsibility for the attack, has breached LOAC.
40. The attack was clearly targeted against civilians. This breaches the LOAC principle of distinction – that attacks on enemy combatants and military objectives are lawful, whereas attacks on the civilian population, civilian objects and people rendered *hors de combat*⁶¹ are not.

¹ See:

- i. Janes "Harkat-ul-Jihad-ul-Islami (HUJI)" dated 12 August 2010, last accessed 1 September 2010, available on subscription.
- ii. South Asian Terrorism Portal "Harkat-ul-Jihad-al-Islami (HuJI), last accessed 11 August 2010 http://www.satp.org/satporgtp/countries/india/states/jandk/terrorist_outfits/HuJI.htm

² See:

- i. See above, note 1, point ii; "South Asian Terrorism Portal "Harkat-ul-Jihad-al-Islami (HuJI)"; and
- ii. The National Bureau of Asian Research "Interactions of "Transnational" and "Local" Islam in Bangladesh" by Ali Riaz. April 2009, page 91. See http://www.nbr.org/publications/specialreport/pdf/Preview/PR09_TransIslam.pdf;

³ See:

- i. above, note 2, point ii; The National Bureau of Asian Research "Interactions of "Transnational" and "Local" Islam in Bangladesh" by Ali Riaz; and
- ii. South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh" last accessed 11 August 2010 <http://www.satp.org/satporgtp/countries/bangladesh/terroristoutfits/HuJ.htm>

⁴ This has included two assassination attempts on Sheikh Hasina, the current Prime Minister of Bangladesh and who was PM at the time of the assassination attempts;

See:

- i. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"; and
- ii. above, note 2, point ii; The National Bureau of Asian Research "Interactions of "Transnational" and "Local" Islam in Bangladesh" by Ali Riaz; and
- iii. above, note 1, point i; Janes "Harkat-ul-Jihad-ul-Islami (HUJI)".

⁵ See:

- i. above, note 2, point ii; The National Bureau of Asian Research "Interactions of "Transnational" and "Local" Islam in Bangladesh" by Ali Riaz, page 92; and
- ii. above, note 1, point i; Janes "Harkat-ul-Jihad-ul-Islami (HUJI)".

⁶ See:

- i. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"; and
- ii. US State Department "Country Reports on Terrorism 2009" - Chapter 6, Terrorist Organisations, "Harakat-ul-Jihad-i-Islami/Bangladesh"; published 5 August 2010; <http://www.state.gov/s/ct/rls/crt/2009/140900.htm>, In May 2008, Indian police arrested HUJI-B militant Mohammad Iqbal, a.k.a. Abdur Rehman, who was charged with plotting attacks in Delhi, India.

⁷ See above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".

⁸ Jamaat-ul Mujahideen, Bangladesh ("JMB"), "Founded in 1998 by Shaikh Abdur Rahman out of his desire for a more militant jihadi organisation than existed in Bangladesh. It was closely associated with the Salafist movement Ahle Hadith and members were required to follow the movement's thought and practice."

See International Crisis Group Report "The Threat from Jamaat-ul Mujahideen Bangladesh" 1 March 2010, page 2 for more information <http://www.unhcr.org/refworld/docid/4b8cd5ca2.html>.

⁹ See:

- i. above, note 8; International Crisis Group Report "The Threat from Jamaat-ul Mujahideen Bangladesh" 1 March 2010, pp 12-13; <http://www.unhcr.org/refworld/docid/4b8cd5ca2.html>; and
- ii. above, note 2, point 2; The National Bureau of Asian Research "Interactions of "Transnational" and "Local" Islam in Bangladesh" by Ali Riaz, page 92.

¹⁰ See above, note 8; International Crisis Group Report "The Threat from Jamaat-ul Mujahideen Bangladesh", page 13.

¹¹ HUJI-B was proscribed by the Bangladeshi Government on 17 October 2005; see:

- i. above, note 1, point i; Janes "Harkat-ul-Jihad-ul-Islami (HUJI)"; and
- ii. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".

The JMB was proscribed by the Bangladeshi Government on 23 February 2005, see: <http://www.satp.org/satporgtp/countries/bangladesh/terroristoutfits/JMB.htm>

¹² See above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh; see "Incidents 2010, June 15"

¹³ See above, note 8; International Crisis Group Report "The Threat from Jamaat-ul Mujahideen Bangladesh", page 23.

¹⁴ See:

- i. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh; and
- ii. "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", by Ryan Clark of the Strategic Studies Institute (SSI), U.S Army War College, see page 74; <http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=973>;

¹⁵ On 17 October 2005, the Bangladesh Nationalist Party (BNP) led coalition government listed the HUJI-B as a terrorist organisation.

