

## **STATEMENT OF CASE TO DESIGNATE JAMAAH ANSHROUT DAULAH AS A TERRORIST ENTITY**

### **PURPOSE**

1. This paper sets out the case demonstrating that Jamaah Anshrout Daulah (also known as JAD, Jemaah Anshorut Daulah, Jamaah Ansharut Daulat, Jamaah Ansharut Daulah, Jemaah Ansharut Daulah, Jemaah Anshar Daulah, Jamaah Ansharud Daulah, The Partisans of the State Group, Jamaah Anshar Daulah Khilafah Nusantara, Jemaah Anshar Daulah Khilafah Nusantara (JADKN) and Jamaah Ansharut Khalifah Daulah Nusantara (JAKDN)) meets the statutory criteria for designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

### **STRUCTURE OF THIS PAPER**

2. This paper details various aspects of JAD, including its background and history; ideology and objectives; organisation and structure; and targets, weapons and capabilities, before detailing case studies of attacks which meet the definition of a terrorist act under the TSA.
3. The discussion preceding the case studies provides background about the situation in Indonesia and about JAD which helps inform the analysis of three case studies below. The events detailed in the case studies represent attacks attributed to JAD and have been analysed as meeting the definition of “terrorist acts” under s 5 of the TSA. They provide the basis for the paper’s conclusion that JAD meets the legal criteria for designation as a terrorist entity under the TSA.

### **STATUTORY CRITERIA FOR THIS DESIGNATION UNDER THE TSA**

4. 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.
5. 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:
  - 5.1 Is intended to cause the death of, or serious bodily injury to, one or more persons; and
  - 5.2 Is carried out for the purpose of advancing an ideological, political, or religious cause; and
  - 5.3 Is intended to either:
    - 5.3.1 induce terror in a civilian population; or
    - 5.3.2 unduly compel or force a government or an international organisation to do or abstain from doing any act; and

- 5.4 Is not an act that occurs in a situation of armed conflict and which 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**

6. This paper has been prepared using open or unclassified sources that have a reputation for careful and unbiased reporting. These include TIME Magazine, BBC News, CNN, Reuters, The New York Times, The Economist, ABC News and International Business Times.
7. A range of think tanks were referred to including Combating Terrorism Center at West Point, Council on Foreign Relations, Terrorism Research and Analysis Consortium, South East Asia Regional Centre for Counter-Terrorism, Nanyang Technological University, Stanford University and Institute for Policy Analysis of Conflict.
8. A range of regional news sources were also referred to including The Jakarta Post, East Asia Forum, Eurasia Review, Antara News, Tempo.co, The Straits Times, Jakarta Globe, The Star, Detik News, tvOne Indonesia Lawyers Club, Kebum Ekspres, The Daily Star, Okezone News, Pos Kota, Riau Pos, SINDOnews, Beritu Satu, Kompas, PressTV, Asian Correspondent, South China Morning Post, Channel NewsAsia, Bangkok Post, Singapore Today and Inquirer.net.
9. Other sources utilised include Comparative Civilizations Review, USAID, Voice of America, U.S. Department of State, U.S. Department of the Treasury, Vice, FDD's Long War Journal, GlobalSecurity.org, The Atlantic, United Nations Security Council, East Asia Forum, The Japan Times, ABS CBN News and The Diplomat.

### **Background**

10. Islamic extremist groups have existed in Indonesia, home to the world's largest Muslim population, since its independence from the Netherlands in 1949.<sup>1</sup> Following the 2000 Christmas Eve and 2002 Bali bombings by al-Qaida-linked Jemaah Islamiyah (JI), and a series of bombings by the JI breakaway network led by Noordin Top between 2005 and 2009<sup>2</sup>, Indonesia has more recently experienced an increase in Islamic extremist support for terrorist group Islamic State in Iraq and the Levant (ISIL).<sup>3</sup> Indonesians are largely immune to or reject extremist ideology, but particular communities around some schools, mosques and leaders (such as JAD leader Aman Abdurrahman), have seen a low but persistent level of support for ISIL.<sup>4</sup> In August 2014, the Indonesian government banned ISIL support or endorsement by its citizens, though by January 2016, 22 local groups had reportedly pledged allegiance to ISIL leader Abu Bakr al-Baghdadi.<sup>5</sup> Despite increasing support for ISIL in Indonesia, its popularity remains low and is widely rejected by both moderate and conservative Muslims in Indonesia.<sup>6</sup>
11. ISIL has periodically identified Indonesia as a suitable location to establish a distant wilayat (province).<sup>7</sup> However, as ISIL does not have an organisational structure in Indonesia, it relies on other jihadist groups and networks to support it.<sup>8</sup> JAD is the umbrella organisation in Indonesia for the groups who provide consequential support to ISIL. These groups operate under the currently incarcerated central figure of Indonesia's most influential ideologue and chief ISIL advocate, Aman Abdurrahman.<sup>9</sup>

## Establishment of JAD

12. Between 1999 and 2009 JI was highly active in Indonesia, but was broken down and splintered following crack downs by Indonesian security forces. Some of these splintered groups (detailed below) saw ISIL as an opportunity to reinvigorate their movements.<sup>10</sup> The bridge between the JI era and today's generation of Indonesian extremists was likely built in part by time spent together while incarcerated in Indonesia.<sup>11</sup>
13. JAD was established in March 2015, prompted by a perceived need for various Indonesia-based pro-ISIL groups to be united under one umbrella.<sup>12</sup> JAD, led by incarcerated Indonesian ideologue Abdurrahman, has since been described by Indonesia's National Counterterrorism Agency (BNPT) as "the most dangerous terrorist organisation in the country".<sup>13</sup>
14. JAD comprises a network of ISIL-inspired cells, each consisting of a range of groups providing support under the JAD umbrella.<sup>14</sup> While there are almost certainly at least two dozen groups operating under this JAD umbrella<sup>15</sup>, seven key militant groups have been identified as:
  - 14.1 Jamaah Anshorut Tauhid (JAT). JAT was founded in 2008 by former JI emir Abu Bakar Ba'asyir. The organisation split over Ba'asyir's support for ISIL in mid-July 2014, with approximately 80% of JAT members leaving to join rival group Jamaah Anshorut Syariah (JAS)<sup>16</sup>. Ba'asyir had stated those who refused to obey his allegiance to al-Baghdadi needed to leave.<sup>17</sup>
  - 14.2 Mujahidin Indonesia Timur (MIT). MIT was created by late JAT commander Wiji Joko Santoso in 2011. MIT is comprised of former JI fighters who trained at a camp sponsored by Ba'asyir.<sup>18</sup> Although small in size, MIT has considerable symbolic power as it is seen as controlling territory and therefore having a "safe base".<sup>19</sup>
  - 14.3 Jamaah Tauhid wal Jihad (JTJ, also known as "Takfiri Group").<sup>20</sup> Founded by Abdurrahman in 2004, JTJ has a loose structure with most of its activities based in cells.<sup>21</sup>
  - 14.4 Ring Banten. This group split from Darul Islam<sup>22</sup> in 1999, with its members involved in the 2002 Bali bombing and 2004 Australian embassy bombing. Several members have since joined ISIL in Syria.<sup>23</sup>
  - 14.5 Gerakan Mahasiswa Untuk Syariat Islam (Gema Salam). Gema Salam follows Abdurrahman's teachings and has strongly advocated for ISIL on student campuses in Indonesia since 2013. The group ran a pro-ISIL Indonesian website and translated and published Indonesian versions of ISIL's online Dabiq magazine.<sup>24</sup>
  - 14.6 Mujahidin Indonesia Barat (MIB). A splinter group of Darul Islam, MIB was established in West Java in 2012 under the leadership of Abu Umar. Despite reports of the group's collapse in May 2013 following the death of leader Abu Roban, numerous members have since joined ISIL in Syria.<sup>25</sup>

