
The Parliament of the Commonwealth of Australia

Review of the re-listing of Hamas' Brigades, PKK, LeT and PIJ as terrorist organisations

Parliamentary Joint Committee on Intelligence and Security

November 2009
Canberra

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Membership of the Committee

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Terms of reference

This inquiry and report is conducted under the following powers:

Criminal Code Act 1995

Section 102.1A Reviews by Parliamentary Joint Committee on Intelligence and Security

Review of listing regulation

- (1) If a regulation made after the commencement of this section specifies an organisation for the purposes of paragraph (b) of the definition of terrorist organisation in section 102.1, the Parliamentary Joint Committee on Intelligence and Security may:
 - (a) review the regulation as soon as possible after the making of the regulation; and
 - (b) report the Committee's comments and recommendations to each House of the Parliament before the end of the applicable disallowance period.

And

Hamas' Izz al-Din al-Qassam Brigades (the Brigades)

Criminal Code Amendment Regulations 2009 (No 14)

Select Legislative Instrument 2009 No. 213

Registered: 7 September 2009 (FRLI: F2009L03397)

Kurdistan Workers Party (PKK)

Criminal Code Amendment Regulations 2009 (No 16)

Select Legislative Instrument 2009 No. 215

Registered: 7 September 2009 (FRLI: F2009L03399)

Lashkar-e-Tayyiba (LeT)

Criminal Code Amendment Regulations 2009 (No 15)
Select Legislative Instrument 2009 No. 214
Registered: 7 September 2009 (FRLI: F2009L03398)

Palestinian Islamic Jihad (PIJ)

Criminal Code Amendment Regulations 2009 (No 13)
Select Legislative Instrument 2009 No. 212
Registered: 7 September 2009 (FRLI: F2009L03396)



List of recommendations

2 The Listings

Recommendation 1

The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- Hamas' Izz al-Din al-Qassam Brigades

as a terrorist organisation.

Recommendation 2

The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- Kurdistan Worker's Party (PKK)

as a terrorist organisation.

Recommendation 3

The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- Lashkar-e-Tayyiba (LeT)

as a terrorist organisation.

Recommendation 4

The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- Palestinian Islamic Jihad (PIJ) as a terrorist organisation.

Introduction

- 1.1 This review is conducted under section 102.1A of the *Criminal Code Act 1995* (the Criminal Code). Section 102.1A provides that the Parliamentary Joint Committee on Intelligence and Security (the Committee) 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.
- 1.2 The regulations under review have specified Hamas' Izz al-Din al-Qassam Brigades (the Brigades), Lashkar-e-Tayyiba (LeT), Kurdish Workers Party (PKK) and Palestinian Islamic Jihad (PIJ) as terrorist organisations for the purposes of section 102.1 of the *Criminal Code Act 1995*.
- 1.3 This is a review of the re-listing of these organisations.
- 1.4 In a letter received by the Committee on 7 September 2009, the Attorney-General advised that he intended to re-list these organisations prior to the lapsing of their current listing as provided for in section 102.1(3). The Attorney provided statements of reasons for the re-listings. This was accepted as submission number one to this review.
- 1.5 The regulations were tabled in the House of Representatives and the Senate on 9 September 2009. The disallowance period of 15 sitting days for the Committee's review of the listing began from the date of the tabling. Therefore the Committee has conducted its review to enable it to report to the Parliament by 17 November 2009.

- 1.6 Notice of the review was placed on the Committee's website on 11 September 2009. The inquiry was advertised in *The Australian* on 16 September 2009 (see Appendix C). Submissions were due to be received by 6 October 2009. Three public submitters sought and were granted extensions to the submission time.
- 1.7 Seven public submissions were received.
- 1.8 The Committee held a hearing on 22 October 2009 in which the following people/organisations appeared:
- Australian Kurdish Association and the Kurdish Association of Victoria
 - Federation of Community Legal Centres (Vic) Inc
 - Dr Patrick Emerton
 - Attorney-General's Department
 - Australian Security Intelligence Organisation
- 1.9 The Committee thanks those, particularly members of the public and public organisations, who took part in its hearing.

The Government's procedures

- 1.10 In a letter received by the Committee on 7 October 2009, the Attorney-General's Department informed the Committee that it had adhered to the following procedures for the purpose of re-listing the organisation:

Process for the 2009 re-listing of four terrorist organisations under the Criminal Code

- The Security Law Branch of the Attorney-General's Department facilitates the process by which the Attorney-General makes a decision to list, re-list or de-list a terrorist organisation under the Criminal Code. This includes obtaining products from ASIO that assess organisations and seeking the advice of the Chief General Counsel in relation to the assessments. These are included in a package of information that is submitted to the Attorney-General to assist him to make a decision as to whether or not a particular organisation will be listed under the Criminal Code.

- The following processes were undertaken for the purpose of re-listing Hamas' Izz al-Din al-Qassam Brigades (the Brigades), the Kurdistan Workers Party (PKK), Lashkar-e-Tayyiba (LeT) and Palestinian Islamic Jihad (PIJ):
- Unclassified Statements of Reasons were prepared by ASIO, and endorsed by DFAT, detailing the case for re-listing the Brigades, PKK, LeT and PIJ.
- On 3 June 2009 Mr George Witynski, Deputy Chief General Counsel provided written advice with respect to the Statements of Reasons for the Brigades, PKK, LeT and PIJ.
- The Acting Director-General of Security wrote to the Attorney-General on 4 June 2009 outlining the background, training activities, terrorist activities, and relevant statements of the Brigades, PKK, LeT and PIJ.
- A submission was provided to the Attorney-General on 11 June 2009 providing the following documents:
 - a. copies of the Statements of Reasons received from ASIO with respect to the organisations
 - b. advice from the Deputy Chief General Counsel, and
 - c. regulations and Federal Executive Council documentation.
- Having considered the information provided in the submission, the Attorney-General signed statements with respect to the Brigades, PKK, LeT and PIJ confirming that he is satisfied on reasonable grounds that the organisations are organisations directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur.
- The Attorney-General also signed *Criminal Code Amendment Regulations 2009* in relation to the organisations, and approved associated Federal Executive Council documentation including an explanatory memorandum, executive council minute and explanatory statements.
- On 25 June 2009 the Attorney-General wrote to the Prime Minister advising of his intention to re-list the Brigades, PKK, LeT and PIJ as terrorist organisations.
- On 25 June 2009 the Attorney-General wrote to the Director-General of Security, in response to the Acting Director-General's letter dated 4 June 2009.
- On 6 July 2009 the Attorney-General advised the Leader of the Opposition of the proposed re-listing of the Brigades,

PKK, LeT and PIJ as terrorist organisations by letter, and offered a briefing in relating to these re-listings. The letter also advised the Leader of the Opposition that, as a result of an administrative error, regulations re-listing these organisations were made prematurely but would soon be repealed (see Attachment A).

- On 24 July 2009 the Prime Minister wrote to the Premiers of the States and Chief Ministers of the Territories advising them of the decision to re-list the Brigades, PKK, LeT and PIJ as terrorist organisations.

The following responses were received from the Premiers and Chief Ministers of the States and Territories:

- ⇒ Victoria - 5 August 2009
- ⇒ Australian Capital Territory - 6 August 2009
- ⇒ Northern Territory - 10 August 2009
- ⇒ Western Australia - 13 August 2009
- ⇒ Tasmania - 18 August 2009
- ⇒ New South Wales - 19 August 2009
- ⇒ Queensland - 31 August 2009

- All responses were supportive of the proposed re-listings.
- A submission was provided to the Attorney-General on 19 August 2009 providing regulations and Federal Executive Council documentation with respect to the re-listing of the Brigades, PKK, LeT and PIJ.

(Due to the administrative error discussed at Attachment A, it was necessary for the Attorney-General to approve these documents again.)

- The Attorney-General signed statements with respect to the Brigades, PKK, LeT and PIJ confirming that he is satisfied on reasonable grounds that the organisations are organisations directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, whether or not the act has occurred or will occur.
- The Attorney-General also signed *Criminal Code Amendment Regulations 2009* in relation to the organisations, and approved associated Federal Executive Council documentation including an explanatory memorandum, executive council minute and explanatory statements.
- On 27 August 2009 the Attorney-General wrote to the Chairman of the Parliamentary Joint Committee on Intelligence and Security advising of his decision to re-list the Brigades, PKK, LeT and PIJ as terrorist organisations.

- On 7 September 2009 the Governor-General made the Criminal Code Amendment Regulations 2009 (No. 13), Criminal Code Amendment Regulations 2009 (No. 14), Criminal Code Amendment Regulations 2009 (No. 15) and Criminal Code Amendment Regulations 2009 (No. 16) with respect to the re-listings of the Brigades, PKK, LeT and PIJ.
- The Regulations were registered with the Federal Register of Legislative Instruments (FRLI) on 7 September 2009 with the following FRLI Reference Numbers:
 - ⇒ F2009L03396 - Criminal Code Amendment Regulations 2009 (No. 13)
 - ⇒ F2009L03397 - Criminal Code Amendment Regulations 2009 (No. 14)
 - ⇒ F2009L03398 - Criminal Code Amendment Regulations 2009 (No. 15)
 - ⇒ F2009L03399 - Criminal Code Amendment Regulations 2009 (No. 16)
- The Regulations came into effect on 8 September 2009, the day after they were registered on FRLI.
- The Attorney-General issued a Media Release on 8 September 2009 announcing the re-listing of the terrorist organisations and attaching copies of the Statements of Reasons.
- The Attorney-General's Department's National Security website was also updated.

Procedural comments

- 1.11 The Attorney-General Department's Attachment A, mentioned above, informed the Committee that a set of regulations for this re-listing were made as a 'result of an administrative error'¹ and were repealed by regulations with the FLRI number - F2009L02684.
- 1.12 The Committee notes the administrative error that forced the original regulations to be repealed and remade. The Committee is satisfied with the procedures undertaken by the Government and notes the responses of the States and Territories.

1 Attorney-General's Department, *Submission 2 - Attachment A*

Committee comment on submissions 4, 8 and 9

- 1.13 Mr Assem Judeh sent three detailed submissions to the Committee. These were received as submissions 4, 8 and 9 and were authorised for publication.
- 1.14 It is Mr Judeh's view that ASIO have not been truthful in the information they have presented in their statements of reasons in relation to the Brigades and the PIJ. His submission is that ASIO's statements of reasons do not contain accurate information, lack proper analysis and contain 'deliberate bias and inaccurate assessment regarding the Brigades and PIJ'². In support of this allegation Mr Judeh has presented voluminous amounts of his own 'open source' data collected from the internet. Much of this information contains reports on alleged human rights abuses by the Israeli Defence Force (IDF).
- 1.15 Whilst the statements of reasons refer to open source documents, importantly they state that the information provided, whilst publicly available, has been 'corroborated by classified information.'³
- 1.16 Mr Judeh's submission, at times, confuses the listing of the Brigades with Hamas. The Committee makes it clear that Hamas is not being listed only Hamas' Izz al-Din al-Qassam Brigades are being listed.
- 1.17 The central question in the listing of the Hamas Brigades, the PIJ, or any other organisation, is whether they have been involved in terrorist activities. Mr Judeh's submissions concerning the IDF are not relevant to the legislative test of whether the Brigades have been involved in such activities.
- 1.18 In relation to the Brigades and the PIJ Mr Judeh did not provide any information that would suggest either of these groups had renounced violence and should not be listed under Australia's proscription regime.
- 1.19 In relation to his specific allegation about the statement of reasons containing inaccurate information, Mr Judeh states that the February 2008 attack on Dimona, has been mistakenly attributed to the Brigades.

2 Mr Assem Judeh, *Submission 4*, p. 85.

3 See *Statements of Reasons*, Appendices D, E, F, G.

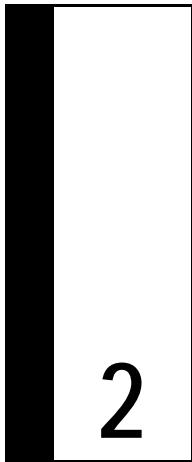
- 1.20 The Committee is aware that ‘an al-Aqsa Martyrs Brigades spokesman told a news conference in Gaza that it was a joint operation between al-Aqsa, the Popular Front for the Liberation of Palestine (PFLP) and another lesser-known faction.’⁴ However it is also aware that ‘ Hamas spokesman Ayman Taha said he did not know whether Hamas was involved in the attack, but called it “heroic” and “justified.”’⁵
- 1.21 The Committee notes that Jane’s does not list this attack as one carried out by the Brigades.
- 1.22 The Committee also notes that a Hamas member, Shihab Natsheh was killed during exchanges of fire with IDF forces and is alleged to be the bomb making ‘mastermind’ behind the Dimona attack.⁶
- 1.23 The statement of reasons says that the Dimona attack is one ‘for which responsibility has been claimed by, or reliably attributed to, the Brigades.’⁷
- 1.24 Mr Judeh did provide third and fourth supplementary submissions to the Committee. This was not accepted by the Committee as the issues Mr Judeh addressed were not relevant to the matters before this inquiry.

