

STATEMENT OF CASE TO RENEW THE DESIGNATION OF IZZ AL-DIN AL-QASSAM BRIGADES (IQB) AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating Izz al-Din al-Qassam Brigades (IQB) ((Also known as the Military wing of Hamas, Ezzedeem Al-Qassam Brigades (EQB), or Izz al-Din Al-Qassem Brigades (IQB)) meets the statutory criteria for the renewal of its designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

STRUCTURE OF THIS PAPER

2. This paper sets out updated information about IQB's continued involvement in terrorist activity and covers any relevant changes or developments to the organisation since its original designation in October 2010¹ and renewal in October 2013, September 2016 and September 2019² including IQB's objectives, structure, weapons and tactics and includes recent attacks which meet the definition of a terrorist act under the TSA.
3. This updated information, together with the information contained in the original designation paper and previous renewal papers, provide the basis for the conclusion that IQB meets the legal criteria for renewal of its designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR DESIGNATION RENEWAL UNDER THE TSA

4. Section 35(1) of the TSA provides that a designation of a terrorist entity expires three years after the date of designation unless it is earlier renewed by the Prime Minister. The original designation is made pursuant to s 22 of the TSA, which provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in, the carrying out of one or more terrorist acts. Carrying out a terrorist act is defined in s 5A(1) as including planning, other preparations, or credible threat to carry out the act, whether or not the act is actually carried out and includes attempts to carry out the act.
5. The Prime Minister may renew that designation for a further three years under s 35(2) if satisfied that there are still reasonable grounds as set out in s 22 for the entity to be designated under that section.
6. Before the expiry of an order made under s 35(2), the Prime Minister may make another order under s 35(3) renewing the designation concerned for a further three years. The Prime Minister may make any number of orders under s 35(3) in respect of the same designation (s 35(5)).

CREDIBILITY OF SOURCES

7. This paper has been prepared using open or unclassified sources which have a reputation for careful and unbiased reporting. These include Forbes, BBC News, AP News, New York Times, The Washington Post, Reuters, and The Guardian.

8. A range of think tanks were referred to including the Counter-Extremism Project, Council on Foreign Relations, the Washington Institute, and the Anti-Defamation League.
9. Regional news sources were also referred to including The Times of Israel, and Al-Monitor.
10. Other sources utilised include DW, Australian National Security, and the American Jewish Committee.

EVIDENCE TO SUPPORT DESIGNATION RENEWAL UNDER THE TSA

Continued involvement in terrorist activity

11. Since its designation was last renewed in September 2019, IQB have continued to incite and carry out terrorist attacks against Israeli targets.
12. In an outbreak of violence, between 10 and 21 May 2021, Palestinian militants, including IQB, launched over 4,300 rockets and mortar shells towards Israel from Gaza, killing a number of civilians. The militants fired anti-tank missiles at both civilian and military targets.³ IQB claimed responsibility for multiple attacks against Israel during this period.
13. In June 2021, IQB used floating incendiary devices to target Israeli sites, by launching helium balloons and kites loaded with explosives over the Israeli border.⁴
14. On 2 May 2022, one person was killed in a shooting at the entrance to the West Bank settlement of Ariel, with IQB claiming responsibility for the attack stating the “heroic, quality” attack “will not be the last one”.⁵

Ideology and objectives

15. IQB is the military wing of Hamas, a Palestinian political party, and shares the ideology of its parent organisation. IQB embodies the core purpose of Hamas, which is to carry out war against Israel and liberate Palestine.⁶ Along with all other components in Hamas, the IQB reports to the same overall leader and are committed to the goals laid out in the groups’ 1988 founding charter and supplementing 2017 charter.⁷

Organisation and structure

16. Yahya Sinwar, the former IQB member, continues to hold the overall leadership position for Hamas in Gaza⁸, and Mohammed Deif remains the leader of IQB with Marwan Issa serving as deputy leader.⁹ In 2021, Deif made his first public statement in almost seven years, stating Israel would pay a “heavy price” if it evicted Palestinians from their homes in Jerusalem.¹⁰
17. IQB is estimated as having a significant number of members, ranging from several thousand up to 30,000.¹¹

Weapons, tactics and capability

18. IQB are in possession of and use a range weapons in support of their goals. Noteworthy developments since 2019 include:

- 18.1 In December 2020, Palestinian militants, including IQB, launched rockets into the Mediterranean Sea. IQB released a statement that said the activity intended to simulate the expected threat posed by Israel and develop the capabilities of Palestinian resistance fighters for conflict.¹²
- 18.2 In May 2021, it was estimated IQB have possession of between 8,000 and 10,000 rocket projectiles. An IQB spokesperson stated in 2021 the group began using a long range ‘Ayyash’ missile which would reach any target in Israel.¹³
- 18.3 In June 2022, IQB released a documentary which revealed that the group possesses a large number of drones, which were manufactured and developed in the Gaza Strip and are used to obtain weapons.¹⁴
- 18.4 Further, in September 2021, media footage showed IQB recovering intact and undetonated Israeli missiles from Israeli strikes on Gaza.¹⁵
- 18.5 In July 2022, Israeli drone footage revealed weapons depots and tunnels in Gaza which are believed to belong to IQB.¹⁶
19. Hamas maintains a number of social programmes, which are reportedly linked to IQB.¹⁷ Funds raised from the social programmes of Hamas allow for an increase of funds for the military wing, and IQB uses Hamas’ social wing for indoctrination and recruitment.¹⁸

LAW OF ARMED CONFLICT (LOAC)

20. The activities of IQB do not occur in a situation of armed conflict for the purposes of section 5(4) of the TSA. Further, IQB actual or planned activities would not comply with rules of international law applicable to an armed conflict. The current activity conducted by IQB has not reached a level of intensity and continuity which would bring the situation within the means of “armed conflict”. Accordingly, the exemption in s 5(4) cannot apply. Further, IQB’s actual or planned targeting of civilians is in breach of the LOAC principle of distinction. Accordingly, the exemption in s 5(4) cannot apply, and IQB’s attacks are properly characterised as terrorist acts.