- 14.7 Forum Aktivis Syariat Islam (FAKSI). FAKSI, based on the militant group al-Muhajiroun<sup>26</sup>, was created by Muhammad Fachry and Bachrumsyah Mennor Usman in early 2013 and quickly became a leading source of pro-ISIL media in Indonesia in addition to being a platform to spread Abdurrahman's teachings. FAKSI members started to view ISIL as having the qualities of a state in November 2013, and ISIL's strict enforcement of 'takfir mu'ayyan' as praiseworthy.<sup>27</sup> Takfir mu'ayyan is the belief that all security forces of an idolatrous state should be condemned as 'kafir' (disbelievers) institutionally as opposed to individually.
15. After the merger of the above factions into JTJ, Abdurrahman renamed the organisation JAD to propagate ISIL ideology and recruitment in Indonesia.<sup>28</sup>

### **Ideology and Objectives**

16. Abdurrahman promotes, throughout Indonesia, the concept of takfiri - the belief that Muslims who do not share radical views are the same as 'kafir' and are therefore liable to be killed.<sup>29</sup> This ideology is central to ISIL beliefs and was popularised by ISIL's precursor Al Qaida in Iraq (AQI).<sup>30</sup> Abdurrahman and his followers have declared war on anyone, including fellow Muslims, who refuse to follow their doctrine.<sup>31</sup>
17. JAD considers its main mission to be the facilitation of more coordinated communication between Indonesian fighters in Syria and ISIL supporters in Indonesia.<sup>32</sup> This is to help spread ISIL's ideology and goal of establishing a Southeast Asian caliphate governed by Shari'a.<sup>33</sup> Through JAD, Abdurrahman manages his followers, conducts recruitment for ISIL and spreads ISIL propaganda from behind bars.<sup>34</sup>
18. JAD is an autonomous entity that has pledged allegiance to ISIL. JAD conducts attacks to advance their agenda, gain publicity and earn respect and accolades from ISIL.<sup>35</sup>

### **Organisation and Structure**

19. JAD is an umbrella group for at least two dozen Indonesian extremist groups who have pledged allegiance to al-Baghdadi. JAD is best described as a network of cells consisting of thousands of members across 18 of Indonesia's 34 provinces.<sup>36</sup> The very nature of JAD means its members "are all part of a cell system in which they do not even know each other, except the leaders".<sup>37</sup> It is not unusual for JAD members to also be members of other local Islamist groups.<sup>38</sup> The fluid and compartmentalised nature of the group makes it difficult to fully define the overall organisation and structure of JAD, and Indonesian authorities are working to gain a better understanding.
20. JAD core leadership consists of Indonesia-based Abdurrahman and Ba'asyir, and Syria-based Bahrumsyah, Bahrin Naim and previously included now-deceased Salim Al-Tamimi.<sup>39</sup> In May 2017, a representative of Indonesia's National Police (POLRI) stated JAD was hierarchically connected to ISIL.<sup>40</sup> Abdurrahman and Ba'asyir actively recruit for ISIL through JAD, and JAD's links to ISIL in Syria were coordinated by the dedicated Southeast Asian military unit within ISIL, Katibah Nusantara (KN) as at 2015.<sup>41</sup> Naim is a leading figure in KN and a remote commander and propagandist for Abdurrahman. Naim and KN leader Bachrumsyah have close ties with ISIL central

leadership and were previously students of Abdurrahman.<sup>42</sup> The current status of KN in Syria and Iraq is unclear.

21. The Institute for Policy Analysis of Conflict (IPAC) notes Abdurrahman is one of the few individuals in Indonesia trusted by the ISIL hierarchy, and, as such, JAD recommendations and schemes are considered independent and permissible without additional endorsement from ISIL headquarters.<sup>43</sup>

#### *Aman Abdurrahman*

22. JAD leader Abdurrahman (also known as Oman Rochman) is ISIL's master ideologue in Indonesia.<sup>44</sup> Abdurrahman is known for his eloquence when preaching, and his knowledge of Islam and Arabic fluency has generated high respect from extremist followers.<sup>45</sup> Abdurrahman served as a lecturer at various institutions in Indonesia before being dismissed in early 2000 for his radical uptake of the takfiri doctrine.<sup>46</sup> This doctrine was promoted by Abu Musab al-Zarqawi and his group Tawhid wal-Jihad (al-Zarqawi was later the first leader of AQI).<sup>47</sup> Abdurrahman sought to distribute the doctrine in Indonesia through his own version of Tawhid wal-Jihad, JTJ.<sup>48</sup>
23. In 2004 Abdurrahman was sentenced to seven years in prison for a failed terrorist attack plot. During his incarceration he met fellow JAD leadership figure Abu Bakar Ba'asyir.<sup>49</sup> Upon their respective releases, Abdurrahman and Ba'asyir collaborated to form a training camp in Aceh in 2010 which united different terrorist group factions. Abdurrahman and Ba'asyir received another nine and fifteen years in prison respectively for their involvement, and both remain incarcerated to date (Abdurrahman at the Police Mobile Brigade headquarters near Jakarta; Ba'asyir at Gunung Sundur prison in Bogor, West Java).<sup>50</sup>
24. The establishment of ISIL in 2013 enabled Abdurrahman's takfiri doctrine to gain further acceptance in Indonesia's violent jihadist community, which had long been dominated by the Salafi doctrine promoted by al-Qaida.<sup>51</sup> Unlike Ba'asyir's al-Qaida splinter group JI, which primarily focused attacks on Western interests, Abdurrahman and his followers declared war on anyone who refused to follow their doctrine.<sup>52</sup> Abdurrahman declared support for ISIL in November 2013, and swore allegiance to ISIL leader al-Baghdadi as caliph on 16 April 2014.<sup>53</sup> Abdurrahman pledged allegiance again on 30 June 2014 following the 29 June announcement by ISIL that it was establishing a caliphate.<sup>54</sup>
25. Abdurrahman lured others into joining his group, particularly JI hardliners who sought action at a time when Ba'asyir's influence was waning.<sup>55</sup> After the merger of several factions into JTJ (detailed under 'Establishment of JAD' above), Abdurrahman renamed his organisation JAD in March 2015, determined to propagate ISIL ideology and recruitment in Indonesia.<sup>56</sup> Since then, Abdurrahman has played a prominent role in recruiting for ISIL's operations abroad, including issuing a fatwa (decree) from prison in January 2015 encouraging Indonesian militants to join ISIL, personally blessing the travels of new recruits, and requiring them "to obtain a recommendation from him before departing for Syria".<sup>57</sup>
26. Despite being in prison, Abdurrahman has acted as the main translator in Indonesia for ISIL propaganda and has successfully received new jihadist articles and smuggled out translations and commentaries.<sup>58</sup> Abdurrahman has also published several books from

behind bars which have then been reproduced on extremist websites. In January 2016, Abdurrahman was moved to an isolation cell in an attempt to prevent him from issuing further fatwas or leading religious discussions via mobile phone.<sup>59</sup> On 13 August 2017, Abdurrahman was released and immediately re-arrested to be investigated for his role in at least six attacks, including the January 2016 bombing in central Jakarta.<sup>60</sup>

27. Most of the key Indonesian pro-ISIL activists defer to Abdurrahman.<sup>61</sup> The other prominent JAD figures are detailed below.