4 *Israeli killed in suicide bombing*, <http://news.bbc.co.uk/2/hi/middle_east/7225775.stm>

5 *Israel: Hamas and the Dimona Suicide Bomber*, <http://www.stratfor.com/memberships/110047/analysis/israel_hamas_and_dimona_suicide_bombing>

6 *IDF kills terror mastermind in Hebron* <<http://www.ynetnews.com/articles/0,7340,L-3573486,00.html>> and *Bomb attack leads to huge Hams crackdown on Fatah* <http://www.timesonline.co.uk/tol/news/world/middle_east/article4411395.ece#> see also, <<http://www.reuters.com/news/video?videoId=87887>> and *Hamas fighter killed in West Bank* <<http://english.aljazeera.net/news/middleeast/2008/07/200872683457514622.html#>>

7 ‘Hamas’ Izz al-Din al-Qassam Brigades’ *Statement of Reasons* p. 4



The Listings

The criteria for listing an organisation

The legal criteria

2.1 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 the 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).¹

2.2 To provide further clarification of this definition, Section 102.1 (1A) of the Criminal Code states that an organisation advocates the doing of a terrorist act if:

The organisation directly or indirectly counsels or urges the doing of a terrorist act; or

The organisation directly or indirectly provides instruction on the doing of a terrorist act; or

The organisation directly praises the doing of a terrorist act in circumstances where there is risk that such praise might have the effect of leading a person (regardless of his or her age or mental

¹ Paragraphs 102.1(2) (a) and (b) of the *Criminal Code Act 1995*.

impairment (within the meaning of section 7.3) that the person might suffer) to engage in a terrorist act.²

- 2.3 In previous reports, the Committee has commented on the breadth of this statutory definition.³
- 2.4 The Committee's accepts that there are many organisations that may satisfy the statutory definition of terrorist organisation and remain unlisted.
- 2.5 The Committee rejects the view that groups who fall within the statutory criteria should not be listed because not all groups who *could* be listed as terrorist organisations are listed.

ASIO's guidelines

- 2.6 At its hearing on 1 February 2005 for the *Review of the listing of six terrorist organisations*, the Director-General of ASIO advised the Committee of ASIO's evaluation process in selecting entities for proscription under the Criminal Code. Some of the factors included:
- Engagement in terrorism;
 - Ideology and links to other terrorist groups or networks;
 - Links to Australia;
 - Threat to Australian interests;
 - Proscription by the UN or like-minded countries; and
 - Engagement in peace and mediation processes.⁴
- 2.7 The Committee notes that these guidelines are indicators only and are not formally set out in the Act. However, the Committee has found these to be a useful tool in reviewing the listing of terrorist organisations.
- 2.8 The Committee has decided to continue to use these guidelines to assist its current review. The Committee has previously accepted, and again reiterates that, the absence of information in relation to these guidelines is not necessarily determinative of the listing of an organisation.
- 2.9 The Committee would also like to note the following guidelines suggested by Dr Patrick Emerton:

2 Paragraphs 102.1 (1A) (a) (b) and (c) of the *Criminal Code Act 1995*.

3 See: Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of the Palestinian Islamic Jihad*, June 2004, p. 18 and Joint Parliamentary Committee on ASIO, ASIS and DSD, *Review of the listing of six terrorist organisations*, March 2005, Chapter 2.

4 *Confidential exhibit*, ASIO, tabled 1 February 2005.

- the nature of the political violence engaged in, planned by, assisted or fostered by the organisation;
- the nature of the political violence likely to be engaged in, planned by, assisted or fostered by the organisation in the future;
- the reasons why such political violence, and those who are connected to it via the organisation, ought to be singled out for criminalisation by Australia in ways that go beyond the ordinary criminal law;
- the likely impact, in Australia and on Australians, of the proscription of the organisation, including, but not limited to:
 - an indication of the sorts of training Australians may have been providing to, or receiving from, the organisation;
 - an indication of the amount and purpose of funds that Australians may have been providing to, or receiving from, the organisation;
 - the way in which the concept of ‘membership’, and particularly ‘informal membership’, will be applied in the context of the organisation;
 - the extent to which ASIO intends to take advantage of the proscription of an organisation to use its detention and questioning power to gather intelligence.⁵

2.10 The Committee thanks Dr Emerton for his suggestion. The Committee has, however, continued to apply the factors set out in paragraph 2.6.

2.11 Two submissions in particular⁶ referred to the ASIO guidelines and argue that the Committee should disallow these re-listing on the basis that the guidelines have not been addressed. As the Federation of Community Legal Centres (Vic) Inc state in their submission:

ASIO’s Statements of Reasons relating to the re-listing of these four organisations, as provided by the Attorney-General, do not address the ASIO guidelines in any discernible manner. We view this as a grave concern.⁷

2.12 In its report *Review of the re-listing of Ansar al –Islam, AAA, IAA, IMU, JeM and LeJ* the Committee requested that the statements of reasons be written

5 Dr Patrick Emerton, *Submission 3*, p. 1.

6 Dr Patrick Emerton, *Submission 3* and Federation of Community Legal Centres (Vic) Inc, *Submission 5*.

7 Federation of Community Legal Centres (Vic) Inc, *Submission 5*, p. 7.

in a way that directly links the evidence with ASIO's guidelines.⁸ The Committee will once again raise this with ASIO.

- 2.13 The Committee reiterates that it is a misunderstanding of the statutory scheme to suggest that, because an organisation does not satisfy certain of the ASIO indicators, it could not be listed as a terrorist organisation under the Criminal Code.

8 Parliamentary Joint Committee on Intelligence and Security, *Review of the re-listing of Ansar al – Islam, AAA, IAA, IMU, JeM and LeJ*, June 2009, p. 32

Hamas' Izz al-Din al-Qassam Brigades (the Brigades)

- 2.14 This organisation was initially listed on 9 November 2003, re-listed 5 June 2005, 7 October 2005 and 10 September 2007.
- 2.15 The statement of reasons is attached at Appendix D. They confirm that, the information provided, whilst publicly available, has been 'corroborated by classified information.'⁹
- 2.16 The Committee reiterates that Hamas itself is not being listed.
- 2.17 Dr Patrick Emerton's submission quotes the 'Goldstone Report' – *Report of the United Nations Fact Finding Mission on the Gaza Conflict* – suggesting that the disbandment of Hamas' Executive Force would mean that the Brigades have been absorbed into the Gaza police.¹⁰ The Committee put this to ASIO, who confirmed that the Brigades still exist and stated:
- Hamas Brigades have been responsible for attacks this year. Disbanding the Executive Force had no impact on the Brigades.¹¹
- 2.18 The Committee sought information on why the Brigades were listed and Hamas was not, ASIO stated:
- Where ASIO has information that only part of an organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, or advocates the doing of a terrorist act, only that part of the organisation will be put forward for proscription. This is the case with Hamas' Izz al-Din al-Qassam Brigades.¹²
- 2.19 The Committee also sought information on how the distinction was drawn between Hamas and the Brigades, ASIO stated:
- Hamas as an organisation has distinct political and military wings. While the Brigades are an integral part of Hamas, they also operate independent of, and times at odds with, Hamas' stated aims.¹³

9 See *Statements of Reasons*, Appendices D.

10 Dr Patrick Emerton, *Submission 3*, p. 6.

11 ASIO, *Classified Secret Submission 11*.

12 ASIO, *Classified Secret Submission 11*

13 ASIO, *Classified Secret Submission 11*.

Engagement in Terrorism

- 2.20 The Brigades are the armed element of the military wing of Hamas and the statement of reasons lists numerous attacks against Israeli civilians. The three most recent were:
- November 2008: the Brigades announced on its website it had fired a total of 43 Qassam rockets and a number of mortar shells at several Israeli civilian and military targets;
 - November 2008: five Grad rockets were fired from the Gaza Strip at the Israeli city of Ashqelon; and
 - January 2009: numerous rockets fired into Israel.
- 2.21 In January 2009 Hamas Security sources in Gaza told Jane's that:
- Iran was sending anti-aircraft and anti-armour missiles to help Hamas replenish its arsenal aboard a convoy heading north from Sudan into Egypt when it was destroyed in an airstrike.¹⁴
- 2.22 The Brigades also carry out brutal suppression against the Palestinian people. As is well known, in August 2009 Hamas:
- ... launched a devastating bombardment of rocket-propelled grenades and machine-gun fire against a mosque in Rafah. The attack killed at least 22 Palestinians, including an 11-year-old girl. Over 100 more were injured and the mosque, which belonged to a rival Islamist faction, the Jund Ansar Allah, was left riddled with bullets. The adjacent building was destroyed.¹⁵
- 2.23 And, since the end of December 2008:
- ... Hamas forces and militias in the Gaza Strip have engaged in a campaign of abductions, deliberate and unlawful killings, torture and death threats against those they accuse of "collaborating" with Israel, as well as opponents and critics.¹⁶
- 2.24 The suggestion by Mr Assem Judeh in submissions four, eight and nine that the listing of the Brigades – and the statement of reasons supporting this listing – is somehow done at the bidding of or in support of Israel or Israeli interests is rejected by the Committee.
-

14 Mohammed Najib, *Iran was source of Hamas SAMs destroyed in Sudan airstrike*, Jane's Defence Weekly, 3 April 2009

15 Ron Prosor, *Menace to Its Own*, Telegraph, 26 August 2009.

16 *Palestinian Authority: Hamas' deadly campaign in the shadow of the war in Gaza*, Amnesty International Media Briefing, February 2009
<<http://www.amnesty.org/ar/library/asset/MDE21/001/2009/ar/9f210586-f762-11dd-8fd7-f57af21896e1/mde210012009en.html>>

Ideology and links to other terrorist groups/networks

Ideology

2.25 The statement of reasons states that:

Hamas is a radical Sunni Islamic organisation which emerged from the Palestinian branch of the Muslim Brotherhood in late 1987 - shortly after the commencement of the Intifada. Hamas soon became the dominant Islamic fundamentalist group in the Occupied Territories. Its main presence is in the Gaza Strip and some areas of the West Bank.¹⁷

2.26 Whilst Hamas carries out legitimate political and social activities its terrorist operations are conducted by the Brigades.

Links to other terrorist groups/networks

2.27 There is no information on any links to other terrorist groups/networks in the statement of reasons. In relation to Hamas (including the Brigades), Jane's states that:

In principle, Hamas has always favoured co-operation with other Palestinian and Islamic factions, based on the common goal of jihad for the liberation of Palestine. However in reality, relations with other Palestinian factions have been determined by a number of calculations, primarily the struggle for power within Palestinian society.¹⁸

Links to Australia

2.28 No links between Australia and the Brigades are mentioned in the statement of reasons. The Committee has no information to indicate this organisation has any links to Australia.

Threat to Australian interests

2.29 The Brigades attacks show a reckless disregard for civilians of any nationality. The Brigades therefore pose a threat to Australian interests and Australians such as businesspeople, tourists or government officials who may be caught in a Brigades attack.

17 Statement of reasons, *Submission 1*, Appendix D.

18 Jane's Terrorism and Insurgency Centre, *Hamas*, 11 September 2009, <http://jtict.janes.com>

Proscription by the UN or like-minded countries

- 2.30 The Brigades have been proscribed as a terrorist organisation by the government of the United Kingdom. Hamas (including the Brigades) has been proscribed as a terrorist organisation by the governments of the United States and Canada. Hamas is also listed by the European Union for the purposes of its anti-terrorism financing measures.

Engagement in Peace and Mediation processes

- 2.31 There is no mention in the statement of reasons of this organisation's engagement in peace or mediation processes.

- 2.32 The Committee is aware that Hamas have regularly participated in ceasefires with the IDF about which Dr Emerton states:

. . . the Statement of Reasons does not pay sufficient regard to intermittent truces and ceasefires to which Hamas has been a party, nor to the widely-held belief that any resolution of the status of the Occupied Palestinian Territories will have to involve negotiation with Hamas and hence a political resolution of the status of the Brigades. Listing the Brigades appears to be an obstacle to, rather than a contribution, to this goal.¹⁹

- 2.33 The Committee notes the following:

Hamas (through the Brigades) seeks to destroy the state of Israel and establish an Islamist Palestinian state in the existing Gaza Strip, West Bank and Israel. *It will not enter into peace talks with Israel and its leaders have stated Hamas cannot live with an Israeli state.*²⁰

Conclusion

- 2.34 The Committee found that Hamas' Izz al-Din al-Qassam Brigades continue to engage in activities that satisfy section 102.1 of the Criminal Code. The Committee does not recommend disallowance of the regulation.

19 Dr Patrick Emerton, *Submission 3*, p. 7.

20 Statement of reasons, *Submission 1*, Appendix D. (emphasis added)

Recommendation 1

The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- **Hamas' Izz al-Din al-Qassam Brigades**
as a terrorist organisation.