CONCLUSION

21. On the evidence set out above, there are still reasonable grounds as set out in s 22 of the TSA for IQB to be designated under that section.
22. Since its designation in October 2010 and renewal in October 2013, September 2016 and September 2019, IQB has continued to carry out activities which meet the definition of terrorist acts in ss 5 and 5A of the TSA (paragraphs 11-14). Accordingly, given there are still reasonable grounds to believe IQB has knowingly carried out terrorist acts as set out in s 22 of the TSA, IQB meets the legal criteria for renewal of its designation as a terrorist entity under s 35.
23. The designation must be renewed by 05 September 2022 to be effective.

¹ The statement of case, dated 11 October 2010 can be accessed at: <https://www.police.govt.nz/sites/default/files/publications/statement-of-case-izz-al-din-al-qassam-brigades-terrorist-entity-11-oct-2010.pdf>

² The Statement of cases dated [2 October 2013, 26 September 2016 and 5 September 2019] can be accessed at <https://www.police.govt.nz/advice/personal-community/counterterrorism/designated-entities/lists-associated-with-resolution-1373>

³ 25/05/2021 “How Hamas’ Arsenal Shaped The Gaza War Of May 2021”, Forbes, accessed via <https://www.forbes.com/sites/sebastienroblin/2021/05/25/how-hamass-arsenal-shaped-the-gaza-war-of-may-2021/?sh=e160bb879df7> retrieved on 18/07/2022.

⁴ BBC News, 18 June 2021, ‘Gaza fire balloons draw renewed Israel air strikes’ <https://www.bbc.com/news/world-middle-east-57523206> and BBC News, 16 June 2021, ‘Israel strikes in Gaza after fire balloons launched’ <https://www.bbc.com/news/world-middle-east-57492745>

⁵ 02/05/2022 “Hamas claims deadly Ariel terror shooting, vows it ‘won’t be the last’”, The Times of Israel, accessed via <https://www.timesofisrael.com/hamas-claims-ariel-terror-shooting-vows-it-wont-be-the-last/> retrieved on 19/07/2022.

⁶ Copy of the Hamas 2017 Document of General Principles and Policies, <https://www.jewishvirtuallibrary.org/hamas-2017-document-of-general-principles-and-policies>

Landing Page of IQB, <https://en.alqassam.ps/page/1>

⁷ “Hamas”, Counter-Extremism Project, accessed via <https://www.counterextremism.com/threat/hamas> retrieved on 25/07/2022.

⁸ BBC, 13 February 2017, ‘Hamas hardliner Yahya Sinwar elected as Gaza leader’ <https://www.bbc.com/news/world-middle-east-38955499>

⁹ 17/08/2021 “What Is Hamas?”, Council on Foreign Relations, accessed via <https://www.cfr.org/backgrounder/what-hamas> retrieved on 26/07/2022.

¹⁰ AP News, 6 May 2021, ‘Shadowy Hamas commander warns Israel over Jerusalem’ <https://apnews.com/article/hamas-israel-jerusalem-middle-east-bc7ea9ca8c503e45f711c5c6cd8fb124>

¹¹ 4/03/2022 “Hamas”, Australian National Security, accessed via <https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations> retrieved on 18/07/2022.

¹² https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/Fiverelistsings2021/Report/section?id=committees%2Freportjnt%2F024791%2F77781

¹³ Times of Israel, 13 May 2021, ‘Hamas makes unverified claim it is using new rocket that can hit all of Israel’ <https://www.timesofisrael.com/hamas-makes-unverified-claim-its-using-new-rocket-that-can-hit-all-of-israel/>

¹⁴ 19/06/2022 “Hamas bets on locally made drones for next confrontation with Israel”, Al-Monitor, accessed via <https://www.al-monitor.com/originals/2022/06/hamas-bets-locally-made-drones-next-confrontation-israel> retrieved on 18/07/2022.

¹⁵ New York Times, 13 May 2021, ‘Gaza’s Rockets: A replenished Arsenal that vexes Israel’ <https://www.nytimes.com/2021/05/13/world/middleeast/gaza-rockets-hamas-israel.html>

¹⁶ 28/07/2022 “Israel accuses Hamas of hiding weapons depots near civilian buildings”, Reuters, accessed via <https://www.reuters.com/world/middle-east/israel-accuses-hamas-hiding-weapons-depots-near-civilian-buildings-2022-07-27/> retrieved on 08/08/2022.

¹⁷ <https://www.adl.org/resources/glossary-term/hamas>

¹⁸ <https://www.adl.org/resources/glossary-term/hamas>