

# **Ansar al-Islam, Islamic Movement of Uzbekistan, Lashkar-e Jhangvi and Jaish-e-Mohammad**

## **Introduction**

- 1.1 This review is conducted under section 102.1A of the *Criminal Code Act 1995* (the Criminal Code).
- 1.2 Section 102.1A provides that the Parliamentary Joint Committee on Intelligence and Security may review a regulation specifying an organisation as a terrorist organisation for the purpose of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code and report the Committee's comments to each house of the Parliament before the end of the applicable disallowance period.
- 1.3 On 6 March 2015, the Attorney-General advised the Committee that Ansar al-Islam, Islamic Movement of Uzbekistan, Lashkar-e Jhangvi and Jaish-e-Mohammad had been re-listed as terrorist organisations for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code
- 1.4 The regulations for the re-listing of each organisation were made by the Federal Executive Council on 26 February 2015 and came into effect on 3 March 2015, the day after they were registered on the Federal Register of Legislative Instruments.
- 1.5 The regulations were tabled in the House of Representatives and the Senate on 3 March 2015.

## The Committee's review

- 1.6 The Attorney-General's letters, which included statements of reasons for the re-listings and the process of listing undertaken by the Attorney-General's Department, were accepted as a submission to the review and can be found on the Committee's website.
- 1.7 Notice of the review was placed on the Committee website and a media release was issued on 19 March 2015. No further submissions were received.
- 1.8 As this was the fifth re-listing for each of these organisations, the Committee resolved to conduct its inquiry on the papers.
- 1.9 In its first report, *Review of the listing of the Palestinian Islamic Jihad (PIJ)*, the Committee established procedures for reviewing terrorist listings. It also decided that it would test the validity of the listing of a terrorist organisation under the Criminal Code on both the procedures and the merits.<sup>1</sup> The Committee has again adopted this approach in this report.
- 1.10 Where an organisation is to be listed for the first time, the Committee will assess the adequacy and appropriateness of the evidence presented in the statement of reasons as well as the procedures followed by the Government. Where an organisation is to be relisted, the Committee expects the evidence presented to demonstrate a continuation of activities.
- 1.11 The remainder of this chapter will examine the Government's procedures for the re-listing of each group as a terrorist organisation, followed by the merits of the listing, based on the evidence provided to the Committee.

## The Government's procedures

- 1.12 The Attorney-General's letters outlined the procedures followed by the Attorney-General's Department, with input from other agencies, for the listing of each organisation. These documents were accepted as a submission to the inquiry and are included at Appendix A to this report.

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1 Parliamentary Joint Committee on ASIO, ASIS and DSD, *Review of listing of the Palestinian Islamic Jihad (PIJ) as a Terrorist Organisation under the Criminal Code Amendment Act 2004*, June 2004.

## Committee comment

- 1.13 The Committee reviewed the process of listing and was satisfied with the appropriateness of the procedures undertaken by the Government.

## The re-listings

### The criteria for listing an organisation

- 1.14 To be specified as a terrorist organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1 of the Criminal Code, the Minister must be satisfied on reasonable grounds that the organisation:
- is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not a terrorist act has occurred or will occur), or
  - advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).<sup>2</sup>
- 1.15 In addition to these legislative criteria, the Australian Security Intelligence Organisation (ASIO) may also have regard to non-legislative factors, including:
- engagement in terrorism,
  - ideology and links to other terrorist groups or networks,
  - links to Australia,
  - threats to Australian interests,
  - proscription by the UN or like-minded countries, and
  - engagement in peace/mediation processes.
- 1.16 The Committee was first advised of ASIO's evaluation process, including its use of these non-legislative factors, at a private hearing in 2005. Since

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2 Subsection 102.1(2) of Division 102, Subdivision A of the Criminal Code. A full list of proscribed terrorist organisations is available at the Australian Government's National Security website at:  
<<http://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>>.

then, the Committee has used these criteria as the basis for its reviews of listings of terrorist organisations under the Criminal Code.

- 1.17 The Committee has again used these criteria to assess the appropriateness and adequacy of evidence provided to it in this review.
- 1.18 In reviewing the listings, the Committee has taken into account the Attorney-General's statement of reasons and other publicly available information. The Committee's evaluation of the appropriateness and adequacy of the evidence it has received is then considered against the criteria listed in paragraph 1.15.