Kurdistan Workers Party (PKK)

- 2.35 The PKK, also known as Kongra Gel, was initially listed on 17 December 2005 and re-listed 27 September 2007.
- 2.36 The statement of reasons is attached at Appendix E. They confirm that, the information provided, whilst publicly available, has been ‘corroborated by classified information.’²¹

Kurdish Self Determination and the PKK

- 2.37 In a previous report²² the Committee discussed at length the historical background to the Kurdish issues relating to terrorism, self determination and minority rights.
- 2.38 Submission 6 by the Australian Kurdish Association, Kurdish Association of Victoria and the Kurdish Association of Western Australia in quoting the 1987 Geneva Convention on Terrorism states:

Australian Kurdish community and its associations believe and support a peaceful political solution to the Kurdish or any other human crisis, yet in regards to the relisting of PKK there are some important factors in the conflict which needs to be taken in to account. Although we criticize some tactics which PKK has implemented in the past but we point out to the committee the significant contexts of 1987 Geneva Declaration on terrorism. The convention affirms to the fact that United Nations supports “people who are fighting against colonial domination and alien occupation and against racist regimes in the *exercise of their rights of self-determination, have the right to use force to accomplish their objectives within the framework of international humanitarian law*”.²³

- 2.39 The Committee notes that, immediately after the sentence quoted by Submission 6 above, the 1987 Geneva Declaration on Terrorism states:

21 See *Statements of Reasons*, Appendices E.

22 Joint Parliamentary Committee on Intelligence and Security, *Review of the listing of the Kurdistan Workers’ Party (PKK)*, April 2006, p. 19 – 21.

23 Australian Kurdish Association, Kurdish Association of Victoria and Kurdish Association of Western Australia, *Submission 6* p. 9 (emphasis in submission)

Such lawful uses of force must not be confused with acts of international terrorism.²⁴

2.40 Additionally, the Declaration also states:

We condemn all those tactics and methods of struggle that inflict violence directly upon innocent civilians as such.²⁵

2.41 Whilst being sensitive to the history of the Kurdish people the Committee reiterates that acts of terrorism, particularly where innocent civilians are targeted, are unacceptable to Australia and the international community.

The impact of listing the PKK on the Australian Kurdish Community

2.42 In its hearing the Committee heard from a spokesman for the Australian Kurdish association that:

... as Kurdish people here we feel marginalised, we feel isolated and we feel frustrated by the listing of PKK.²⁶

2.43 Submission 6 by the Australian Kurdish Association, Kurdish Association of Victoria and the Kurdish Association of Western Australia states that in Australia Kurds '... are refused the very socialisation process that most Australians undertake.'²⁷

2.44 At the hearing the Committee sought further information on this. A spokesperson for the Kurdish Association of Australia stated:

...in terms of access to government institutions and departments we feel we have been marginalised. Every function which we hold we welcome most of our authorities and representatives but we rarely have anybody, to be honest. We have been isolated and left alone in our little pocket. That is what we meant by the process. We feel in terms of funding support and programs, just allowing our youth and our people to integrate into the system in employment, and in communication with the government, basically we have none. These allegations have led to our people being scared of the fact that there is this massive banner of

24 The Geneva Declaration On Terrorism, UN General Assembly Doc. A/42/307, 29 May 1987, Annex.

25 The Geneva Declaration On Terrorism, UN General Assembly Doc. A/42/307, 29 May 1987, Annex.

26 *Private Hearing Transcript*.

27 Australian Kurdish Association, Kurdish Association of Victoria and Kurdish Association of Western Australia, *Submission 6* p. 17.

terrorism hanging over our associations, which is preposterous, to be honest.²⁸

- 2.45 The Committee makes the strong point that the re-listing of the PKK is in no way meant as a comment on Australians of Kurdish descent. It is of concern to the Committee to have Australians of Kurdish background believing that they are in a position of being lesser citizens or persecuted. The Committee fully accepts that, whilst members of the Kurdish community may 'wholeheartedly support the PKK's political and ideological objectives,'²⁹ they oppose terrorism:

... as Kurdish people we are against any terrorist act against civilians. We have all been civilians. For any of our families, if you check our history, you will see that we have lost a member of our family, a relative or a family friend. We know the pain of suppression, we know the pain of death. We oppose any sort of terrorism. The Australian Kurdish community opposes that.³⁰

Informing the Kurdish community of the listing

- 2.46 The Committee asked witnesses from the Australian Kurdish Community how they became aware of the listing and what listing meant. The witnesses replied:

Some of our Kurdish people may be new refugees but they are very interactive in their communications systems, with the Internet and through the media. They follow Australian TV more than anything else because of a lack of access to communications mediums at home. They find out through the normal channels of communication.³¹

- 2.47 And;

In the Kurdish Association about two years ago we ran an information session about all this terrorism and what it means. We asked lawyers to attend and inform our community. Also a representative of the police came – I forget which section – to inform our society about what it means being a terrorist

28 *Private Hearing Transcript.*

29 *Private Hearing Transcript.*

30 *Private Hearing Transcript.*

31 *Private Hearing Transcript.*

organisation or assisting, the consequences of that. They already have some knowledge.³²

2.48 The Committee notes the following from its *Annual Report of Committee Activities 2008-2009*:

Since 30 June 2008 the Attorney-General's Department have reported to the Committee on recent developments in improving community education and awareness. The Committee has been provided with a copy of a pamphlet, produced by the Attorney-General's Department, on Australia's counter-terrorism laws. The Committee has also received a list of the community organisations that this pamphlet has been distributed to.³³

2.49 The problem referred to in paragraphs 2.46 and 2.47 highlights the need to improve education about listing and wider community understanding of the false and counter-productive stereotyping of minority groups.

Engagement in Terrorism

2.50 The statement of reasons lists a number of the violent acts in the period 2006 to 2009 ascribed to or claimed by the PKK, the three most recent being:

- 11 October 2008: Turkish police arrested a female member of the PKK who was planning a suicide attack on an unspecified target in Istanbul. She was feigning pregnancy in order to conceal 8.8 kilograms of explosives on her body;
- 23 December 2008: Turkish security forces discovered a car in Diyarbakir loaded with 57 kilograms of explosives, an RPG7 rocket launcher, 50 rocket grenades, 70 hand grenades and ammunition; and
- 20 March 2009: Police arrested three PKK militants in Istanbul. Explosives, a firearm, two hand grenades and three pistols were seized in the raid, but the target of the alleged attack was unknown.

2.51 In addition, Jane's Terrorism and Insurgency Centre notes the following attacks:

- On 27 May, six soldiers were killed and six others wounded when suspected PKK rebels detonated a remote-controlled improvised

32 *Private Hearing Transcript*.

33 Parliamentary Joint Committee on Intelligence and Security, *Annual Report of Committee Activities 2008-2009*, October 2009, p. 12.

explosive device (RCIED) near their vehicle in an unspecified area of Hakkari province.³⁴

Allegation of Turkish State involvement in attacks attributed to the PKK

2.52 The Committee did take evidence that some of the attacks attributed to the PKK had in fact been perpetrated by Turkish Military Forces. In his submission Dr Patrick Emerton states:

. . . at least some of the violence against civilians that is attributed to the PKK – including the massacre of September 29, 2007, mentioned in the Statement of Reasons – may have in fact been perpetrated by Turkish security forces.³⁵

2.53 ASIO, gave the Committee classified evidence that this was not the case and further stated:

The actual ‘Alliance for Kurdish Rights’ document Dr Emerton refers to in his submission does not actually provide any evidence of Turkish State involvement in the September 2007 attack. The report alludes to suspicion of Turkish authorities possibly being involved in the earlier 1996 incident (on very spurious grounds) and posits the view that if there was a cover up in 1996, that it could be happening again after the 2007 massacre. No proofs are offered.³⁶

2.54 In addition, Sarah Nicholson from the Federation of Community Legal Centres (Vic) Inc stated:

In our view, the key to this is the Ergenekon case, which is referred to in our submission and it is referred to in the EU progress report. That is a case where charges have been brought against the Turkish military and others in the Turkish state that the military have undertaken terrorist acts in the name of the PKK or the Kurdish community and now these charges have been brought against those state actors for those offences. That has taken some time to come to bear – that was a 2007 incident.³⁷

34 Jane’s Terrorism and Insurgency Centre, *Partiya Karkaren Kurdistan (PKK)*, 3 September 2009, <http://jtic.janes.com>

35 Dr Patrick Emerton, *Submission 10*, p. 4.

36 ASIO, *Classified Secret Submission 11*.

37 *Private Hearing Transcript*.

- 2.55 The case of the criminal network Ergenekon is a trial involving ex-members of the Turkish Military accused of 'attempting to overthrow the government and to instigate armed riots'³⁸ and 'involvement of military personnel in anti-government activities.'³⁹
- 2.56 The EU Turkish Progress Report⁴⁰ does not link the Ergenekon Trial to any PKK attacks and ASIO did not support any suggestion that Ergenekon was responsible for attacks attributed to the PKK.⁴¹
- 2.57 The Committee is not satisfied that there has been Turkish State involvement in any attacks attributed to the PKK by the statement of reasons.

The PKK and Article 96 paragraph 3 of the First Additional Protocol to the Geneva Convention

- 2.58 Article 96 paragraph 3 of the First Additional Protocol to the Geneva Convention allows armed movements such as the PKK to issue a statement of intended compliance to the International Red Cross in Geneva. Such a statement then makes the Geneva Convention and the additional Protocols applicable to the organisation.⁴²
- 2.59 In relation to this protocol the submission by the Australian Kurdish Association, Kurdish Association of Victoria and the Kurdish Association of Western Australia stated that:
- Let us also remind the committee that PKK has accepted the conditions and has signed the Geneva Convention.⁴³
- 2.60 The Committee confirmed that the PKK undertook to respect this statement in 1995 but notes the following statement from the Attorney-General's Department:
- The making of a declaration under Article 96 paragraph 3 of the First Additional Protocol to the Geneva Conventions by an

38 *Turkey 2009 Progress Report*, p. 6.
<http://ec.europa.eu/enlargement/pdf/key_documents/2009/tr_rapport_2009_en.pdf>

39 *Turkey 2009 Progress Report*, p. 11.
<http://ec.europa.eu/enlargement/pdf/key_documents/2009/tr_rapport_2009_en.pdf>

40 *Turkey 2009 Progress Report*,
<http://ec.europa.eu/enlargement/pdf/key_documents/2009/tr_rapport_2009_en.pdf>

41 ASIO, *Classified Secret Submission 11*.

42 See Sean Watts, 'Reciprocity and the Law of War (2009) 50(2) *Harvard International Law Journal* 365, 426 - 427.

43 Australian Kurdish Association, Kurdish Association of Victoria and Kurdish Association of Western Australia, *Submission 6* p. 6.

organisation does not affect whether or not that organisation meets the legislative test for listing as a terrorist organisation under the Criminal Code.⁴⁴

2.61 And;

Since 1995, the PKK has been involved in many terrorist attacks, including suicide bombing attacks, which have resulted in large numbers of civilian casualties. These terrorist attacks have been directed against not only Turkish security force, but also against civilian and foreign targets. Such attacks clearly do not comply with the Geneva Conventions which the PKK undertook to respect in its statement in 1995.⁴⁵

2.62 Importantly, none of the submitters denied that the PKK had been involved in terrorist acts that would be enough to satisfy the statutory criteria for re-listing. Additionally Jane's notes that:

... starting in early 2008, the PKK has begun to demonstrate a greater willingness to kill civilians. To date, the attacks have been concentrated in Istanbul and the tourist resorts along Turkey's Mediterranean and Aegean coasts. However, news of many of the attacks, particularly those which have not caused any casualties, has been suppressed by the Turkish authorities for fear of harming the local tourism industry. For example, a number of bombings causing only material damage in Antalya in August 2004 were officially attributed to gas leakages.⁴⁶

Ideology and links to other terrorist groups/networks

Ideology

2.63 Established in 1974,⁴⁷ the PKK's immediate objectives:

... are greater cultural and political rights for Turkey's Kurdish minority, including the amendment of the Turkish constitution to include an explicit recognition of a Kurdish identity, a comprehensive amnesty for PKK militants, including allowing the organisation's leadership to participate in political activities in

44 ASIO, *Classified Secret Submission 11*.

45 ASIO, *Classified Secret Submission 11*.

46 Jane's Terrorism and Insurgency Centre, *Partiya Karkaren Kurdistan (PKK)*, 21 October 2009, <http://jtic.janes.com>

47 The organisation was founded in 1974 but was named the PKK in 1978. Jane's Terrorism and Insurgency Centre, *Partiya Karkaren Kurdistan (PKK)*, 3 September 2009, <http://jtic.janes.com>.