*Abu Bakar Ba'asyir*

28. Abu Bakar Ba'asyir (sometimes referred to as Abu Bakar Bashir in Western media) is an "ailing" elder figure of Indonesia's regional terrorism network.<sup>62</sup> In 1993, while hiding in Malaysia to avoid prison sentences for their involvement with Darul Islam, Ba'asyir and Abdullah Sungkar founded JI.<sup>63</sup> JI is considered one of the largest and best organised jihadist movements in Southeast Asia.<sup>64</sup> As founder, Ba'asyir was called the "ideological godfather of JP", who insisted on establishing Shari'a law in Indonesia and encouraging a violent overthrow of the Indonesian government.<sup>65</sup> Over 200 JI militants arrested in relation to the 2002 Bali bombings named Ba'asyir as their inspiration.<sup>66</sup>
29. Ba'asyir founded Majelis Mujahidin Indonesia (MMI)<sup>67</sup> in 2000 as an "above ground" coalition of JI and other ultra-fundamentalist and/or Takfiri ideologues that focused on promoting Shari'a in Indonesia.<sup>68</sup> Ba'asyir later founded JAT in 2008 (now incorporated into JAD), likely in an effort to distance himself from JI and avoid the targeting actions of the Indonesian government.<sup>69</sup> Ba'asyir is the chief JAT ideologue and a significant advocate for ISIL in Indonesia.
30. Like Abdurrahman, Ba'asyir was imprisoned in June 2011 for his involvement in the Aceh training camp plot. Ba'asyir eventually succumbed to Abdurrahman's pro-ISIL doctrine and authority, after he initially wished to see how division played out between the 'takfir mu'ayyan' group (led by Abdurrahman and supported by ISIL) and the 'takfir am' group (who believe that not all individuals in the service of an idolatrous ruler are necessarily kafir; led by JI leaders in support of the Syria-based al-Qaida splinter group then called Jabhat al-Nusra (JN)).<sup>70</sup> Ba'asyir pledged his allegiance to ISIL on 2 July 2014, enraging many of his supporters who had long provided support to JN.<sup>71</sup> Ba'asyir's sons and a former confidante broke away to form rival group JAS in mid-2014.<sup>72</sup>
31. Ba'asyir has been incarcerated since June 2011 and is currently serving 15 years.<sup>73</sup> Ba'asyir is currently unlikely to be playing a specific, co-ordinating role in JAD, and his influence has faded in recent years. However, Ba'asyir's long-standing reputation may continue to inspire groups and individuals to support JAD.

*Muhammad Bahrn Naim Anggih Tamtoto*

32. Muhammad Bahrn Naim Anggih Tamtoto (more commonly known as Bahrn Naim; also known as Singgih Tamtomo, Abu Rayan, Abu Rayyan and Abu Aisyah) is currently one of Indonesia's most notorious militants, a Syria-based associate of Abdurrahman and a leading KN figure.<sup>74</sup> On 18 January 2016, Jakarta Police Chief Tito Karnavian described Naim's role in Syria as crucial because he connects ISIL with Indonesia-based elite groups, foot soldiers and cells.<sup>75</sup> Naim sent a Telegram message to Reuters on 24

November 2015 stating that supporters of ISIL were ready to launch attacks in Indonesia.<sup>76</sup>

33. Naim declared his allegiance to ISIL in August 2014 and departed for Syria in January 2015.<sup>77</sup> As at January 2016, Naim had recruited over 100 Indonesians for ISIL. By February 2016, Naim had reportedly been promoted to a “high official”.<sup>78</sup> In addition to leading the Indonesian and Malay-speaking ISIL unit KN, Naim recruits, oversees and funds numerous JAD operations in Indonesia.<sup>79</sup>
34. Prior to departing Indonesia, Naim was a member of Abdurrahman’s prayer community, recruited by Abdurrahman between 2008 and 2010.<sup>80</sup> Naim, a former member of the non-violent but pan-Islamic Hizb ut-Tahrir<sup>81</sup> was one of the first to promote ISIL in Indonesia and had communicated with Indonesian ISIL fighters in Syria since 2013. Eventually, he was entrusted by them to facilitate travel of other Indonesians seeking to join.<sup>82</sup>
35. Naim’s expertise is in crafting sophisticated explosives; knowledge he transfers to Indonesia-based followers via social media applications and middlemen.<sup>83</sup> JAD provides Naim with a base of supporters ready to carry out his bidding, and Naim provides aspiring JAD terrorists in Indonesia with bomb-making advice and target selection for attack as evidenced by his implication in several attempted plots in Indonesia in recent years.<sup>84</sup> Despite most of his operations having been thwarted to date, Naim is one of the most prolific planners of ISIL’s so-called remote controlled attacks in Indonesia.<sup>85</sup> Naim maintains a significant online presence; however, as ISIL continues to lose core territory in Syria and Iraq, Naim may find it increasingly difficult to maintain effective communications with Indonesia-based followers.

*Bachrumsyah Mennor Usman*

36. Bachrumsyah Mennor Usman (best known as Bachrumsyah; also known as Bahrumsyah, Bachrunsyah, Bahrn Syam, Bahrum Syah, Abu Muhammad al Indunisi and Abu Ibrahim al-Indunisiy) is one of Abdurrahman’s most loyal students, recruited by Abdurrahman’s Pamulang-based prayer community.<sup>86</sup> Bachrumsyah coordinated Abdurrahman’s religious lectures and teachings in the Pamulang area following Abdurrahman’s release from prison in 2008.<sup>87</sup>
37. Following Abdurrahman’s incarceration in 2011, Bachrumsyah jointly founded FAKSI with ISIL supporter Muhammad Fachry. FAKSI declared its support for ISIL in February 2014 and is now one of the key groups incorporated under JAD.<sup>88</sup>
38. Bachrumsyah departed for Syria in May 2014, quickly rising to prominence on social media. Bachrumsyah was announced as head of KN in September 2014, and was also assigned by ISIL to receive bomb-making training.<sup>89</sup> On 23 July 2014, Bachrumsyah uploaded a video to YouTube inciting Indonesians to join ISIL (titled “Join the Ranks”).<sup>90</sup>
39. Bachrumsyah reportedly has good access to ISIL leadership and funds.<sup>91</sup> Bachrumsyah reportedly financially assisted MIT leader Wiji Joko Santoso in April 2016 by directly transferring funds to an MIT-affiliated bank account, and indirectly to the Philippines for the purchase of weapons.<sup>92</sup>