## **Ansar al-Islam**

- 1.19 Ansar al-Islam (AAI) is a Sunni Islamist militant group operating mainly in north-west Iraq, but also in Baghdad and the provinces of Ninewa, al-Anbar, Saldah ad-Din and Diyala. AAI was first listed as a terrorist organisation on 27 March 2003 and was re-listed in 2005, 2007, 2009 and 2012.
- 1.20 AAI is ideologically aligned with al-Qai'da. The group has also conducted joint attacks with Islamic State (referred to by the Committee as Da'esh), claiming responsibility for a suicide bombing attack against Shia militia in Rabia in December 2013.<sup>3</sup>
- 1.21 Between July 2012 and August 2014, the group claimed responsibility for 53 attacks against Iraqi and Kurdish security forces and police. In this period, it also released four statements advocating violent jihad.<sup>4</sup>
- 1.22 The statement of reasons notes that:
- While AAI does not have the capability to achieve its objective of overthrowing the Iraqi Government, it continues to pose a threat to security, particularly in the north of the country, and is capable of conducting attacks against foreign forces, Iraqi security forces and Kurdish targets.<sup>5</sup>
- 1.23 AAI is listed by the United Nations and United States, United Kingdom, New Zealand and Canadian governments, and is not known to have participated in any peace or mediation processes.<sup>6</sup>

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3 Statement of Reasons, Ansar al-Islam, pp. [1], [2].

4 Statement of Reasons, Ansar al-Islam, pp. [2-3].

5 Statement of Reasons, Ansar al-Islam, p. [2]; See also Jane's Counter Terrorism and Insurgency Centre, *Ansar al-Islam*, viewed 4 May 2015, <<http://janes.ihs.com>>.

6 Statement of Reasons, Ansar al-Islam, p. [4].

## Islamic Movement of Uzbekistan

- 1.24 The Islamic Movement of Uzbekistan (IMU) was first listed as a terrorist organisation on 11 April 2003 and was re-listed in 2005, 2007, 2009 and 2012.
- 1.25 The group's stated goal is the 'establishment of an Islamic state with the application of the Shariah' in Uzbekistan. However, IMU relocated to Afghanistan and the tribal areas of Pakistan in the late 1990s in response to measures taken against it by the Uzbek Government and a lack of support for the movement in Uzbekistan.<sup>7</sup>
- 1.26 In late 2013, the group claimed to have  
some 700 fighters and 140 advisers and trainers in Afghanistan, a further 2000 fighters in Pakistan, and an undisclosed number active elsewhere, including Central Asia, the Caucuses, Iran and Syria.<sup>8</sup>
- 1.27 According to the statement of reasons, IMU has been responsible, sometimes with other groups, for five attacks since its last re-listing and has fostered terrorist acts through the release a number of propaganda videos and statements.<sup>9</sup> Jane's Terrorism and Insurgency Centre notes that an attack on 12 May 2013 was the first by IMU on state targets in Pakistan.<sup>10</sup>
- 1.28 IMU members have fought alongside the Taliban, al-Qa'ida, and Tehrik-e-Taliban Pakistan against Coalition and government forces in Afghanistan and Pakistani forces in Pakistan.<sup>11</sup> In addition to close ties with these groups, IMU's leader, Usman Ghazi reportedly pledged the IMU's allegiance to Da'esh on 26 September 2014.<sup>12</sup>
- 1.29 IMU is listed by the United Nations and United States, United Kingdom, New Zealand and Canadian governments, and is not known to have participated in any peace or mediation processes.<sup>13</sup>

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7 Statement of Reasons, Islamic Movement of Uzbekistan, pp. [1-2].

8 Statement of Reasons, Islamic Movement of Uzbekistan, p. [2].

9 Statement of Reasons, Islamic Movement of Uzbekistan, p. [2].

10 Jane's Counter Terrorism and Insurgency Centre, *Islamic Movement of Uzbekistan*, viewed 4 May 2015, <<http://janes.ihs.com>>.

11 Statement of Reasons, Islamic Movement of Uzbekistan, pp. [2], [3]; See also Jane's Counter Terrorism and Insurgency Centre, *Islamic Movement of Uzbekistan*, viewed 4 May 2015, <<http://janes.ihs.com>>.