¹⁶ United States State Department "Foreign Terrorist Organizations" dated 6 August 2010; <http://www.state.gov/s/ct/rls/other/des/123085.htm>

¹⁷ Home Office, United Kingdom; "Proscribed Terrorist Groups"; <http://www.homeoffice.gov.uk/publications/counter-terrorism/proscribed-terror-groups/proscribed-groups?view=Binary>

¹⁸ See:

- i. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"; and
- ii. above, note 1, point i; Janes "Harakat-ul-Jihad-ul-Islami (HUJI)"; and
- iii. Jamestown Terrorism Monitor, "Combating Terrorism in Asian Waters" by Vijay Sakhuja; Volume VII, Issue 35, November 20, 2009; http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35756.

¹⁹ See above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".

²⁰ See:

- i. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"; and
- ii. above, note 1, point i; Janes "Harakat-ul-Jihad-ul-Islami (HUJI)".

²¹ Bangladesh has one of the largest Madrassa systems in the world with more than 6 million students enrolled in over 30,000 Madrassas. There are a further 15,000 private Madrassas under the private Bangladesh Qawmi Madrassa Education board and thousands more in Ahle Hadith and other streams that are neither registered nor have their curriculum regulated. See:

- i. above, note 8; International Crisis Group Report "The Threat from Jamaat-ul Mujahideen Bangladesh"; and
- ii. above, note 14, point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", page 64-77 by Ryan Clark; and
- iii. above, note 1, point i; Janes "Harakat-ul-Jihad-ul-Islami (HUJI)".

²² See above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".

²³ See above, note 1, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al-Islami (HUJI)".

²⁴ See above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".

²⁵ See:

- i. above, note 14, point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", by Ryan Clark, page 73; and
- ii. above, note 6, point ii; US State Department "Country Reports on Terrorism 2009" - Chapter 6, Terrorist Organisations, "Harakat-ul-Jihad-i-Islami/Bangladesh"; and
- iii. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".

²⁶ See:

- i. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"; and
- ii. Special Report, United States Institute of Peace; "The Rise of Islamist Militancy in Bangladesh" dated August 2006, http://www.usip.org/files/resources/SRAug06_2.pdf; and

²⁷ See above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"

²⁸ See:

- i. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"; and

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- ii. above, note 14, point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", page 72; by Ryan Clark.
 - ²⁹ See:
 - i. above, note 2, point ii; The National Bureau of Asian Research "Interactions of "Transnational" and "Local" Islam in Bangladesh" by Ali Riaz , pp 79-100; and
 - ii. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".
 - ³⁰ See above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".
 - ³¹ See above, note 14, point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", page 72; by Ryan Clark
 - ³² Including Jaish-e-Mohammed (JeM), Lashkar e Toiba (LeT), Pakistan HUJI, Students Islamic Movement of India (SIMI), The Indian Mujahideen (IM), United Liberation Front of Assam (ULFA), ARCF
 - ³³ See:
 - i. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"; and
 - ii. Rand "Beyond al-Qaeda, Part 1, The Global Jihadist Movement" dated 2006, last accessed 23 September 2010; http://www.rand.org/pubs/monographs/2006/RAND_MG429.pdf
 - ³⁴ Assam is an Indian State, located in the Northeast of India and sharing a border with Bangladesh.
 - ³⁵ See:
 - i. above, note 33, point ii; Rand "Beyond al-Qaeda, Part 1, The Global Jihadist Movement"; and
 - ii. Time "Deadly Cargo" by Alex Perry, dated 14 October 2002, last accessed 20 September 2010. <http://www.time.com/time/printout/0,8816,364423,00.html>.
 - ³⁶ See: above, note 33, point ii; Rand "Beyond al-Qaeda, Part 1, The Global Jihadist Movement".
 - ³⁷ See above, note 14, point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", page 68; by Ryan Clark.
 - ³⁸ This fatwa declared U.S. citizens to be legitimate targets for attack. See:
 - i. Jamestown Terrorism Monitor Volume VII, Issue 17, 29 April, 2010: <http://www.unhcr.org/refworld/pdfid/4c7227ff2.pdf>; and
 - ii. above, note 1, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al-Islami (HuJI)".
 - ³⁹ See:
 - i. Special Report, United States Institute of Peace; "The Rise of Islamist Militancy in Bangladesh" dated August 2006, http://www.usip.org/files/resources/SRAug06_2.pdf; and
 - ii. See: above, note 33, point ii; Rand "Beyond al-Qaeda, Part 1, The Global Jihadist Movement".
 - ⁴⁰ See:
 - i. above, note 6, point ii; US State Department "Country Reports on Terrorism 2009" - Chapter 6, Terrorist Organisations, "Harakat-ul-Jihad-i-Islami/Bangladesh"; and
 - ii. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".
 - ⁴¹ See:
 - i. US State Department "Country Reports on Terrorism 2009 - Bangladesh", published 5 August 2010; <http://www.state.gov/s/ct/rls/crt/2009/140887.htm>; and
 - ii. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".
 - ⁴² See: above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh".
 - ⁴³ See: above, note 1, point i; Janes "Harakat-ul-Jihad-ul-Islami (HUJI)".
 - ⁴⁴ Jamestown Terrorism Monitor, "Combating Terrorism in Asian Waters" by Vijay Sakhuja; Volume VII, Issue 35, November 20, 2009; http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35756
 - ⁴⁵ See:
 - i. above, note 2, point ii; The National Bureau of Asian Research "Interactions of "Transnational" and "Local" Islam in Bangladesh" by Ali Riaz,
 - ii. above, note 3, point ii; South Asia Terrorism Portal "Harkat-ul-Jihad-al Islami Bangladesh (HuJIB) Terrorist Group, Bangladesh"; and
 - iii. See above, note 14, point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India"; by Ryan Clark.
 - ⁴⁶ See above, note 14, point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", page 74; by Ryan Clark.
 - ⁴⁷ BBC "Bangladesh hands over rebels to India" 27 September 2010, last accessed 28 September 2010. <http://www.bbc.co.uk/news/world-south-asia-11416110> "Ever since Sheikh Hasina's government assumed