40. As at 17 March 2017, initial open source reports that Bachrumsyah had been killed during a suicide attack in Syria on 13 March 2017 have been deemed inaccurate.<sup>93</sup>

*Salim Mubarak Al Tamimi*

41. Salim Mubarak Al Tamimi (also known as Salim Mubarak At Tamimi, Abu Jandal al Yemeni al Indonesi, Abu Jandal, Salim Mubarak Attamimi) was believed to be a close confidante of Abdurrahman prior to Al Tamimi's death in November 2016.<sup>94</sup> Exactly when Al Tamimi travelled to Syria to join ISIL is unknown, though Indonesian police suspect Al Tamimi, Bachrumsyah and Bahrin Naim collaborated from Syria to direct attacks in Indonesia.<sup>95</sup>
42. Initially opposed to Abdurrahman's teachings, Al Tamimi changed his mind after Abdurrahman challenged him to a debate in 2010. Al Tamimi admitted he lost to Abdurrahman and became his disciple from that moment. Al Tamimi propagated Abdurrahman's teachings alongside JAT activist Mashudi, and both became the most prominent promoters of ISIL in the Malang area.<sup>96</sup>
43. Al Tamimi was considered a key JAD ideologue alongside Abdurrahman, Ba'asyir, Bachrumsyah, Naim and Santoso before he was killed during a US-led coalition strike in Mosul, Iraq in November 2016.<sup>97</sup>

*Wiji Joko Santoso*

44. Wiji Joko Santoso (also known as Santoso, Abu Wardah and Abu Seif) was a former JAT commander and former head of JI's Foreign Affairs division, responsible for assisting extremist deployments to Syria.<sup>98</sup> Santoso later led MIT in an insurgency movement in Poso, Central Sulawesi, until his death in July 2016.<sup>99</sup>
45. While Santoso's band of fighters was small, they had symbolic significance because of their commitment to terrorist acts against domestic targets.<sup>100</sup> Although Santoso was the first Indonesian jihadist leader to declare allegiance to ISIL in 2013, Abdurrahman's influence in popularising ISIL's goals and mobilising networks has been far greater.<sup>101</sup>
46. Santoso was killed in a firefight with security forces in Poso on 18 July 2016. The Institute for Policy Analysis of Conflict stated Santoso's death meant there was "no longer anyone who represents the symbolic heart of the Indonesian jihadi movement the way Santoso did".<sup>102</sup>

*Muhammad Fachry*

47. Muhammad Fachry (also known as Tuah Febriwansyah) is a long-time supporter of Abdurrahman, and was initially radicalised in the early 2000s by British-based takfiri movement Al-Muhajiroun organisation.<sup>103</sup> Fachry was a long-term follower of Abdurrahman's writings and teachings, believing his precepts, commitment to jihad and building an Islamic State were identical to that of Al-Muhajiroun.<sup>104</sup>
48. Fachry's links to Al-Muhajiroun date back to 2005. While Hizbut-Tahrir focused on creating a mass base to support restoration of the caliphate, Al-Muhajiroun viewed jihad as a critical means of getting there. Al-Muhajiroun founder Omar Bakri Muhammad reportedly allowed Fachry to establish an Al-Muhajiroun group in Indonesia. Fachry



promoted the organisation online, and in 2007 released the first edition of *Al-Muhajiroun* magazine. The mid-2007 edition featured a profile on the Islamic State in Iraq, a precursor to ISIL.<sup>105</sup> Fachry joined and left various other organisations before setting up a website to reinforce his Sharia4Indonesia campaign and promote the views of the takfir mu'ayyan group led by Abdurrahman.<sup>106</sup>

49. In approximately 2009 Fachry became close with Bachrumsyah during Abdurrahman's discussions at Al-Munawaroh Mosque in Pamulang.<sup>107</sup> Fachry and Bachrumsyah formed FAKSI in 2013, with Fachry designated as head and Bachrumsyah as deputy and secretary-general. Members comprised those from Sharia4Indonesia and Abdurrahman's followers.<sup>108</sup> Fachry later worked alongside Abdurrahman to build ISIL's organisational capacity inside Indonesia, and Fachry is now involved in selecting and training ISIL recruits, and broadcasting messages via digital media.<sup>109</sup>

#### *Other regional leaders*

50. Prior to his isolation in prison, Abdurrahman reportedly delegated his authority to a number of regional JAD leaders. One of the leaders in East Java, Zainal Anshori, was arrested by Indonesian Special Forces counter-terrorism squad Detasemen Khusus 88 (Densus 88) in April 2017.<sup>110</sup>
51. On 8 June 2017, POLRI spokesperson Sr. Comr. Martinus Sitompul stated police were "currently identifying all JAD regional leaders across the country" and believe each of the regional branches operate independently under Abdurrahman's instruction.<sup>111</sup> Regional JAD branches identified to date have been mapped across the five regions of Yogyakarta, Bandung in West Java, Medan in North Sumatra, and Cilegon and Serang in Banten Province.<sup>112</sup> Other branches have been identified in East Java, Jakarta, Maluku, and Kalimantan.<sup>113</sup> On 12 June 2017, Indonesian military (TNI) chief General Gatot Normantyo stated ISIL had a clandestine "sleeper cell" presence in nearly all provinces across Indonesia, however this has not been substantiated.<sup>114</sup>

#### **Weapons, Tactics and Capability**

52. Indonesian authorities estimate that JAD's membership includes hundreds of ISIL sympathisers.<sup>115</sup> Pro-ISIL inmates in prison continue to recruit and radicalise fellow prisoners with ease, some have organised terrorist acts from inside prison, and former prisoners frequently appear in new JAD-linked attack plots.<sup>116</sup> Indonesian police have stated it is unlikely JAD will cease committing terrorist attacks because it is establishing a growing number of cells, and is targeting youths for recruitment.<sup>117</sup>
53. To date, the majority of JAD's planned attacks have been foiled or poorly executed. This is likely a reflection of a lack of training and coordination. Police force personnel are often targets of JAD's attack plans, though civilians have also been targeted or indirectly harmed.<sup>118</sup> Targeting of police force personnel is consistent with Abdurrahman forbidding his followers from cooperating with "kafir" institutions like the government, police or prison officers.<sup>119</sup>
54. In April 2017, POLRI revealed that JAD had plans to establish military camps in Halmahera, North Maluku and Gorontalo. Gorontalo was assessed to be chosen due to its close proximity to the Philippines, significant due to the probable link between JAD and Abu Sayyaf Group (ASG)<sup>120</sup>, and possible weapons smuggling

opportunities.<sup>121</sup> For example, following the 23 March 2017 arrest of JAD member Suryadi Mas'ud, Mas'ud claimed to have arranged the purchase of 17 M16 and one M14 firearms from ASG. On 17 April, Head of Police Public Relations Division Inspector General Boy Rafli Amar stated the weapons had been allocated to a number of JAD terror cells and may have been used in the January 2016 Thamrin bombing (refer Case Study One).<sup>122</sup>