12 Statement of Reasons, Islamic Movement of Uzbekistan, p. [4].

13 Statement of Reasons, Islamic Movement of Uzbekistan, p. [4].

## Lashkar-e Jhangvi

- 1.30 Lashkar e-Jhangvi (LeJ) is a Sunni Islamist terrorist group following Deobandi traditions. It was first listed as a terrorist organisation on 11 April 2003 and re-listed in 2005, 2007, 2009 and 2012.
- 1.31 The statement of reasons indicates that LeJ 'has a reputation as the most violent Sunni extremist organisation in Pakistan'. The group is active in Pakistan's Punjab province, the Federally Administered Tribal Areas and Balochistan province, mostly targeting Shia, including politicians, professionals, scholars and lobbyists.<sup>14</sup>
- 1.32 LeJ's objective is to establish, by violence if necessary, an Islamist Sunni state in Pakistan based on Sharia law, have all Shia declared non-believers, and to kill Shia, Jews, Christians and other minorities.<sup>15</sup>
- 1.33 Despite the arrest of key leaders and hundreds of activists, 'the group is resilient and remains a significant threat to Shia and other minorities in Pakistan'.<sup>16</sup>
- 1.34 Since its last re-listing in 2012, LeJ has been responsible for 12 attacks including two significant attacks in Quetta in early 2013. These attacks were two of the worst terrorist attacks globally, on the basis of number of casualties, in 2013.<sup>17</sup> Jane's Counter Terrorism and Insurgency Centre notes that counter terrorism operations by Pakistani authorities through the second half of 2013 and throughout 2014 may have affected the number and scale of attacks by LeJ during this period.<sup>18</sup>
- 1.35 LeJ has links to Tehrik-e-Taliban Pakistan, the Taliban and al-Qa'ida. It is listed by the United Nations and United States, United Kingdom, New Zealand, Canadian and Pakistan governments, and is not known to have participated in any peace or mediation processes.<sup>19</sup>

## Jaish-e-Mohammad

- 1.36 Jaish-e-Mohammad (JeM) is a Pakistan-based fundamentalist Sunni Islamist organisation that has operated in Jammu and Indian

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14 Statement of Reasons, Lashkar-e Jhangvi, p. [1]; See also Jane's Counter Terrorism and Insurgency Centre, *Lashkar-e Jhangvi*, viewed 4 May 2015, <<http://janes.ihs.com>>.

15 Statement of Reasons, Lashkar-e Jhangvi, p. [1].

16 Statement of Reasons, Lashkar-e Jhangvi, p. [2].

17 Statement of Reasons, Lashkar-e Jhangvi, p. [2].

18 Jane's Counter Terrorism and Insurgency Centre, *Lashkar-e Jhangvi*, viewed 4 May 2015, <<http://janes.ihs.com>>.

19 Statement of Reasons, Lashkar-e Jhangvi, p. [3].

Administered Kashmir (IAK). It was first listed as a terrorist organisation on 11 April 2003 and re-listed in 2005, 2007, 2009 and 2012.

1.37 JeM's objective is the forced withdrawal of Indian security forces from IAK and the uniting of IAK with Pakistan under a radical interpretation of Islamic law.

1.38 On 3 March 2015, the group was re-listed by the Australian Government on the basis of its advocacy of terrorist acts.<sup>20</sup>

1.39 According to the statement of reasons, JeM's 'once broad operational focus no longer exists'<sup>21</sup>, with the group not being associated with an attack for over five years.<sup>22</sup>

1.40 The statement of reasons offers the following assessment:

Since the last listing, we have not observed JeM as a group directly involved in, or assisting in, the doing of terrorist acts. However, we assess JeM, through leadership statements, currently advocates the doing of terrorist acts.<sup>23</sup>

1.41 Subsection 102.1(1A) of the Criminal Code provides that

an organisation advocates the doing of a terrorist act if the organisation directly or indirectly counsels, promotes, encourages or urges the doing of a terrorist act; directly or indirectly provides instruction on the doing of a terrorist act; or directly praises the doing of a terrorist act in circumstances where there is a substantial risk that such praise might have the effect of leading a person (regardless of his or her age or any mental impairment that the person may suffer) to engage in a terrorist act.<sup>24</sup>

1.42 While it is possible that individual JeM militants were involved in terrorist acts in IAK in 2013 and 2014, the statement of reasons goes on to say that 'these actions cannot be ascribed with any confidence to JeM as a group'. Statements, however, by JeM leader Maulana Masood Azhar that advocate terrorist acts 'can be ascribed, due to his leadership position, to JeM'.<sup>25</sup>

1.43 Further, these statements

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20 Subsection 102.1(2) of the Criminal Code.