power in Bangladesh in 2009, the country's security forces have cracked down on Indian separatists operating out of their bases in Bangladesh"

⁴⁸ See:

- i. SATP "South Asia Assessment 2010", last accessed 3 September 2010, <http://www.satp.org/satporgtp/southasia/index.html>; and
- ii. Jamestown Terrorism Monitor, "Islam-o-Muslim and the Resilience of Terrorism in Bangladesh" Volume VII, Issue 22, July 27, 2009, see page 8; http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35326

⁴⁹ See:

- i. above, note 8; International Crisis Group, "The threat from Jamaat-ul Mujahideen Bangladesh" Asia Report No187.
- ii. above, note 48, point i; SATP "South Asia Assessment 2010".

⁵⁰ See:

- i. Janes "Multiple bomb attacks threaten northeast Indian stability" dated 30 October 2008, available on subscription.
- ii. BBC "India explosions death toll rises" dated 31 October 2008, last accessed 7 September 2010 <http://news.bbc.co.uk/2/hi/7701298.stm>
- iii. Institute for Defence Studies and Analyses "The October 30 Terrorist Attacks in Assam" dated 14 November 2008, last accessed 6 September 2010 http://www.idsa.in/idsastrategiccomments/TheOctober30TerroristAttacksinAssam_NGoswami,%20DGogoi_141108

⁵¹ See:

- i. above, note 50, point i; Janes "Multiple bomb attacks threaten northeast Indian stability"; and
- ii. above, note 50, point ii; BBC "India explosions death toll rises"; and
- iii. above, note 50, point iii; Institute for Defence Studies and Analyses "The October 30 Terrorist Attacks in Assam".

⁵² See:

- i. above, note 50, point i; Janes "Multiple bomb attacks threaten northeast Indian stability"; and
- ii. Time "India's Northeast rocked by blasts" dated 30 October 2008, <http://www.time.com/time/printout/0,8816,1855023,00.html>

⁵³ See:

- i. above, note 50, point i; Janes "Multiple bomb attacks threaten northeast Indian stability"; and
- ii. above, note 50, point ii; BBC "India explosions death toll rises"; and
- iii. above, note 50, point iii; Institute for Defence Studies and Analyses "The October 30 Terrorist Attacks in Assam"; and
- iv. above, note 52, point ii; Time "India's Northeast rocked by blasts".

⁵⁴ See: above, note 50, point i; Janes "Multiple bomb attacks threaten northeast Indian stability".

⁵⁵ See: above, note 14; point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", page 72, by Ryan Clark.

⁵⁶ See:

- i. above, note 14; point ii; "Lashkar-I-Taiba: The Fallacy of Subservient Proxies and the Future of Islamist Terrorism in India", page 64, by Ryan Clark; and
- ii. SATP "2008 Incidents involving ULFA" http://www.satp.org/satporgtp/countries/india/states/assam/terrorist_outfits/ULFA_tl.htm, last accessed 22 October 2010.

⁵⁷ Additional Protocol I (1977) to the Geneva Convention of 1949 Art 1 (4).

⁵⁸ Strictly speaking combatant status only arises in international armed conflict so the tests from Additional Protocol I have been applied.

⁵⁹ Additional Protocol I (1977) to the Geneva Convention of 1949 Art 44.

⁶⁰ The applicable LOAC would be customary international law, Common Article 3 of the Geneva Conventions 1949 and Additional Protocol II (1977) to those Conventions. The Philippines has ratified all four Geneva Conventions and Additional Protocol II. It is a signatory to Additional Protocol I, but has not yet ratified.

⁶¹ A person is *hors de combat* if he or she is wounded, sick or shipwrecked or captured by the opposing force.