55. Indonesians seeking to join ISIL in Syria most commonly gain approval from one of several panels set up by pro-ISIL individuals across Indonesia. The panels are ad hoc in nature and usually rely upon a senior ISIL supporter for their formation and operation. Most of the panels are led by activists close to Abdurrahman, who appears to provide loose guidance to them regarding selection criteria and processes. There is no routine communication between the panels and they are often based within a particular pro-ISIL sub group of JAD, such as JAT, MIT, MIB or FAKSI. Most panels have their own network of contacts within ISIL who can arrange for the passage of recruits to Syria.<sup>123</sup>
56. The internet is extensively used to disseminate and popularise ISIL messages and a number of prominent jihadist websites have been run by pro-ISIL Indonesian groups. Various pro-ISIL YouTube channels have posted videos featuring Bachrumsyah and fellow Indonesians, and official ISIL videos featuring KN members have focused on calling Indonesians to migrate to Syria to fight against “infidels”.<sup>124</sup> Al Tamimi has also featured in several unofficial videos threatening to free Abdurrahman and Ba'asyir from prison, and to attack Indonesian military, police and the youth wing of Nahdlatul Ulama, the largest Indonesian Muslim organisation.<sup>125</sup>
57. JAD is reportedly affiliated with the terrorist network operating in the Philippines, evidenced by the recent siege in Marawi by the Maute Group involving JAD members (refer paragraph 74).<sup>126</sup>

### **History of JAD Operations**

58. Naim is reliant on JAD supporters to conduct attacks in Indonesia, and JAD provides operatives willing to execute his plots.<sup>127</sup> In July 2015, Naim instructed three men in Solo, Indonesia to carry out a bomb attack.<sup>128</sup> Those involved put together crudely made bombs using instructions given to them by Naim via Telegram. The attack was to take place on 17 August, targeting a police post, church and a temple during Independence Day celebrations. However, police discovered and foiled the plot five days prior.<sup>129</sup> The group were found in possession of 21 improvised explosive devices (IEDs) and ISIL-related items.<sup>130</sup> Following the arrest of the three men involved, Naim called on other associates to form a new cell which he would fund.<sup>131</sup>
59. On 14 January 2016, five JAD militants staged a coordinated bomb and gun attack on Thamrin Street in Jakarta's Central District, killing one police officer, three civilians and injuring at least 20 others.<sup>132</sup> The first attacker blew himself up at a Starbucks coffee shop followed by two assailants opening fire outside. When police engaged, they responded by throwing grenades.<sup>133</sup> Shortly after, two further attackers travelled toward a police post near the Sarinah shopping centre and blew themselves up there.<sup>134</sup> Abdurrahman reportedly approved the attack, with Naim reportedly organising and funding the attack from Syria.<sup>135</sup> The ISIL-linked Amaq news agency claimed that “soldiers of the caliphate in Indonesia” had carried out the attack, and Indonesian police reported the individuals responsible were linked to JAD.<sup>136</sup>

60. Between 10 and 13 February 2016, seven suspects were arrested in separate raids in Sumedang, Ciamis and Karawang in West Java. Interviews revealed their plan to bomb the Greater Jakarta Metropolitan Police office in April. The group reportedly intended on placing explosives inside a vehicle before detonating it near the building.<sup>137</sup> At least two of the arrested suspects were on a police wanted list for involvement with JAD, one for involvement in an Aceh-based terrorist training camp, and another for harbouring one of the 14 January 2016 Jakarta attackers.<sup>138</sup>
61. On 5 July 2016 Nur Rohman, a JAD affiliate and close associate of Naim, rode a motorcycle into the Solo municipal police station and detonated a bomb strapped to his body.<sup>139</sup> Rohman died instantly and one police officer was injured. Rohman reportedly assembled the bomb himself after watching online videos.<sup>140</sup> Naim later claimed police covered up the true number of victims, and claimed the bomb was not a low explosive bomb but a high explosive bomb comprised of RDX and HMTD (organic compounds used as explosives).<sup>141</sup> On 17 August 2016, Densus 88 arrested reported JAD member Munir Kartono, an associate of Rohman, for his alleged involvement in funding the attack.<sup>142</sup>
62. On 5 August 2016, Densus 88 arrested five individuals operating under the cell name Katibah Gongong Rebus on Batam Island.<sup>143</sup> Members of the cell were reportedly in direct contact with Naim who had ordered them to attack Singapore's Marina Bay, which houses a high-end shopping complex, casino, ferris wheel and other attractions.<sup>144</sup> According to Indonesian officials, cell leader Gigih Rahmat Dewa and Naim had discussed conceptual plans to launch a rocket from Batam to attack Marina Bay. Dewa and other cell members had also been in contact with Nur Rohman, the 5 July 2016 suicide bomber.<sup>145</sup> On 7 June 2017, the cell members were sentenced to between three and four years' imprisonment for conspiracy to commit terrorism.<sup>146</sup>
63. On 20 October 2016 Sultan Azianzah, armed with knives, attacked and stabbed three police officers at a police post in the Cikolkol area of Tangerang.<sup>147</sup> Azianzah also threw two suspected pipe bombs at police but neither exploded.<sup>148</sup> Azianzah was subsequently fired upon and later died from his wounds. A POLRI spokesman stated Azianzah was linked to JAD, and had reportedly visited Abdurrahman in prison in June 2015.<sup>149</sup>
64. On 13 November 2016, JAD member Muhammad Juhanda intended to attack the packed Oikumene Christian church in Samarinda Seberang using a bomb, described as a Molotov cocktail, previously assembled by himself and associates.<sup>150</sup> Juhanda had planned to ride his motorcycle into the middle of the church to conduct a suicide attack, however lost his balance upon lighting the fuse. The bomb fell and rolled towards children playing nearby and exploded before Juhanda could retrieve it. Four children were seriously burnt by the blast, including a toddler who later died from her injuries. A wounded Juhanda fled the scene but was later captured.<sup>151</sup> A total of five individuals were arrested for their involvement in the attack.<sup>152</sup> JAD members subsequently claimed responsibility via Telegram<sup>153</sup>, and encouraged ISIL supporters outside Samarinda to attack Jakarta governor Ahok, Indonesian president Joko Widodo, and the head of POLRI.<sup>154</sup>
65. On 26 and 27 November 2016, Indonesian police arrested two JAD members who planned to bomb government buildings and the Burmese embassy in Jakarta. The members reportedly donated money to purchase explosive material and helped set up a home bomb-making laboratory. The bomb maker, Rio Priatna Wibawa, had been

arrested on 23 November and was found in possession of bomb-making material he planned to use in attacks in December 2016.<sup>155</sup> The materials included chemical compounds Trinitrotoluene (TNT) and RDX in quantities large enough to cause twice the damage achieved in the 2002 Bali bombings, as well as HMTD, industrial explosive ammonium nitrate/fuel oil (ANFO), black powder, nitric acid, sulfuric acid, mercury, urea, beakers and nails.<sup>156</sup> Airsoft rifles, daggers, bows and arrows were also found.<sup>157</sup> A fourth individual had been arrested in relation to the planned attack, however the date of arrest was not reported.<sup>158</sup> Wibawa had reportedly been ordered by Naim to construct bombs for suicide missions.<sup>159</sup>