21 Statement of Reasons, Jaish-e-Mohammad, p. [1].

22 Statement of Reasons, Jaish-e-Mohammad, p. [3].

23 Statement of Reasons, Jaish-e-Mohammad, p. [1].

24 Explanatory Statement, Select Legislative Instrument No. 8, 2015, p. [2].

25 Statement of Reasons, Jaish-e-Mohammad, p. [1].

are assessed to be reflective of JeM's longstanding adherence to a belief in violence as a means to achieve political objectives.<sup>26</sup>

- 1.44 Most recently, Azhar addressed a rally in Muzaffarabad, Pakistan by telephone on 26 January 2014, making a number of statements that reflected JeM's founding ideology and advocated terrorist acts. According to the statement of reasons, Azhar reportedly:
- claimed that India would face a chilling or dreaded revenge for executing [author, Afzal] Guru,
  - called on Pakistan to lift restrictions on Jihad,
  - described militants not as terrorists but formidable fighters,
  - said jihad was the only way to liberate the occupied territory, when recalling repressive measures by Indian military and paramilitary forces in Kashmir,
  - called for the raising of an army to wage war against India and said 'Let us aim guns at India first'... 'we will move to Israel and United States later', and
  - threatened to attack election rallies in India.<sup>27</sup>
- 1.45 Azhar's appearances are rare, as JeM is banned in both India and Pakistan; this was his first public discourse in ten years.<sup>28</sup>
- 1.46 Since the re-listing, news reporting has suggested that the organisation continues to pose a serious threat, with recent news reports that JeM may attempt a terrorist attack in Delhi.<sup>29</sup>
- 1.47 JeM is a member of the United Jihad Council, formed in 1990 to bring together Kashmir-focused militant groups, including Hizb-ul-Mujahideen, Lashkar-e-Tayyiba, Hizb-ul-Mominee and the Al Badr Mujahideen. The group continues to be proscribed by the United Kingdom, Canada, United States and New Zealand governments.<sup>30</sup>

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26 Statement of Reasons, Jaish-e-Mohammad, p. [4].

27 Statement of Reasons, Jaish-e-Mohammad, pp. [2-3].

28 Statement of Reasons, Jaish-e-Mohammad, pp. [2], [3].

29 Daily Mail India, 'Security agencies warn Delhi could face fidayeen attacks', 6 April 2015, viewed 6 May 2015, <<http://www.dailymail.co.uk/indiahome/indianews/article-3026781/Security-agencies-warn-Delhi-face-fidayeen-attacks.html>>; The Times of India, 'Capital on high alert after suicide attack threat', 6 April 2015, viewed 6 May 2015, <<http://timesofindia.indiatimes.com/city/delhi/Capital-on-high-alert-after-suicide-attack-threat/articleshow/46817900.cms>>.

30 Statement of Reasons, Jaish-e-Mohammad, p. [4].

## Committee comment

- 1.48 Ansar al-Islam, Islamic Movement of Uzbekistan, Lashkar-e Jhangvi and Jaish-e-Mohammad have been listed as terrorist organisations since 2003. The Committee has reviewed every listing and re-listing of these groups since that time.
- 1.49 In this review, the Committee has again used ASIO's criteria, as outlined in paragraph 1.15, to assess the information provided to support the listing of these groups as terrorist organisations.
- 1.50 The Committee notes that the re-listing of Jaish-e-Mohammad is the first listing to be made solely on the basis of 'advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur)'. The Committee recognises JeM's history of involvement in terrorist activity since its founding in 2000 and the statements made by JeM leader Maulana Masood Azhar in 2014. Further, the Committee notes that although there have been no recent terrorist attacks directly attributed to JeM, recent news reporting suggests that the organisation continues to pose a serious threat. The Committee supports the ongoing proscription of JeM.
- 1.51 On the basis of the evidence provided, the Committee is satisfied that Ansar al-Islam, Islamic Movement of Uzbekistan and Lashkar-e Jhangvi engage in and advocate terrorist acts, and that Jaish-e-Mohammad advocates terrorist acts. The Committee therefore supports the re-listing of each group as a terrorist organisation under section 102.1 of the Criminal Code.

### Recommendation 1

**The Committee recommends that the regulations, made under the Criminal Code section 102.1, to list Ansar al-Islam, Islamic Movement of Uzbekistan, Lashkar-e Jhangvi and Jaish-e-Mohammad as terrorist organisations not be disallowed.**

**Dan Tehan MP**  
Chair

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