Turkey, and an easing of the conditions of imprisoned PKK leader Abdullah Ocalan leading eventually to his release.⁴⁸

Links to other terrorist groups/networks

2.64 The statement of reasons contains no information on this matter. Jane's states that:

The PKK currently has close links with the Kurdistan Free Life Party (Partiya Jiyana Azada Kurdistanê: PJAK), a militant group of Iranian Kurds which also has training camps in northern Iraq.⁴⁹

Links to Australia

2.65 No links between Australia and the PKK are mentioned in the statement of reasons. The Committee has no information to indicate this organisation has any links to Australia.

Threat to Australian interests

2.66 The statement of reasons contains no information on this matter. PKK attacks on tourist locations are a threat to civilians of any nationality. The PKK therefore pose a threat to Australian interests and Australians such as businesspeople, tourists or government officials who may be caught in a PKK attack.

Proscription by the UN or like-minded countries

2.67 The PKK has not been listed by the United Nations (UN) 1267 Committee.⁵⁰

2.68 According to the State Department, as at July 7 2009, the United States Government has designated the PKK as a Foreign Terrorist Organisation (FTO) under the *Immigration and Nationality Act* under the name Kongra Gel.⁵¹

48 Jane's Terrorism and Insurgency Centre, *Partiya Karkaren Kurdistan (PKK)*, 3 September 2009, <http://jtic.janes.com>

49 Jane's Terrorism and Insurgency Centre, *Partiya Karkaren Kurdistan (PKK)*, 21 October 2009, <http://jtic.janes.com>

50 <http://www.un.org/sc/committees/1267/consolidatedlist.htm>

51 <http://www.state.gov/s/ct/rls/other/des/123085.htm>

- 2.69 The PKK is listed as a proscribed terrorist organisation by the UK and Canada. The PKK is listed by the European Union for the purposes of its anti-terrorism measures.
- 2.70 Submission 6 by the Australian Kurdish Association, Kurdish association of Victoria and the Kurdish Association of Western Australia referred to the 3 April 2008 decision of the European Court of First Instance, relating to decisions taken by the EU Council of Ministers, to include the Kongra-Gel/PKK on the EU's terrorist list. The submission stated:
- It must be noted that the international community is slowly but surely realizing the political realities and facts in Turkey. European Court only last year annulled the European Union decision of enlisting PKK as a terrorist organization. The law suit was supported by Britain.⁵²
- 2.71 The UK *did not* support the PKK in the lawsuit against the EU. Such a view is incorrect. The Council of the EU were joined by United Kingdom and Ireland in defending the suit brought by Kongra-Gel.
- 2.72 The Committee has previously considered the 3 April 2008 decision of the European Court of First Instance, and has sought and received advice from the Attorney-General's Department on the detail of this matter. The Attorney-General's Department has advised:
- The Court of First Instance annulled the EU's decision to include Kongra Gel on the EU's terrorist list for the purposes of asset freezing, as the EU had not provided reasons to support the inclusion of Kongra-Gel on the list at this time, or shortly after, the listing decision was made.
- The PKK was not a party to the proceedings and the Court made no specific ruling with respect to the PKK.
- ...[however] the EU Council Secretariat told the Australian Embassy in Brussels that the Court's decision would have no practical impact as the EU's current listing of the PKK/Kongra-Gel was based on an EU regulation made in December 2007 (whereas the Court only annulled the 2001 decision). The EU regulation listing both the PKK and its aliases, Kongra-Gel and KADEK, would therefore remain unaffected.⁵³

52 Australian Kurdish Association, Kurdish Association of Victoria and Kurdish Association of Western Australia, *Submission 6* p. 9

53 Committee correspondence from Attorney-General's Department, 8 May 2008.

- 2.73 The Committee notes that it made these points in its previous report into the PKK tabled on 25 June 2008.
- 2.74 At its hearing the Committee made the Kurdish Association of Australia and Kurdish Association of Victoria witnesses aware of this inaccuracy in their submission.

Engagement in Peace and Mediation processes

- 2.75 Janes' Terrorism and Counterinsurgency Centre makes the following statement:

More recently however, acting PKK leader Murat Karayilan explained that the group was seeking a mutual ceasefire and possible peace talks with the government. On 6 May 2009 he stated: "The priority is a ceasefire. Arms will be laid down later on...First the guns will be silenced, then dialogue will start". However, Karayilan's comments may not be representative of the entire PKK leadership. This was evidenced by his reference to the recent attack on 29 April in which nine Turkish soldiers were killed by suspected PKK militants in Diyarbakir. He explained: "We, too, are sorry for the deaths of those soldiers".

The unilateral ceasefire was extended on 1 June and then again on 15 July. Karayilan stated that the ceasefire had been extended to 1 September in anticipation of the release of a "roadmap for a democratic solution" to the conflict by imprisoned leader Abdullah Ocalan. While giving no further details Karayilan stated that the roadmap was expected in August. He also reiterated that under the ceasefire the group would carry out no attacks "apart from fighting in self-defence", cautioning that "our movement is stronger than ever and in a position to defend itself". *On 1 September the ceasefire was further extended until 22 September.*⁵⁴

- 2.76 The Committee noted that this information was not included in the statement of reasons.
- 2.77 In addition the Committee has become aware of the surrender of Kurdish Forces as a 'goodwill' gesture to Turkey. Jane's reports:

54 Jane's Terrorism and Insurgency Centre, *Partiya Karkaren Kurdistan (PKK)*, 3 September 2009, <http://jtic.janes.com>

The 34 rebels surrendered in a gesture towards government efforts to extend Kurdish rights, and to test its willingness and ability to deliver on pledges to behave fairly towards those who give up the armed struggle. Thousands of people gathered by the Habur gate on the southeastern border to welcome the militants, the first to give themselves up since the 1990s. It is thought that the guerrillas were acting on orders from Abdullah Öcalan, the group's imprisoned leader. Turkish television channels interrupted their broadcasts to report on the surrender. The rebels were immediately arrested by security forces who had been waiting for them.

The surrender had been announced by a PKK official, who described it as a "goodwill gesture" in response to the government's 'Democratic Initiative'. Under this push for reconciliation, launched earlier in the year, the government has held negotiations with a wide range of parties over the Kurdish issue. These have included the country's main Kurdish party, the Democratic Society Party (Demokratik Toplum Partisi: DTP), accused by some opposition politicians of being linked to the PKK. Earlier in the year, a Kurdish-language channel was launched on Turkish state television for the first time.⁵⁵

2.78 The Committee asked ASIO if there were 'peace discussions of a substantial character⁵⁶' would ASIO advise the Minister that it the PKK be de-listed. ASIO stated that:

The short answer to that is that, yes, we would be looking at a de-listing process, which is essentially like going through the whole re-listing process, so we would look at all the evidence. But it is one trigger that would cause us again to look again at any circumstance, any group.⁵⁷

2.79 However, ASIO also noted that:

...with the PKK there is still a large chunk of the organisation that still adheres to the use of terrorist tactics to get its point across and its ideology.⁵⁸

2.80 Dr Patrick Emerton, in a supplementary submission, refers to an article stating that in Turkey, the crime of being a member of the PKK carries a

55 *PKK rebels 'surrender' to Turkish security forces*, 20 October 2009, <http://jtic.janes.com>

56 *Private Hearing Transcript*.

57 *Private Hearing Transcript*.

58 *Private Hearing Transcript*.

penalty of several years in jail, but 'Turkish law pardons PKK members not involved in attacks'⁵⁹. Noting that the Australian offences operate fully extraterritorially via the operation of extended geographical jurisdiction category D, per section 102.9 of the Criminal Code Dr Emerton makes this statement:

If the listing goes ahead, the penalty for membership in Australia will be a maximum of 10 years - at least as, if not more, severe than in Turkey, the country in which the PKK actually operates. Furthermore, the criminal penalties associated with a wide range of conduct falling far short of involvement in attacks would be very severe (under the various offences found in Division 102 of the Criminal Code). It would be an absurd result for members of the PKK who have not engaged in violent actions to go free in Turkey, while being subject to extreme criminal penalties in Australia.⁶⁰

- 2.81 The Committee notes that this report states that Turkey 'pardons' PKK membership it does not de-criminalise it.
- 2.82 The Committee is heartened to see that there are signs that both the PKK and the Turkish government are moving towards peace. Whilst peace is yet to prevail the Committee will take an interest in any developments in this matter as, no doubt, will ASIO and other government departments and agencies.

Conclusion

- 2.83 Having regard to all of the information before it and based on the best assessment of the current situation the Committee concludes that the Kurdistan Worker's Party (PKK) continues to engage in activities that satisfy section 102.1 of the Criminal Code. The Committee does not recommend disallowance of the regulation.

59 Dr Patrick Emerton, *Submission 10* referring to Christopher Torchia, *Turkey releases Kurdish rebels, some face charges*, <<http://www.chron.com/disp/story.mpl/ap/world/6676195.html>>

60 Dr Patrick Emerton, *Submission 10* p. 1.

Recommendation 2

The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- Kurdistan Worker's Party (PKK)

as a terrorist organisation.

Lashkar-e-Tayyiba (LeT)

- 2.84 This organisation was initially listed on 9 November 2003, re-listed 5 June 2005, 7 October 2005 and 10 September 2007.
- 2.85 The statement of reasons is attached at Appendix F. They confirm that, the information provided, whilst publicly available, has been 'corroborated by classified information.'⁶¹

Engagement in Terrorism

- 2.86 The statement of reasons state that LeT is 'one of the most active of the Pakistan based Kashmiri militant groups.'⁶²
- 2.87 Jane's states:
- The LeT is one of the most active and best known Kashmiri groups owing to its involvement in the 13 December 2001 suicide attack on India's parliament and represents one of the most significant threats to security forces and civilians in Indian-administered Kashmir (IAK) and beyond.⁶³
- 2.88 Although the LeT formally denied any involvement, the most significant operation conducted by LeT were the attacks on multiple targets in the Indian city of Mumbai between 26-29 November 2008. 172 persons were killed and at least 248 wounded. Ten militants, of whom nine were killed and one detained, made an amphibious landing in the south of the city and attacked multiple targets including the Chhatrapati Shivaji Terminus (CST), the Leopold Café, the Taj Mahal Palace & Tower hotel, the Trident-Oberoi hotel, and finally Nariman House where the Chabad Lubavitch Jewish centre is based. In the aftermath of the attack the Indian government attributed responsibility to LeT, reporting that the captured attacker, Mohammed Ajmal Amir Kasab, had admitted to belonging to the group.⁶⁴

61 See *Statements of Reasons*, Appendices F.

62 Statement of reasons, *Submission 1*, Appendix F.

63 Jane's Terrorism and Insurgency Centre, *Lashkar-e-Tayyiba (LeT)*, 2 July 2009, www.jtic.janes.com

64 Jane's Terrorism and Insurgency Centre, *Lashkar-e-Tayyiba (LeT)*, 2 July 2009, www.jtic.janes.com

Ideology and links to other terrorist groups/networks

Ideology

2.89 The statement of reasons states that 'LeT subscribes to an extreme Salafist interpretation of Islam which is closely related to the Wahhabi form of Islam associated with al-Qa'ida and the Taliban.'⁶⁵

2.90 Jane's state that:

The LeT's overall objective is to Islamicise South Asia, with a primary aim of 'liberating' Muslims in IAK⁶⁶. Its declared policy is the creation of regional Muslim states - one involving accession of Kashmir to Pakistan, a second formed by the Muslims of northern India, and a third formed by the Muslims of southern India. The 'Amir' of the LeT called first for a jihad to turn Pakistan into a purely Islamic state and second for the waging of jihad against countries with non-Islamic governments. The Amir cited Chechnya and Afghanistan as models for international jihad.⁶⁷

Links to other terrorist groups/networks

2.91 The statement of reasons states that:

LeT maintains links to the Taliban and al-Qa'ida, and to several Pakistani Islamic extremist groups, including the Kashmir focused terrorist group Jaish-e-Mohammed (JeM), and the Sunni sectarian group Lashkar-e-Jhangvi (LeJ). LeT is reported to have been involved with militant Islamists in other places where conflict including Muslims have arisen; including Bosnia, Chechnya, Kosovo, and Afghanistan. In 2004, several LeT operatives were also captured by British forces in Iraq.⁶⁸

2.92 Jane's state that LeT is linked to or associated with:

- Osama bin Laden's 'Islamic Front for Jihad against Jews and Crusaders'
- United Jihad Council (UJC) - a loose consultative and planning alliance of militant groups fighting against Indian rule in Kashmir.⁶⁹

65 Statement of reasons, *Submission 1*, Appendix F.

66 Indian Administered Kashmir.

67 Jane's Terrorism and Insurgency Centre, *Lashkar-e-Tayyiba (LeT)*, 2 July 2009, www.jtic.janes.com

68 Statement of reasons, *Submission 1*, Appendix F.

69 Jane's Terrorism and Insurgency Centre, *Lashkar-e-Tayyiba (LeT)*, 2 July 2009, www.jtic.janes.com

2.93 In addition, Jane's states:

More recently, during the trial of a suspected LeT militant in June 2009, it was alleged that the group also had links with the Communist Party of India - Maoist (CPI-M). The suspect claimed that CPI-M militants from India's Jharkhand had interacted with LeT militants in Pakistan-occupied Kashmir.⁷⁰

Links to Australia

2.94 The statement of reasons says:

Several individuals with links to LeT have been arrested in Australia, the US, and Canada since 2003 for allegedly planning terrorist activities. In March 2007, a French court convicted French national, Willie Brigitte, for planning terrorist attacks in Australia in 2003 in conjunction with suspected LeT chief for overseas operations, Sajid Mir. An Australian associate was also convicted of planning acts of terrorism by the New South Wales Supreme Court jury in June 2006; . . .⁷¹

Threat to Australian interests

2.95 In the November 2008 attack (see para 2.86) the Indian financial hub, Mumbai, LeT members killed more than 170 people, including two Australians.⁷²

2.96 LeT's attacks show a reckless disregard for civilians of any nationality. LeT therefore pose a threat to Australian interests and Australians such as businesspeople, tourists or government officials who may be unwittingly caught in a LeT attack.