66. In December 2016, Densus 88 detected a cell of several jihadists, taught how to make bombs by Naim via Telegram, planning to bomb Jakarta's presidential palace Istana Merdeka.<sup>160</sup> JAD member Dian Yulia Novi was arrested on 10 December 2016 before she was able to conduct the suicide bombing during the publicly viewable changing of the guard on 11 December.<sup>161</sup> Novi was radicalised online and worked alongside an individual recruited by Naim. The pressure cooker bomb intended to be used by Novi was similar to the bomb used in the 15 April 2013 Boston marathon attack.<sup>162</sup> Four suspects, all followers of JAD, were also arrested and the bomb seized by police.<sup>163</sup>
67. On 21 December 2016, Indonesian counter terrorism police shot and killed three suspected militants and two would-be suicide bombers, and arrested four others, during house raids in South Tangerang, Banten province. Those killed had reportedly opened fire and thrown bombs at police. Four of the suspects had planned to attack a police post near Eka Hospital in South Tangerang, and stab police officers inside while they guarded Christmas celebrations.<sup>164</sup> The group then planned to detonate suicide bombs once people responded to the attack. Two of those arrested were identified as JAD members.<sup>165</sup>
68. On 25 December 2016, four men were apprehended in Purwakarta, West Java for allegedly planning an act of terror against a police post on New Year's Eve. A POLRI spokesman stated the four were clearly affiliated with JAD, and investigations into how the men were connected to JAD leader Naim were continuing.<sup>166</sup> Following the arrest of two would-be attackers, Police were led to their hideout where police shot dead the other two co-conspirators when they tried to attack the officers with machetes.<sup>167</sup>
69. On 27 February 2017, Densus 88 shot and killed JAD militant Yayat Cahdiyat (aka Abu Salam) during a firefight at a government office in Bandung, West Java, following the detonation of a small pressure cooker bomb filled with nails in a nearby park.<sup>168</sup> Cahdiyat arrived at the park by motorbike, detonated the bomb, then fled into the building brandishing a dagger, yelling at staff and starting fires. Cahdiyat was reportedly demanding the release of prisoners from local police cells.<sup>169</sup> During his battle with police, Cahdiyat reportedly threw a second small bomb. No one else was injured or killed.<sup>170</sup> POLRI stated the attack had been in retaliation for efforts by police to combat terrorism.<sup>171</sup> On 13 March 2017, police announced JAD members Soleh (aka Gungun) and Agus Sujatno (aka Abu Muslim) had been arrested for helping Cahdiyat fund and assemble the bombs, and surveying targets.<sup>172</sup> All three had reportedly been sworn in to JAD online by Abdurrahman during a JAD meeting in Malang, East Java.<sup>173</sup> Cahdiyat was previously jailed in 2012 for three years after robbing a gas station to fund militant training in Aceh.<sup>174</sup>

70. On 23 March 2017, Densus 88 arrested three individuals and shot and killed another during an operation in Ciwandan district, Cilegon, Banten. The individual killed had ties to JAD and the group were allegedly involved in attacks and firearms smuggling.<sup>175</sup> One of the individuals arrested was linked to a ‘Mumbai style’ attack being planned by imprisoned Iwan Darmawan (aka Rois, on death row for his involvement in the 2004 Australian Embassy car bombing in Jakarta). Darmawan had directed the militant to procure weapons from the southern Philippines for the attack. The militant had reportedly managed to purchase 18 assault rifles for USD 30,000. The weapons remained on Basilan Island in the Philippines, and POLRI were reportedly working to identify where the funds came from.<sup>176</sup>
71. On 7 April 2017, Indonesian police arrested three individuals planning to attack a police station in Lamongan, East Java. One of the arrested, Zainal Anshori, was the East Java leader of JAD.<sup>177</sup> On 8 April, in what was assessed to be retaliation for the arrests, police officers on duty at a post in Tuban regency, East Java, were fired upon by a group of individuals riding on top of a vehicle. Police fired back, killing six of the perpetrators.<sup>178</sup> POLRI stated the group was linked to JAD, and no officers were injured in the ambush or following fire fight.<sup>179</sup> Those killed had attempted to flee into a plantation after they abandoned their vehicle in Sulawan during the police pursuit.<sup>180</sup> The group were described as poorly trained amateurs who had used homemade weapons, and the attack was poorly planned.<sup>181</sup>
72. On 11 April 2017, JAD member Muhammad Ibnu Dar attempted to attack the Banyumas police station in Central Java by driving a motorcycle through the station’s gate at high speed and into a police officer. Dar then attempted to use a machete to attack another police officer but was detained shortly after. Three officers were injured in the incident.<sup>182</sup> POLRI stated the attack was in response to the recent shooting of JAD members in Tuban. A subsequent search of Dar’s house located a pressure cooker with wires, military training photos and indications Dar was in the process of making a kettle bomb.<sup>183</sup>
73. On 24 May 2017, two JAD members conducted a double suicide bombing at a busy bus terminal in Kampung Melau, East Jakarta, killing three and injuring six police officers and injuring five civilians.<sup>184</sup> The first bomb was designed to attract attention and lure people in before the second, more powerful bomb sent shrapnel including bolts, buckshot and small scissors flying.<sup>185</sup> POLRI stated the attack “was another terror attack committed by [ISIL] through Bahrin Naim in Indonesia, in addition to the one in Thamrin last year”, and the suicide bombers were identified as part of the Mudiriyah cell of JAD.<sup>186</sup> ISIL also claimed responsibility for the attack via news agency Amaq, stating, “the executor of the attack on the Indonesian police gathering in Jakarta was an Islamic State fighter”.<sup>187</sup> As at 23 June 2017, 41 JAD-linked individuals had been arrested since the attack, nine of which were assessed as having direct involvement.<sup>188</sup>
74. JAD has also provided support to other ISIL-linked insurgents in the region. In June 2017, BNPT chief Suhardi Alius confirmed at least 38 of 40 Indonesian fighters involved in the ongoing conflict between the militant Maute Group and Philippines government forces in Marawi, Philippines, were members of JAD.<sup>189</sup> The conflict has resulted in the deaths of many militants, government troops and civilians, displaced hundreds of thousands of civilians, and hundreds of civilians have been trapped or held hostage.<sup>190</sup> JAD fighters involved in the conflict had reportedly visited, and were

indoctrinated by, Abdurrahman in prison (prior to his isolation) before departing for Marawi.<sup>191</sup>

75. On 17 June 2017, Densus 88 arrested two JAD members in Bima, East Nusa Tenggara. Kurniawan Bin Hamzah and Nasrul Hidayat had advanced plans to bomb the Wahom Police Station on 18 June.<sup>192</sup> Items seized by police included an assembled bomb, other bomb-making materials, a samurai sword, an air rifle and bayonets.<sup>193</sup> Both members were wanted by police in connection with a terrorist network in Poso, Central Sulawesi, and Kurniawan had reportedly wanted to take revenge on police.<sup>194</sup> POLRI chief General Tito Karnavian stated the pair had learnt how to make bombs online, and had communicated with Naim directly.<sup>195</sup>
76. On 20 and 21 June 2017, Densus 88 arrested two JAD-linked individuals in Pandeglang, Banten. Both were in the planning stages of a plot to attack Pandeglang Police Headquarters. A POLRI spokesperson confirmed the activities were connected to JAD, and one of the individuals arrested was believed to have been in contact with Naim.<sup>196</sup>
77. At approximately 0300 on 25 June 2017, JAD members Syawaluddin Pakpahan and 'AR' (alias Ardi) scaled a fence surrounding a police security checkpoint in front of the North Sumatra Provincial Police Headquarters in Medan. The pair repeatedly stabbed a police officer resting inside the post before a second officer called for backup. Both assailants were shot, killing 'AR' and critically wounding Pakpahan. The stabbed officer died from his wounds.<sup>197</sup> Densus 88 had informed local police the day before that JAD were planning an attack on checkpoints, after information was obtained during an interrogation of three recently arrested individuals.<sup>198</sup> Pakpahan had reportedly spent six months in Syria in 2013, and remained in online contact with Syria-based associates upon returning to Indonesia.<sup>199</sup> A search of Pakpahan's residence uncovered hundreds of Indonesian-language books targeting children which contained ISIL propaganda and pictures and messages supportive of dying for jihad or holy war. A police spokesperson stated the books appeared to be designed and printed by Pakpahan.<sup>200</sup>

### **Case Study One: 14 January 2016 bomb and gunfire attack in Jakarta's central district**

#### *Facts*

78. On the morning of 14 January 2016, five JAD militants staged a coordinated bomb and gun attack on Thamrin Street in Jakarta's central district.<sup>201</sup> The first attacker blew himself up inside a Starbucks coffee shop and as people inside ran out onto the street, a further two militants waiting outside opened fire.<sup>202</sup> Authorities proceeded to engage these two militants, who responded by throwing grenades at police.<sup>203</sup> A shootout between the militants and police ensued, where the militants then attempted to take cover in a cinema in the same building as Starbucks. Both militants were killed by police in front of the cinema.<sup>204</sup> Two civilians, a Canadian and an Indonesian, died in the Starbucks attack and another Indonesian later died from his injuries.<sup>205</sup> Meanwhile, a further two militants rode a motorcycle toward a police post in the centre of an intersection near the Sarinah shopping centre and conducted a suicide bomb attack.<sup>206</sup>
79. Authorities took approximately three hours to end the attack, and later discovered a further six homemade bombs and two pistols in the area.<sup>207</sup> A POLRI spokesman indicated the number of bombs and individuals involved suggested "the plan was to attack people and follow it up with a larger explosion when more people gathered".<sup>208</sup>

However, the group were not well-trained and the weapons crude, as the death toll could have been higher.<sup>209</sup> The attack resulted in the deaths of the militants, one police officer and three civilians and injured at least 20 civilians (including an Algerian, an Austrian, a German and a Dutch national) and police officers.<sup>210</sup> The ISIL-linked Amaq news agency claimed that “a group of soldiers of the caliphate in Indonesia targeted a gathering from the crusader alliance that fights the Islamic State in Jakarta”, and Indonesian police reported the individuals responsible were linked to JAD.<sup>211</sup> Jakarta’s police chief further told reporters that “[ISIL was definitely] behind this attack” and identified Naim as responsible for plotting it.<sup>212</sup>

80. The green light for the attacks was reportedly given by Abdurrahman, with Naim reportedly the instigator of the assault from Syria.<sup>213</sup> Naim is reliant on JAD supporters to conduct attacks in Indonesia, and JAD provides operatives willing to execute his plots.<sup>214</sup> Naim’s role was described by General Karnavian as crucial because he is the main link between ISIL and elite groups and foot soldiers and cells in Indonesia.<sup>215</sup> Naim reportedly organised and funded the attacks, including a transfer of almost USD 72,000 to an associate in Indonesia.<sup>216</sup> According to Indonesia’s Coordinating Minister for Security, Political and Legal Affairs, the weapons used in the attack were smuggled into Indonesia from Mindanao in the Southern Philippines.<sup>217</sup>
81. Indonesian police conducted raids and arrested 12 people allegedly linked to the attack.<sup>218</sup> One of the killed militants was identified as Afif, aka Sunakim. Afif shared Abdurrahman’s ideology, having joined Abdurrahman’s terrorist training camp in Aceh in 2010 and his prayer community.<sup>219</sup> Afif had been released from prison in August 2015 after serving five years of a seven year term for taking part in the training camp.<sup>220</sup>

*The act meets the TSA criteria for designation*

82. The bomb and firearms attack in Jakarta’s central district is consistent with the definition of a terrorist act under s 5 of the TSA.
83. The attack, while largely poorly executed, was extensively planned and coordinated. It used a range of explosives and weapons and targeted a busy urban location on a weekday morning. The choice of a Starbucks café and a police post suggest key targets included symbols of Westernisation and the state security apparatus. The nature, location and timing of the attacks clearly show an intention to cause the death of, or serious bodily injury to, those in the vicinity of the attack (s 5(3)(a) TSA).
84. Suicide bombings are, by their nature, terrorising acts. The combination of suicide bombings and firearms in the same attack was the first of its kind in Indonesia and demonstrated JAD’s preparedness to use indiscriminate and deadly force to carry out its threats against those who do not follow their extreme ideology. This attack occurred mid-morning without warning and specifically targeted locations such as a café and cinema where members of the public gather in large numbers. These factors demonstrate an intention to induce terror in the civilian population (s 5(2)(a) TSA).
85. Although JAD did not explicitly claim responsibility for the attack, JAD leadership figures Abdurrahman and Naim instigated and arranged the attack, and it was carried out by JAD members. The attack is consistent with JAD’s wider aim of forcing the Indonesian government to recognise JAD’s goal of establishing a Southeast Asian

caliphate governed by Shari'a, and their declaration of war on anyone who refuses to follow their doctrine (s 5(2)(b) TSA).

### **Case Study Two: 10 December 2016 foiled plot to attack Istana Merdeka, Jakarta**

#### *Facts*

86. In December 2016, Densus 88 detected a cell of several jihadists planning to bomb Jakarta's presidential palace, Istana Merdeka. JAD member Dian Yulia Novi was arrested on 10 December 2016 by Detachment 88 before she was able to conduct a suicide bombing at Istana Merdeka during the changing of the guard on 11 December.<sup>221</sup> The 11 December changing of the guard was chosen because members of the public were allowed to view it on that day.<sup>222</sup> The plan was foiled after Police intercepted a farewell letter written by Novi to her parents.<sup>223</sup>
87. Novi had been radicalised online but also worked alongside Nur Solihin, who had been recruited by Naim. Naim had ordered Solihin to find a "bride" for a suicide bombing.<sup>224</sup> A POLRI spokesperson stated the cell involved were taught how to make bombs by Naim via Telegram.<sup>225</sup> The pressure cooker bomb to be used contained explosive materials triacetone triperoxide and glycerine, designed to send the accompanying 3kg of 5cm nails flying up to 300m away at 5,300 mps (similar to the bomb used in the 15 April 2013 Boston marathon attack).<sup>226</sup> In total four suspects, all followers of JAD, were arrested and the bomb was seized by police.<sup>227</sup>