Proscription by the UN or like-minded countries

2.97 The LeT is listed in the United Nations 1267 Committee's consolidated list and as a proscribed terrorist organisation by the governments of Canada, the United Kingdom, the United States, Pakistan and India.

70 Jane's Terrorism and Insurgency Centre, *Lashkar-e-Tayyiba (LeT)*, 2 July 2009, www.jtic.janes.com

71 Statement of reasons, *Submission 1*, Appendix F.

72 Statement of reasons, *Submission 1*, Appendix F.

Engagement in Peace and Mediation processes

- 2.98 There is no mention in the statement of reasons of this organisation's engagement in peace or mediation processes. The Committee has no information to indicate this organisation is engaged in peace or mediation processes.

Conclusion

- 2.99 The Committee found that LeT continues to engage in activities that satisfy section 102.1 of the Criminal Code. The Committee does not recommend disallowance of the regulation.

Recommendation 3

The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- **Lashkar-e-Tayyiba (LeT)**

as a terrorist organisation.

Palestinian Islamic Jihad (PIJ)

- 2.100 This organisation was initially listed on 3 May 2004, re-listed 5 June 2005, 7 October 2005 and 10 September 2007.
- 2.101 The statement of reasons is attached at Appendix G. They confirm that, the information provided, whilst publicly available, has been 'corroborated by classified information.'⁷³

Engagement in Terrorism

- 2.102 PIJ is considered to be one of the militarily more effective of the Palestinian militant groups and it has a significant presence in the Gaza and the West Bank. The group's rejection of any political process with Israel, combined with its regional alliances, magnifies the prospect it will use armed attacks to undermine eventual Israeli-Palestinian political understanding and/or support Iran in any confrontation with Israel and the United States.⁷⁴
- 2.103 The statements made by the Committee about the Brigades putting Palestinian civilians at risk by firing rockets into Israel from civilian areas apply equally to the PIJ.⁷⁵

Ideology and links to other terrorist groups/networks

Ideology

Links to other terrorist groups/networks

- 2.104 PIJ maintains close organisational relations and ideological affinity with the Lebanese Hizbullah movement and Iran.⁷⁶ Jane's states that:

⁷³ See *Statements of Reasons*, Appendices G.

⁷⁴ Jane's Terrorism and Insurgency Centre, *Palestinian Islamic Jihad(PIJ)*, 16 July 2009, www.jtic.janes.com

⁷⁵ See Human Rights Watch, *Gaza/Israel: Hamas Rocket Attacks on Civilians Unlawful*, 6 August 2009, <<http://www.unhcr.org/refworld/docid/4a8126ea1e.html>>

⁷⁶ Jane's Terrorism and Insurgency Centre, *Palestinian Islamic Jihad(PIJ)*, 16 July 2009, www.jtic.janes.com

In the Palestinian arena, PIJ's alliances have been more fluid. It has at various times cooperated or competed with every other organisation, while generally seeking cordial relations with all. Most of its joint armed operations have been with the Al-Aqsa Martyrs Brigades (AMB) affiliated with the Palestinian National Liberation Movement (Fatah), while those with the Hamas military wing (the Izz al-Din al-Qassam Brigades) are few and far between. Many PIJ militants are former Fatah members; Fatah often lent support to PIJ during its formative years and the ideological and organisational rivalry between PIJ and Islamist Hamas appears more intensive than that with the more militant elements of the nationalist Fatah.⁷⁷

- 2.105 The PIJ has wide links with many terrorist organisations throughout the Middle East.

Links to Australia

- 2.106 No links between Australia and the PIJ are mentioned in the statement of reasons. The Committee has no information to indicate this organisation has any links to Australia.

Threat to Australian interests

- 2.107 PIJ's attacks show a reckless disregard for civilians of any nationality. PIJ therefore pose a threat to Australian interests and Australians such as businesspeople, tourists or government officials who may be unwittingly caught in a PIJ attack.

Proscription by the UN or like-minded countries

- 2.108 The PIJ is listed as a proscribed terrorist organisation by the governments of the United Kingdom, United States and Canada. The PIJ is also listed by the European Union for the purposes of its anti-terrorism financing measures.

Engagement in Peace and Mediation processes

- 2.109 There is no mention in the statement of reasons of this organisation's engagement in peace or mediation processes. The Committee has no

⁷⁷ Jane's Terrorism and Insurgency Centre, *Palestinian Islamic Jihad(PIJ)*, 16 July 2009, www.jtic.janes.com

information to indicate this organisation is engaged in peace or mediation processes.

2.110 The Committee notes the following:

The PIJ sees itself as a radical military organisation. The PIJ refused to give a formal commitment to a Palestinian unilateral ceasefire in 2005 and *has previously conducted terrorist attacks to derail peace processes.*⁷⁸

Conclusion

2.111 The Committee found that the PIJ continues to engage in activities that satisfy section 102.1 of the Criminal Code. The Committee does not recommend disallowance of the regulation.

Recommendation 4

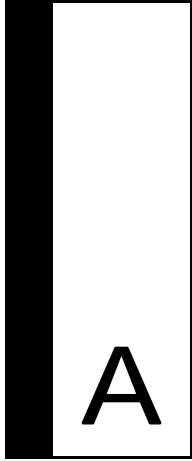
The Committee does not recommend the disallowance of the regulations, made under the Criminal Code section 102.1, to list the organisation:

- **Palestinian Islamic Jihad (PIJ)**
as a terrorist organisation.

Hon Arch Bevis, MP

Chairman

⁷⁸ Statement of reasons, *Submission 1*, Appendix G. (emphasis added)



Appendix A – List of submissions

1. The Hon Robert McClelland MP, Attorney-General
2. Attorney-General's Department
3. Dr Patrick Emerton
4. Mr Asem Judeh
5. Federation of Community Legal Centres (Vic) Inc
6. Joint Submission – Australian Kurdish Association, Kurdish Association of Western Australia and the Kurdish Association of Victoria
7. Mathavan Parameswaran
8. Mr Asem Judeh – Supplementary Submission
9. Mr Asem Judeh – Supplementary Submission
10. Dr Patrick Emerton – Supplementary Submission
11. Australian Security Intelligence Organisation – Classified SECRET



Appendix B - Witnesses appearing at private hearing

Canberra – Private Hearing

Thursday, 22 October 2009

**Australian Kurdish Association, Kurdish Association of Victoria and the
Kurdish Association of Western Australia**

Mr Govand Azeez, Spokesman for the Australian Kurdish Community

Mr Mahmut Kahraman, Spokesman for the Kurdish Association of Victoria

Mr Genco Guneser, Spokesman for the Kurdish Association of Victoria

Federation of Community Legal Centres (Vic) Inc

Ms Sarah Nicholson, Policy Officer

Dr Patrick Emerton, private capacity

Attorney-General's Department

Mr Geoff McDonald, First Assistant Secretary, Security Law Branch

Ms Laura Munsie, Principal Legal Officer, Security Law Branch

Australian Security Intelligence Organisation

Mr David Irvine, Director-General

Assistant Director-General, National Threat Assessment Centre



Appendix C - Newspaper Advertisement

Text of the advertisement placed in “The Australian” newspaper on 16 September 2009.

Review of terrorist listing

Under section 102.1A of the *Criminal Code Act* the Parliamentary Joint Committee on Intelligence and Security is to review the regulations specifying Hamas’ Izz al-Din al-Qassam Brigades, Kurdistan Workers Party (PKK), Lashkar-e-Tayyiba (LeT) and Palestinian Islamic Jihad (PIJ) as terrorist organisations.

Submissions from individuals and organisations are due by **3pm on 6 October 2009**.

For further details, visit www.aph.gov.au/pjcis or email pjcis@aph.gov.au or phone **(02) 6277 2360**.

A copy of the advertisement as it appeared follows.

About the House

www.aph.gov.au/ath

Referendum rules review

The House of Representatives Legal and Constitution Affairs Committee is reviewing the effect, terms of the referendum (Referendum Provisions) Act 1994, looking in particular at the preparation of the Yes and No cases for referendum questions and the limitations on government spending in relation to referendum questions. Submissions addressing the terms of reference should be emailed or posted to the committee by Friday, 9 October 2009. Two round table discussions are expected to be held during October 2009. For more information visit www.aph.gov.au/lawc or email scs.1994@aph.gov.au or phone (02) 6277 2358.

Auditor-General has his say

Auditor-General Mick Price has given his public hearing today (Wednesday, 16 September 2009) for the public inquiry into the Auditor-General Act 1997. The public hearing is from 11.45 am in Committee Room 316, Parliament House, Canberra. The Joint Committee of Public Accounts and Audits is reviewing the provisions of the Auditor-General Act to ensure they remain adequate in the modern public sector environment. For more information visit www.aph.gov.au/jpaac or email icpa@aph.gov.au or phone (02) 6277 4945.

Help find solutions to youth violence

Youth violence hurts us all. Help find solutions. Share your views with the House of Representatives Family and Youth Committee as it investigates youth violence. For more information visit www.aph.gov.au/fyvc or email fyvc@aph.gov.au or phone (02) 6277 4596.

Migration treatment of disability

A public inquiry into the migration treatment of disability has been launched by Federal Parliament's Migration Committee, which will examine whether visa decisions are taken into account in the social and economic contribution, as well as the anticipated health care costs, of potential migrants with disabilities. Submissions are due by Wednesday, 28 October 2009. For more information visit www.aph.gov.au/mig or email iscom@aph.gov.au or phone (02) 6277 4664.

Villawood Immigration Detention Centre redevelopment

Feedback on the next public works Committee is examining the redevelopment of Villawood Immigration Detention Centre. A public hearing will be held on Tuesday, 22 September 2009, in Sydney from 10.30 am to 4.00 pm at the Bundleson Town Hall, or Chair at Richard Hoza, Bundleson, the community is encouraged to make a submission to the inquiry or attend the public hearing. For more information visit www.aph.gov.au/pwcc or email pwcc@aph.gov.au or phone (02) 6277 4696.

Review of terrorist listing

Under section 102.4K of the Criminal Code Act the Parliamentary Joint Committee on Intelligence and Security is to review the regulations specifying the following as terrorist organisations: 'Hamas', 'Izz al-Dina al-Qassam Brigades', 'Lashkar-e-Taiba (LT), 'Kurdish Workers Party (PKK)' and 'Palestinian Islamic Jihad (PIJ)'. Submissions from individuals and organisations are due by 3pm Tuesday, 6 October 2009. For further details visit www.aph.gov.au/pjcid or email pjcid@aph.gov.au or phone (02) 6277 2966.

Crumbling coast

Is our dream of living by the sea being washed away? To find out read the cover story of About the House magazine, available free of charge by emailing lalson.reps@aph.gov.au or phone (02) 6277 4596. There are also features on the far coast, stories to make you smile, and how some farmers are adapting successfully to climate change. The magazine is also available online at www.aph.gov.au/ath



24-hour free email text service to keep up to date with the investigations by House of Representatives committees. To join, email us at: lalson.reps@aph.gov.au



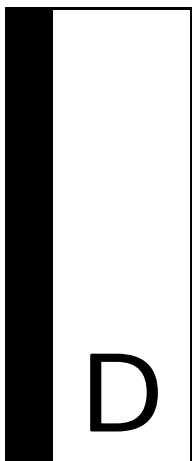
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Appendix D - Statement of Reasons – Hamas’ Izz al-Din al-Qassam Brigades (the Brigades)

Hamas’ Izz al-Din al-Qassam Brigades (aka Ezzedeem Al-Qassam Brigades and Izz al-Din Al-Qassam Brigades)

The following information is based on publicly available details about Hamas's Izz al-Din al-Qassam Brigades (the Brigades). These details are accurate and reliable and have been corroborated by classified information. Hamas' other branches, covering political, communal and welfare issues are not included in this proscription statement of reasons.

Basis for listing a terrorist organisation

Division 102 of the *Criminal Code* provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied on reasonable grounds that the organisation:

- (a) is directly or indirectly engaged in, preparing, planning, or assisting in or fostering the doing of a terrorist act (whether or not a terrorist act has occurred or will occur); or
- (b) advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).

Details of the organisation

Hamas is an Arabic acronym for the Harakat Muqawama Islamia, or Islamic Resistance Movement. It was founded during the first Intifada in 1987 as an offshoot of the Palestinian branch of the Muslim Brotherhood. Hamas is an extremist Sunni organisation which in its 1988 founding charter called for the creation of an Islamic state in place of Israel and the Occupied Territories. The Brigades were established in 1992 to provide Hamas with an armed option to support its political objectives. Hamas' main power base is

the Gaza Strip, although it does have supporters in the West Bank. In 2006 Hamas won a decisive victory in the Palestinian elections which gave it a majority of seats - 76 out of 132. This allowed Hamas to oppose peace negotiations with Israel as the lead party in the Palestinian Authority (PA) and introduce a more traditional Islamic way of life.

Following the 2006 elections, long standing animosity between Hamas and Fatah rose in intensity until Hamas initiated a decisive crackdown in Gaza against Fatah which resulted in the death of hundreds of Fatah members and supporters. In June 2007 elected Hamas officials were ousted from their positions in the PA government in the West Bank and replaced by rival Fatah members and independents. Hamas retained control of the Gaza Strip and has engaged in another round of arrests and executions of Fatah members following the withdrawal of Israeli forces from Gaza in January 2009.

Hamas as an organisation has distinct political and military wings. The military wing is also known as the Executive Force. The Brigades are an armed element of the military wing and operate independently of the other sections of Hamas. They are divided into a number of independent and specialised cells. While the Brigades are an integral part of Hamas, they also operate independently and at times at odds with Hamas' stated aims. The Brigades have their own website and regularly release advice of rocket and mortar attacks against Israeli interests independently of the Hamas political leadership. On 14 November 2008 the Brigades used their website to threaten Israel of a "harsh and painful" response to any Israeli 'Calm' violations.¹ There was no indication of any consultation with Hamas political leadership before the announcement was made.

The Brigades have the will and capability to launch terrorist attacks inside Israel. They have a substantial weapons inventory of light automatic weapons and grenades, improvised rockets, mortars, bombs, suicide belts and explosives. The Brigades fire 'Qassam' rockets and mortar shells into Israel on a regular basis. The group engages in military style training, including training in Iran and Syria on a range of weapons designed to inflict significant casualties on Israeli civilian and military targets.

The Brigades, with two other groups, were responsible for the action which led to the death of two Israeli soldiers and the kidnapping of Corporal Gilat Shalit in June 2006. Shalit is still being held by Hamas but there are indications he may eventually be exchanged for Palestinian prisoners held by Israel.

There had been a period of relative peace from June 2008 due to an Egyptian initiated ceasefire. However, violence escalated in November 2008 when rockets launched into Israel went from two per month in September and October to 190 in November. Hamas claimed the increased rocket attacks were in retaliation for Israeli forces crossing into Gaza and killing six Hamas fighters on 4 November 2008. Both sides accused each other of breaking the ceasefire although Israel was prepared to extend it beyond 19 December 2008 but Hamas refused.

1 The 'Calm' was an Egyptian brokered ceasefire which operated between June and December 2008.

In the recent conflict between Israel and Hamas in Gaza, the Brigades were actively involved in the fighting. The Brigades claimed responsibility for many attacks, including actions against Israeli Special Forces, and firing numerous rockets into Israel. They also announced 48 of their fighters were killed.

The Brigades go to great lengths to keep their organisational structure, planning and operations secret. The group is organised into discrete cells with each cell practising a need-to-know policy. The identity of the group's leaders is usually kept secret to avoid targeted attacks by Israel. In September 2005, the Brigades did publish the names of its seven commanders on its website. Mohammed Deif was identified as the general commander. In July 2006 Deif and two other Brigades leaders were injured in an Israeli air raid and it is not clear if Deif is still the leader. Estimates of the group's rank and file strength vary from a few hundred to many thousands, with a large pool of people seeking to join its ranks.

Terrorist activity of the organisation

Hamas (through the Brigades) seeks to destroy the state of Israel and establish an Islamist Palestinian state in the existing Gaza Strip, West Bank and Israel. It will not enter into peace talks with Israel and its leaders have stated Hamas cannot live with an Israeli state. Since January 2004 senior Hamas officials have indicated on a number of occasions a long term truce might be negotiated on the basis of an Israeli withdrawal from the territories captured in 1967. The Brigades conduct terrorist attacks in support of Hamas' political objectives. Recent attacks for which responsibility has been claimed by, or reliably attributed to the Brigades, have included:

- * June 2006: the death of two Israeli soldiers and the kidnapping of Corporal Gilat Shalit;
- * February 2008: a suicide attack in Dimona killed and injured a number of people;
- * November 2008: the Brigades announced on its website it had fired a total of 43 Qassam rockets and a number of mortar shells at several Israeli civilian and military targets;
- * November 2008: five Grad rockets were fired from the Gaza Strip at the Israeli city of Ashqelon; and
- * January 2009: numerous rockets fired into Israel.

In January 2009 the Brigades claimed 48 of its fighters had been killed in fighting Israeli forces in Gaza.

As demonstrated, the Brigades are directly preparing, planning, assisting in or fostering the doing of terrorist acts. It is submitted the acts attributable to the Brigades are terrorist acts as they:

- (i) are done with the intention of advancing a political cause, namely, destruction of the state of Israel, and establishment of an Islamic state in the current Israel, Gaza Strip and West Bank;
- (ii) are intended to coerce or influence by intimidation the governments of foreign countries, including Israel and/or intimidate the Israeli public; and
- (iii) constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

Other relevant information

Hamas' Izz al-Din al-Qassam Brigades (the Brigades) have been proscribed as a terrorist organisation by the government of the United Kingdom. Hamas (including the Brigades) has been proscribed as a terrorist organisation by the governments of the United States and Canada. Hamas is also listed by the European Union for the purposes of its anti-terrorism financing measures.



Appendix E - Statement of Reasons – Kurdistan Workers Party (PKK)

Kurdistan Workers Party

(Also known as: Freedom and Democratic Congress of Kurdistan, HPG, KADEK, KG, KHK, Kongra Gel, Kongra Gele Kurdistan, Kurdish Freedom Falcons, Kurdish Liberation Hawks, Kurdistan Freedom and Democracy Congress, Kurdistan Freedom Brigade, Kurdistan Freedom Hawks, Kurdistan Halk Kongresi, Kurdistan Labor Party, Kurdistan Ozgurluk Sahinleri, Kurdistan Peoples Congress, New PKK, Partiya Karkeren Kurdistan, Peoples Congress of Kurdistan, People's Defence Force, PKK, TAK, Teyrbazen Azadiya Kurdistan)

The following information is based on publicly available details about the Kurdistan Workers Party (PKK). These details are accurate and reliable and have been corroborated by classified information.

Basis for listing a terrorist organisation

Division 102 of the *Criminal Code* provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied on reasonable grounds that the organisation:

(c) is directly or indirectly engaged in, preparing, planning, or assisting in or fostering the doing of a terrorist act (whether or not a terrorist act has occurred or will occur); or

(d) advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).

Details of the organisation

The PKK was formally established by Abdullah Ocalan in 1978. The organisation adopted a communist ideology, but from its inception was primarily committed to the creation of an independent Kurdish state in south-eastern Turkey. After the end of Cold War, the PKK increasingly emphasised its role as a Kurdish nationalist movement. At times the group has sought to increase its popularity by exploiting the religious sentiment of the Kurdish community, but the organisation was and remains predominantly secular.

In August 1984, the PKK began sporadic attacks on Turkish security force targets, especially in the south-east of the country. The group also targeted Kurds regarded as 'state collaborators' — especially those belonging to the 'village guards', a Kurdish militia that had been established by the Turkish government in the mid-1980s to counteract the PKK's growing influence. On 20 June 1987, PKK militants raided Pincarik, a small Kurdish village in the province of Mardin, and called upon the village guards to surrender. When they refused, the PKK massacred 30 people, including 16 children and six women. After the massacre, Ocalan is reported to have said: "Let's kill, and become the authority".

The PKK intensified its campaign in the early 1990s, often employing large-scale, mass-casualty operations. During these years, the group also extended its insurgency to western Turkey, bombing department stores and markets frequented by civilians. For a short period, it targeted foreigners and was responsible for kidnapping a number of tourists. By the time Turkish security forces captured Ocalan in February 1999, the PKK had conducted tens of thousands of attacks, resulting in an estimated 30 to 40 thousand people being killed — many of them innocent civilians.

Following Ocalan's arrest, the PKK announced a unilateral ceasefire — although Ocalan stipulated that PKK militants would only lay down their arms if the Turkish government likewise agreed to cease hostilities against the PKK. As a result, violence abated significantly over the next few years but never completely ceased.

The PKK increasingly sought to distance itself from its terrorist past. The group thus changed its name, in April 2002, to the Kurdistan Freedom and Democracy Congress (KADEK), which claimed adherence to 'democratic transformation and unity'. This was followed, in November 2003, by yet another facelift, the PKK this time changing its name to Kongra Gel and insisting on its commitment to 'peaceful' activities.

But these attempts to cultivate a more benign public image failed — in January 2004, the US government listed not only the PKK but also its various aliases, including KADEK and Kongra Gel, as terrorist organisations. The group subsequently called off the ceasefire. As a result, violence perpetrated by the PKK — which reverted to its original name in April 2005— steadily increased over the next few years. It also began the practice of using front groups, especially the Kurdistan Freedom Falcons (TAK), to conduct attacks in tourist areas frequented by foreigners. It was hoped that the TAK would provide the PKK with 'plausible deniability' when conducting attacks that killed civilians, including foreigners. In reality, however, the PKK directs TAK operations.

Despite intermittent ceasefires after 2005, the PKK continued to mount terrorist attacks against Turkish security, civilian and economic targets. By late 2007, the group had

reportedly claimed a further 1,500 lives since the resumption of its insurgency in June 2004. Urban attacks, led by the TAK, increased during 2005 and culminated in a wave of bombings in tourist areas during the following summer. On 28 August 2006, a blast in the Turkish resort city of Antalya killed three people and wounded around 20 others. A day earlier, in Marmaris — another coastal city popular with tourists — three bombs were detonated near simultaneously. Twenty-one people were injured, including 10 British citizens. Between June 2004 and July 2008, the PKK reportedly killed around 35 civilians, seven of them foreign tourists.

The PKK's intensification of the insurgency led to an inevitable backlash from Turkish authorities. In November 2007, after a series of PKK attacks on Turkish military outposts that killed more than 20 soldiers, the Turkish Government passed emergency legislation authorising military attacks on PKK bases in northern Iraq. The Turkish Armed Forces bombarded PKK bases with aerial attacks for two months before launching a cross-border assault on 21 February 2008 that lasted eight days. A number of aerial operations followed and by September 2008, according to Turkish military figures, more than 750 PKK fighters had been killed since the beginning of the year.

Despite these setbacks, the PKK retains both the intent and capability to conduct large-scale attacks on Turkish official and military as well as civilian targets anywhere in Turkey. In January 2008, PKK militants were responsible for detonating a car bomb in Diyarbakir, the largest city in south-eastern Turkey, that killed six people — five of them Kurdish school students. This was followed, on 27 July 2008, by a double bombing in a residential neighbourhood of Istanbul that was specifically designed to achieve maximum civilian fatalities — after an initial small-scale blast that attracted onlookers, a second, larger bomb was detonated. Twenty-seven people were killed and more than 150 others injured in the attack. Also in July 2008, People's Defence Forces (HPG — the military wing of the PKK) militants kidnapped three German mountain climbers in retaliation for Berlin's decision to further circumscribe the organisation's broadcasting activities in Germany. The hostages were released 12 days after being kidnapped.

Abdullah Ocalan, currently serving life imprisonment in Turkey, is still considered the leader and figure-head of the PKK. In practice, the PKK's day-to-day affairs are run by Murat Karayilan. Although the organisation has undergone numerous name changes, there is a continuity of key leaders, including Ocalan and Karayilan, but also Cemil Bayik, Duran Kalkan, Fehman Huseyin and Riza Altun.

The PKK has experienced a number of internal power struggles since Ocalan's arrest in 1999. Karayilan has emerged as the organisation's dominant figure, but manoeuvring within the PKK continues. Karayilan and leader of the HPG, Fehman Huseyin, have reportedly been engaged in a long-standing rivalry.

The precise strength of the PKK is not known. In late 2007, Karayilan claimed to command as many as 10,000 militants. The Turkish military was more circumspect, reporting in November that year that the PKK numbered around 7,000 active militants. However, it is widely believed the group numbers approximately four to five thousand militants, the majority of whom are based in northern Iraq.

Terrorist activity of the organisation

The PKK's objectives have changed over time. Initially the group aimed to establish a separate Kurdish nation from the large Kurdish populations in Turkey, Syria, Iraq and Iran. The organisation now calls for autonomy for Kurds within Turkey and seeks to promote and advance the rights of Kurds living in Turkey, specifically the right to maintain ethnic identity.