#### *The act meets the TSA criteria for designation*

88. The foiled plot to conduct a suicide bombing during a public viewing of the changing of the guard at Istana Merdeka is consistent with the definition of a terrorist act under s 5 of the TSA. The definition of "carrying out" a terrorist act includes planning/preparation for acts (whether or not an act is actually carried out) and attempts (s 25 TSA).
89. The plan deliberately targeted a large public gathering and the size of the bomb showed the attack was intended to cause extensive casualties. The nature, location and timing of the planned attack demonstrates an intention to cause the death of, or serious bodily injury to, those in the vicinity of the Istana Merdeka changing of the guard ceremony (s 5(3)(a) TSA). Suicide bombings are, by their nature, terrorising. All the circumstances of the planned attack demonstrate an intention to induce terror in the civilian population (s 5(2)(a) TSA).
90. JAD's targeting of both the civilian population and a symbolic ceremony of the Indonesian state is consistent with the group's purpose of advancing JAD's own ideological and religious cause through acts of violence and terror and with their ultimate aim of establishing a Southeast Asian caliphate governed by Shari'a (s (5)2(b) TSA).

### **Case Study Three: 24 May 2017 twin suicide bombing in Kampung Melayu, Jakarta**

#### *Facts*



91. On 24 May 2017 at around 9.00pm, two suicide bombers detonated their devices in Kampung Melayu, East Jakarta, killing three police officers and injuring eleven others, six of them police officers and five civilians.<sup>228</sup> The first explosion occurred in front of a public toilet, and the second ten metres away near the Kampung Melayu stop of Transjakarta, a busy bus terminal.<sup>229</sup> The two suicide bombers were identified as JAD members Akhmad Sukri and Ichwan Nurul Salam through DNA testing.<sup>230</sup> The suicide bombers were reportedly part of the Mudiriyah cell of JAD.<sup>231</sup>
92. The bombs were made using explosive chemical triacetone triperoxide, often used by ISIL in Iraq and Syria.<sup>232</sup> Salam's bomb was less powerful, used to attract attention and lure people to the scene. Sukri's bomb, concealed inside his backpack, was a more powerful pan bomb. The second bomb dispersed shrapnel including bolts, buckshot and small scissors.<sup>233</sup>
93. ISIL claimed responsibility for the attack via their news agency Amaq, stating, "the executor of the attack on the Indonesian police gathering in Jakarta was an Islamic State fighter".<sup>234</sup> This claim is consistent with Amaq's previous claim regarding the Thamrin attack undertaken by JAD and instigated by Naim (refer case study one), which it described as being undertaken by "soldiers of the caliphate in Indonesia".<sup>235</sup> POLRI Chief Gen. Tito Karnavian also stated the attack "was another terror attack committed by ISI[L] through Bahrin Naim in Indonesia, in addition to the one in Thamrin last year".<sup>236</sup> Given JAD has pledged allegiance to ISIL leader Baghdadi, and conducts attacks to gain publicity, earn notice from ISIL and advance their common agenda, ISIL's claim of responsibility is an indication of its endorsement of, rather than active involvement in, attacks.<sup>237</sup>
94. Three suspects based in Bandung, West Java province, were later arrested in relation to the attack and a fourth was arrested in Cibubur, East Jakarta.<sup>238</sup> As at 23 June 2017, Densus 88 stated they had rounded up 41 individuals with links to JAD since the attack, nine of whom were believed to be directly involved.<sup>239</sup>

*The act meets the TSA criteria for designation*

95. The twin suicide bombing in Kampung Melayu is consistent with the definition of a terrorist act under s 5 of the TSA.
96. This attack specifically targeted a busy bus terminal, and the use of the first bomber to lure onlookers to the scene aimed for maximum casualties when the concealed second bomb was detonated. The nature, location and timing of the attack, as well as the subsequent public statement made by ISIL, clearly show an intention to cause the death of, or serious bodily injury to, those in the vicinity of the bus terminal (s 5(3)(a) TSA). Suicide bombings are, by their nature, terrorising. All the circumstances of this bomb attack demonstrate an intention to induce terror in the civilian population (s 5(2)(a) TSA).
97. The circumstances of this attack are consistent with JAD's intention to gain publicity for its own ideological and religious cause through acts of violence and terror. This attack was therefore also carried out with the purpose of advancing JAD's own ideological objective of establishing a caliphate in Indonesia governed by Shari'a (s 5(2)(b) TSA).

## LAW OF ARMED CONFLICT

### The law of armed conflict exception

98. Section 5(4) of the TSA provides that an act does not constitute a terrorist act for the purposes of the TSA if two conditions are met. The first condition is that there must be a situation of armed conflict in those areas in which JAD conducts its operations, at the time the act occurs. Secondly, the act must accord with the law of armed conflict (LOAC). If one of these conditions is not met, the exemption does not apply.
99. LOAC makes a key distinction between armed conflict and other internal disturbances or tensions such as riots and isolated and sporadic acts of violence.<sup>240</sup>

*Is there an armed conflict in Indonesia and are JAD members combatants?*

100. The first question that arises is whether there exists within Indonesia a state of “armed conflict” for the purposes of international law. An internal 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 the insurgent forces 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. LOAC distinguishes, however, between armed conflict, and other internal disturbances or tensions such as riots and isolated and sporadic acts of violence.
101. Only combatants have the right to conduct attacks in accordance with LOAC. This generally means members of armed forces; however irregular forces can still qualify provided they distinguish themselves from the civilian population while engaged in an attack or preparations for attack.
102. JAD does not appear to meet the criteria for combatant status because it does not sufficiently distinguish itself from the civilian population. JAD members do not wear a uniform and have concealed bombs prior to attack. Members of JAD do not qualify for combatant status in respect of the case studies because they do not distinguish themselves from the civilian population during the attacks nor did they conduct the attacks in accordance with the LOAC.
103. Further, given there is no evidence of violence that had reached a degree of intensity or continuity on the part of either JAD or Indonesian authorities that would bring the situation within the meaning of “armed conflict”, the exemption in s 5(4) cannot apply to JAD’s attacks detailed in the case studies.
104. As a matter of international law relevant to an internal armed conflict, members of JAD are unable to meet the definition of combatant thus they are unable to claim combatant immunity in accordance with LOAC.

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

105. Having failed to meet the threshold of an armed conflict, it is not necessary to go further to examine whether the action of JAD would have been in accordance with LOAC. However, it is noted that even if it were considered that there was a current armed conflict, the second threshold for applying LOAC is also not met.
106. The attacks described in the case studies above were directed against police and civilians, which breaches the LOAC principle of distinction. That principle provides that while attacks on enemy combatants and military objectives are lawful, attacks on the civilian population and civilian objects are not. Police in terms of LOAC are not combatants and therefore are classed as civilians unless incorporated into the armed forces.<sup>241</sup>
107. Thus, the acts depicted in the case studies can properly be categorised as terrorist acts under TSA s 5.

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<sup>241</sup> Additional Protocol I (1977) to the Geneva Convention of 1949 Art 43 (1).