The PKK has consistently demonstrated a willingness to use violence in order to achieve these objectives.

The PKK focuses its attacks on Turkish official and especially security force targets in southeastern Turkey. The group also has a significant presence in western and southern Turkey, with recent car bombings of police and military targets in the coastal cities of Mersin and Izmir perhaps suggesting a renewed focus in response to Turkish military successes in northern Iraq.

The PKK has also conducted attacks against both Turkish and Kurdish civilians — the latter for allegedly 'collaborating' with Turkish security forces. Since 2004, the group has used proxies, especially the TAK, to bomb areas frequented by foreign tourists. At various times, the group has also kidnapped foreigners.

The PKK employs a wide variety of attack methodologies. During the early years of its insurgency, the group mostly conducted direct armed attacks on Turkish military posts in the country's south-east. However, after the Turkish military regained control of these territories by employing more sophisticated weapons technology — especially Cobra attack helicopters, which were used in 'hot pursuit' operations — the PKK increasingly concentrated on attacks using mines, snipers and long-range strafing of military outposts.

Improvised explosive devices (IEDs) quickly became the PKK's weapon of choice — mainly because IEDs improved the group's capability against the numerical superiority of the Turkish military. The PKK, while making extensive use of small IEDs in attacks on Turkish civilian and military targets, also developed more sophisticated devices — including car bombs (VBIEDs). On 11 September 2007, in Ankara, Turkish police discovered a vehicle loaded with approximately 600 kilograms of explosive material. This was followed by the PKK conducting a number of successful car bombings throughout 2008.

Suicide bombings have also featured prominently in the PKK's attack repertoire. Beginning in 1996, as the Turkish military was regaining control of south-eastern Turkey, the PKK conducted more than 20 suicide bombings up to 1999. During these years, the group made extensive use of female suicide bombers, mainly because of their ability to conceal large amounts of explosives under the guise of pregnancy. Although Ocalan's call for a ceasefire in 1999 effectively ended this campaign, the practice has re-emerged in recent years with PKK suicide bombings against Turkish civilian and security force targets in Ankara, Mersin and Tunceli during 2007 and 2008.

The PKK acquires the overwhelming bulk of its money from drug trafficking, which some commentators have claimed garnered as much as 500 million Euros (800 million US dollars) for the organisation in 2008. At different times, the PKK has reportedly controlled up to 80 per cent of the European illicit drug market. In June 2008, in recognition of its involvement in these activities, the US State Department added the PKK to its list of major international drug-dealers under the Foreign Narcotics Kingpin Designation Act.

Other criminal activities that contribute to the PKK's finances include human trafficking, money laundering and prostitution rackets. Revenue is also raised by collecting 'taxes' — through voluntary means or coercion — from Kurdish diaspora communities around the world. In 2007, the group reportedly raised approximately 12 to 15 million dollars in Europe alone through commercial activities (including semi-legitimate activities) and donations. Sales of publications, grants, aid campaigns and revenues obtained from 'special nights' organised by PKK branches in Europe also contribute to the group's coffers.

The PKK conducts attacks against a range of Turkish security force, civilian and foreign targets. Significant recent attacks or attack planning for which responsibility has been claimed by, or reliably attributed to, the PKK include:

- *13 September 2006: A mobile phone-triggered IED exploded at a bus stop in the Baglar region of Diyarbakir city. Eleven people were killed, including five children, and 13 injured;
- *12 May 2007: One civilian was killed and around 18 others injured when a bicycle bomb exploded in a market place in Izmir;
- * 22 May 2007: A suicide bombing near a market centre in Ankara killed 10 people and injured around another 100;
- * 10 June 2007; A small IED exploded outside a clothing shop in Istanbul, injuring at least 14 people;
- *23 June 2007: Two PKK militants rammed an oil-filled truck into a police station in the province of Tunceli. Only the militants in the truck were reported to have been killed in the attack, which appears to have been a suicide mission;
- *29 September 2007: A group of PKK militants ordered 12 people, including 'village guards' and civilians, off a bus in Sirnak province and shot and killed all 12;
- * 2 October 2007: Two people were injured when a bomb exploded outside a shopping centre in Izmir, Turkey's third-largest city and popular 'capital' of its Aegean region. About three hours later, a larger bomb hidden in the saddle of a stolen motorbike exploded near the same shopping centre, killing one person and injuring two others;
- *7 October 2007: A bomb left in a garbage bin in Istanbul was detonated by remote control as a police officer passed by, injuring five people but none of them seriously;

- *10 October 2007: A policeman was killed and six others injured when a grenade was thrown at a police vehicle in Diyarbakir;
- *25 December 2007: An explosion near a police station in a residential area of Istanbul killed one person and injured six others;
- *3 January 2008: a car bombing in Diyarbakir targeting a military bus as it passed a school killed at least six people and injured 68 others;
- *9 May 2008: In the south-eastern province of Batman, three people were killed and five wounded, when the bus they were traveling in was destroyed by a landmine detonated by PKK guerrillas;
- *8 July 2008: The PKK took as hostages three German tourists who were on a climbing trip on Mount Ararat, in eastern Turkey. The hostages, who were taken to protest Berlin's crackdown on the group's fund-raising activities in Germany, were released unharmed on 20 July 2008;
- *19 July 2008: A group of PKK militants killed four people and wounded seven others in Bingol, a province in central-eastern Turkey;
- *27 July 2008: The PKK, though denying involvement, carried out a twin bombing in a residential neighbourhood in Istanbul that killed 27 Turkish civilians, including five children, and wounded more than 150;
- *19 August 2008: Mersin police stopped a car being driven by a suspected PKK suicide bomber, who then detonated the device, killing himself and injuring twelve police officers;
- *21 August 2008: In Izmir, a car bomb planted by the PKK was employed against a minibus carrying approximately 40 police officers and soldiers. Seven policemen, three soldiers and six civilians were injured;
- *11 October 2008: Turkish police arrested a female member of the PKK who was planning a suicide attack on an unspecified target in Istanbul. She was feigning pregnancy in order to conceal 8.8 kilograms of explosives on her body;
- *23 December 2008: Turkish security forces discovered a car in Diyarbakir loaded with 57 kilograms of explosives, an RPG7 rocket launcher, 50 rocket grenades, 70 hand grenades and ammunition; and
- *20 March 2009: Police arrested three PKK militants in Istanbul. Explosives, a firearm, two hand grenades and three pistols were seized in the raid, but the target of the alleged attack was unknown.

As demonstrated, the PKK is directly preparing, planning, assisting in or fostering the doing of terrorist acts. It is considered that the acts attributable to the PKK are terrorist acts as they:

- (iv) are done with the intention of advancing a political cause, namely, promoting and advancing the rights of Kurds living in Turkey;
- (v) are intended to coerce or influence by intimidation the government of a foreign country, namely Turkey, and/or intimidate sections of the public; and
- (vi) constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

Other relevant information

The PKK is listed as a proscribed terrorist organisation by many governments, including the UK and Canada. The organisation is proscribed by the US government under the name of Kongra Gel. The PKK is listed by the European Union for the purposes of its anti-terrorism measures.



Appendix F - Statement of Reasons – Lashkar-e-Tayyiba (LeT)

Lashkar-e-Tayyiba

(Also known as: al Mansooreen, al Mansoorian, Army of Medina, Army of the Pure, Army of the Pure and Righteous, Army of the Righteous, Idara Khidmat-e-Khalq, Jama'at al-Dawa, Jama'at-i-Dawat, Jamaati-ud-Dawa, Jamaat ud-Daawa, Jama'at-ud-Da'awa, Jama'at-ud-Da'awah, Jamaat-ud-Dawa, Jama'at ul-Da'awa, Jamaat-ul-Dawa, Jamaat ul-Dawah, Jamaiat-ud-Dawa, JuD, JUD, Lashkar-e-Taiba, Lashkar-e-Tayyaba, Lashkar-e-Toiba, Lashkar-i-Tayyaba, Lashkar-i-Toiba, Lashkar-Tayyiba, LeT, LT, Paasban-e-Ahle-Hadis, Paasban-e-Kashmir, Paasban-i-Ahle-Hadith, Party of the Calling, Party of the Preachers, Pasban-e-Ahle-Hadith, Pasban-e-Kashmir, Soldiers of the Pure, Tehreek-e-Tahafuz Qibla Awal)

The following information is based on publicly available details about Lashkar-e-Tayyiba (LeT). These details are accurate and reliable and have been corroborated by classified information.

Basis for listing a terrorist organisation

Division 102 of the *Criminal Code* provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied on reasonable grounds that the organisation:

(e) is directly or indirectly engaged in, preparing, planning, or assisting in or fostering the doing of a terrorist act (whether or not a terrorist act has occurred or will occur); or

(f) advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).

Details of the organisation

LeT is a Sunni Islamic extremist organisation based in Pakistan. LeT was formed circa 1989 as the military wing of the Pakistan-based Islamic fundamentalist movement Markaz al-Dawa wal Irshad (MDI - Centre for Religious Learning and Propagation; also known as the Jamaat al-Daawa). Originally formed to wage militant jihad against the Soviet occupation of Afghanistan, LeT shifted its focus to the insurgency in Indian-administered Kashmir (IAK) in the 1990s, after Soviet troops withdrew from Afghanistan.

LeT is one of the most active of the Pakistan-based Kashmiri militant groups. LeT has directly engaged in, prepared and planned numerous terrorist attacks, including bombings, assassinations and kidnappings against Indian security forces (military and police), government, transport and civilians in the disputed territory as well as in India. The group is also credited with introducing the use of suicide squads to the conflict in IAK.

In 2002, LeT was banned by the Pakistan government but the group continues to operate in Pakistan under the alias Jamaat ud-Dawa (JuD). Ostensibly created as a charitable organisation by LeT founder Hafiz Muhammad Saeed immediately prior to LeT being banned, JuD functions as a front organisation for LeT in order to mask its activities and to continue to solicit funds. The UN Security Council listed JuD as an LeT alias on 10 December 2008.

LeT subscribes to an extreme Salafist interpretation of Islam which is closely related to the Wahhabi form of Islam associated with al-Qa'ida and the Taliban. LeT receives funding from donors in the Middle-East, mainly Saudi Arabia, and through charitable donations collected from sympathisers in Pakistan, Kashmir, the United Kingdom and Persian Gulf states.

LeT maintains links to the Taliban and al-Qa'ida, and to several Pakistani Islamic extremist groups, including the Kashmir focused terrorist group Jaish-e-Mohammed (JeM), and the Sunni sectarian group Lashkar-e-Jhangvi (LeJ). LeT is reported to have been involved with militant Islamists in other places where conflict including Muslims have arisen; including Bosnia, Chechnya, Kosovo, and Afghanistan. In 2004, several LeT operatives were also captured by British forces in Iraq.

Indian and Pakistani initiatives to resolve the Kashmir situation have led to an overall reduction in the level of infiltration and insurgent activity since 2002. However, LeT continues to engage militarily with Indian security forces on a regular basis. Several recent attacks in IAK have been attributed to the group by Indian authorities, including the massacre of over thirty Hindus in two separate attacks in the Doda and Udhampur districts on 1 May 2006. The attacks occurred two days prior to peace talks between the Indian government and Kashmiri separatist groups, and were condemned by India as an attempt by LeT to sabotage the Kashmir peace process. At least 19 LeT insurgents and 10 Indian soldiers died during running clashes in Kupwara district in March-April 2009. Smaller scale engagements occur on a regular basis.

LeT is also widely held to have directly engaged in a number of significant attacks in India in recent years. In November 2008, LeT members killed more than 170 people, including two Australians, in an attack on the Indian financial hub, Mumbai. Further attacks include the 11 July 2006 serial bombings on trains in Mumbai, and the 29 October 2005 serial explosions at marketplaces in New Delhi, which killed more than 240 people. While two little known groups claimed responsibility for each of the Mumbai and New Delhi attacks, subsequent investigations have led Indian authorities to conclude LeT was behind both attacks.

While IAK and Indian interests remain LeT's primary focus, some elements within LeT may want to re-focus their activities and bring them more into line with Usama bin Laden's 'global jihad' against the US and Israel, and their allies. However, its primary objective remains the 'liberation' of Muslims in IAK. In October 2006, LeT issued a fatwa asking the Muslim community to kill Pope Benedict XVI, in response to a speech delivered by the Pope on 12 September 2006.

LeT operates a number of camps in Pakistan, which provide both religious instruction and military-style guerrilla training and support. Since proscribing LeT as a terrorist organisation in 2002, the Pakistani authorities have acted to close some LeT and JuD camps. Some LeT training facilities are now smaller in scale, some of which are mobile, and focused on preparing jihadists for low-intensity, hit-and-run type operations, or suicide attacks.

Reporting also indicates LeT has trained foreigners possibly intending to conduct terrorist operations in their countries of origin. British citizens trained by LeT include Richard Reid, who tried to blow up a trans-Atlantic flight in 2001, and Dhiren Barot, who was convicted in 2006 of planning a bombing in London. Investigations indicate one of the British-born suicide bombers responsible for the 7 July 2005 attacks in London, Shehzad Tanweer, may have received training at a LeT camp in Pakistan. LeT is also suspected of providing some funding and logistical support to the disrupted British trans-Atlantic plane bombing plot in August 2006 using JuD as a cover.

Several individuals with links to LeT have been arrested in Australia, the US, and Canada since 2003 for allegedly planning terrorist activities. In March 2007, a French court convicted French national, Willie Brigitte, for planning terrorist attacks in Australia in 2003 in conjunction with suspected LeT chief for overseas operations, Sajid Mir. An Australian associate was also convicted of planning acts of terrorism by the New South Wales Supreme Court jury in June 2006; this case has not since been overturned. Australian citizen David Hicks has admitted to attending an LeT training camp in Kashmir in around 2000. Aside from facilitating training, it is not clear whether LeT sanctioned the terrorist activities of any of these foreign-born individuals.

The recognised leader of LeT, Hafiz Muhammad Said (variant of name, spelt Saeed in most reporting), was arrested in February 2006 for leading violent protests in response to the Danish cartoon controversy, and again in August 2006 in the wake of the disrupted British airliner bombing plot. He has been detained and subsequently released by Pakistani authorities on several occasions; he has been put under house arrest again in December 2008. In December 2008, then US Secretary of State, Condoleezza Rice, identified Hafiz

Muhammad Said as responsible for the Mumbai attacks during her visit to Pakistan following the incident. Rice sought Pakistan's support to apprehend Said in relation to his and LeT's links to the attacks. On 10 December 2008, the United Nations Security Council 1267 Committee approved the addition of Hafiz Muhammad Said to its consolidated list of individuals and entities subject to asset freeze, travel ban and arms embargo measures.

LeT's estimated strength is reported to include several hundred trained militants. The majority of LeT's membership consists of jihadists from Pakistan and Afghanistan.

Terrorist activity of the organisation

LeT is a group that uses violence in pursuit of its stated objective of uniting IAK with Pakistan under a radical interpretation of Islamic law. LeT's broader objectives include the establishment of a Islamic Caliphate across the Indian subcontinent, and reclaiming all 'occupied Muslim lands' in southern Spain and the Balkans. To this end, LeT intend to pursue the 'liberation,' not only of the Muslim-majority Kashmir, but of all India's Muslim population, even in areas where they do not form a majority. LeT has declared democracy to be antithetical to Islamic law and that LeT's jihad requires it to work toward turning Pakistan into a purely Islamic state.

The LeT has directly engaged in a number of terrorist attacks, including suicide attacks, bombings, kidnappings, and assassinations.

LeT conducts attacks in IAK on a regular basis, primarily targeting Indian security forces but also non-Muslim civilians. Other significant attacks, for which responsibility has been claimed by, or reliably attributed to, the LeT, include:

- * October 2005: Coordinated bomb attacks at marketplaces and on a bus in New Delhi, killing over 60 persons;
- * November 2005: Car bomb attack near the main entrance of the J&K Bank Corporate Headquarters in Srinagar which killed four civilians and injured 72;
- * May 2006: Killing of Hindu civilians in Doda and Udhampur districts, Jammu & Kashmir, killing 34 civilians;
- * May 2006: Attack on a Youth Congress rally at Sher-e-Kashmir Park in Srinagar, killing three political activists and two police officers;
- * June 2006: Joint responsibility with Hizb-ul-Mujahideen (HM) for the kidnap and killing of seven Nepalese civilian and one Indian civilian in Kulgam, Jammu & Kashmir;
- * July 2006: Serial bombings on trains in Mumbai, killing more than 200 persons;
- * February 2007: Attack on a Central Reserve Police Forces (CRPF) patrol party, killing two CRPF officers;

* September 2008: A number of LeT militants crossed into India during an engagement with Indian border forces along the Line of Control in the Poonch district. Several militants and border troopers were killed; and

*November 2008: LeT members conducted an attack on the Indian financial hub, Mumbai. More than 170 people were killed in this attack, including two Australians. The attack was aimed at important infrastructure and public places. The attackers used sophisticated insertion techniques and conducted their coordinated attack with small arms and explosives.

As demonstrated, LeT is directly preparing, planning, assisting in or fostering the doing of terrorist acts. The acts attributable to LeT are terrorist acts as they:

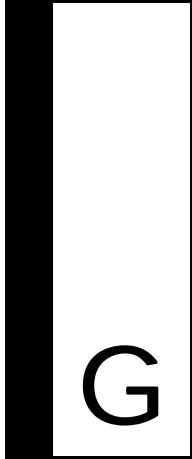
(vii) are done with the intention of advancing a political cause, namely, 'liberating' Muslims in Indian-administered Kashmir and the establishment of an Islamic Caliphate across the Indian subcontinent.

(viii) are intended to coerce or influence by intimidation the government of a foreign country, namely India, and/or intimidate a section of the Indian public; and

(ix) constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

Other relevant information

The LeT is listed in the United Nations 1267 Committee's consolidated list and as a proscribed terrorist organisation by the governments of Canada, the United Kingdom, the United States, Pakistan and India.



Appendix G - Statement of Reasons – Palestinian Islamic Jihad (PIJ)

Palestinian Islamic Jihad
(Also known as: al-Quds Brigades, Harakat al-Jihad al-Islami fi Filistin,
Islamic Jihad, Islamic Jihad Palestine (UP), Islamic Jihad - Palestine Faction and
Islamic Holy War, PIJ)

The following information is based on publicly available details about the Palestinian Islamic Jihad (PIJ). These details are accurate and reliable and have been corroborated by classified information.

Basis for listing a terrorist organisation

Division 102 of the *Criminal Code* provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied on reasonable grounds that the organisation:

(g) is directly or indirectly engaged in, preparing, planning, or assisting in or fostering the doing of a terrorist act (whether or not a terrorist act has occurred or will occur); or

(h) advocates the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).

Details of the organisation

The PIJ is a Sunni fundamentalist group founded in 1979-80 in Egypt by Palestinian members of the Muslim Brotherhood movement. Inspired by the Iranian revolution and disillusioned with the actions of existing Palestinian nationalist movements, the PIJ rejected the Muslim Brotherhood's non-violent position. It has pursued a strategy of conducting terrorist attacks primarily by firing rockets into Israel from the Palestinian Territories and also using suicide bombers. The al-Quds Brigade is the military wing of the PIJ and is responsible for all its terrorist attacks. The PIJ has grown to become one of the main Palestinian Islamic extremist movements.

In August 1988, Israel expelled two senior leaders of the PIJ at that time, Fathi Shaqaqi and Abd al-Aziz Odah, to Lebanon where Shaqaqi reorganised the group, developing closer ties with Iranian Islamic Revolutionary Guard Corps elements and Lebanese Hizballah. In 1989 the PIJ moved its headquarters to Damascus although it continues to maintain a presence in Lebanon. From this time, the PIJ increasingly used terrorist actions, including suicide bombings and shootings, to promote its cause. Suicide bombings, including explosive belts and car bombs, continue to be a favoured method of attack. In recent years PIJ's primary attack weapon has been firing rockets into Israel from the Gaza Strip. In March 2008, PIJ claimed responsibility for firing 216 rockets into Israel.

The PIJ sees itself as a radical military organisation. The PIJ refused to give a formal commitment to a Palestinian unilateral ceasefire in 2005 and has previously conducted terrorist attacks to derail peace processes. While it has no ostensible political role, the PIJ is politically astute. Since Hamas' victory in the Palestinian Legislative Council election in January 2006, the PIJ has issued statements condemning political compromises made by Hamas and Fatah towards Israel. The PIJ supported Hamas' victory, but rejected any notion of participating in government itself.

Despite sectarian differences, the PIJ is allied to and receives significant support from Hizballah. The PIJ maintains affiliations with groups such as Hamas, and has carried out joint attacks with other militant groups such as Hamas and the al-Aqsa Martyrs Brigades. The PIJ has confined its activities to the Middle East and has not deliberately targeted Western interests. The PIJ's attacks are generally indiscriminate in nature, seeking to maximise casualties.

Funding for the PIJ is primarily from Iran and Syria. Syria permits the location of the PIJ headquarters in Damascus. The relationship between PIJ and Iran has been publicly acknowledged by PIJ leaders.

Israeli military action against the PIJ over the past decade has impacted adversely on the capabilities of all Palestinian militant groups, including the PIJ, albeit often with only local and short-term effect. Nonetheless, the PIJ remains directly engaged in preparing, planning and carrying out terrorist acts. This includes suicide bombings and rocket attacks in 2007, 2008 and 2009. As recently as December 2008, a member of PIJ's al-Quds Brigades threatened to carry out suicide attacks inside Israel. The PIJ's attacks and statements indicate its arsenal includes improvised explosive devices (IEDs); rockets; firearms and rocket propelled grenades. Taken together, the PIJ continues to have the capability (including access to the necessary resources) and intent to conduct further terrorist attacks.

The PIJ is led by Dr Ramadan Muhammad Abdullah Shalah, who became Secretary-General after the October 1995 assassination of former leader Fathi Shaqaqi in Malta. Ziyad al-Nakhalah (aka Abu Tariq) is the PIJ deputy Secretary-General.

The precise number of PIJ members is unknown, however the group's membership base is relatively small, with reports estimating the al-Quds Brigades membership at anything from approximately 50 to 1000. The PIJ's main membership base is in the West Bank, Gaza and South Lebanon.

The al-Quds Brigades is the operational arm of the PIJ and is often credited for conducting PIJ terrorist operations. The PIJ maintains liaison offices in Damascus, Lebanon and Tehran. Many of the PIJ leaders are also members of its Shura Council.

Terrorist activity of the organisation

The objectives of the PIJ are the establishment of an Islamic Palestinian state and the destruction of the state of Israel.

Recent terrorist attacks for which responsibility has been claimed by or reliably attributed to the PIJ include:

*August 2007 - Two homemade rockets are fired from the Gaza strip into southern Israel;

*September 2007 - A rocket attack claimed by the Popular Resistance Committees military wing and the al-Quds Brigades injures fifty Israeli soldiers at an Israeli military base in the western Negev desert;

*September 2007 - Al-Aqsa Martyrs Brigades and al-Quds Brigades launch rockets at an Israeli Intelligence building causing damage;

*November 2007 - Two Quds rockets are fired at Sederot;

*December 2007 - Al-Quds Brigades fire an RPG at an Israeli jeep east of the town of al-Qararah;

*December 2007 - Al-Quds Brigades fire thirteen Quds rockets at Sederot;

*January 2008 - Al-Quds Brigades fire two rockets at Sederot;

*February 2008 - PIJ claims responsibility for a suicide bombing in the Israeli city of Dimona which killed one and injured eleven;

*March 2008 -PIJ claims that throughout March they fired 216 rockets and mortar shells, attacked Israeli military vehicles in the Gaza Strip, fired six RPG rockets and detonated roadside bombs;

*April 2008 - Two Israelis are killed and two more injured in an attack claimed by PIJ and al-Aqsa Martyrs Brigades;

*May 2008 - One Israeli woman is killed in a Qassam rocket attack claimed by PIJ and Hamas;

*May 2008 - Over three separate days Al-Quds Brigades fire a total of seven rockets at Sederot and detonate an explosive device next to an Israeli jeep near Juhr al-Dik;

*May 2008 - PIJ claim responsibility for a suicide attack which only kills the attacker;

*November 2008 - Al-Quds Brigades fire two Aqsa rockets at the Magen post, two Quds rockets at Sederot and one Quds rocket east of Khan Yunis;

*December 2008 - Al-Quds Brigades fire one Quds rocket at Sederot and two mortar shells at Kissufim;

*December 2008 - Al-Quds Brigades rocket attack kills one at Nahal Oz kibbutz;

*January 2009 - PIJ claim responsibility for firing twelve rockets at Sederot, Ashqelon, Kefar Aza and Be'eri; and

*February 2009 - PIJ and one of the Popular Resistance Committee factions claim responsibility for firing rockets and mortars into Israel, the first attacks since the ceasefire was declared.

As demonstrated, PIJ is directly preparing, planning, assisting in or fostering the doing of terrorist acts. PIJ's military wing, al-Quds Brigade, carries out the terrorist attacks on behalf of PIJ. It is considered that the acts attributable to the PIJ are terrorist acts as they:

(x) are done with the intention of advancing a political cause, namely, the establishment of an Islamic Palestinian state and the destruction of the state of Israel;

(xi) are intended to coerce or influence by intimidation the governments of foreign countries, including Israel, and/or intimidate sections of the public; and

(xii) constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

Other relevant information

The PIJ is listed as a proscribed terrorist organisation by the governments of the United Kingdom, United States and Canada. The PIJ is also listed by the European Union for the purposes of its anti-terrorism financing measures.

