

Appendix A - Reference from the
Attorney-General and Statements of
Reasons



ATTORNEY-GENERAL
THE HON PHILIP RUDDOCK MP



07/11689

The Hon David Jull MP
Chair
Parliamentary Joint Committee on Intelligence and Security
Parliament House
CANBERRA ACT 2600

31 AUG 2007

Dear Mr Jull

I am writing to advise you that I have decided to re-list the Palestinian Islamic Jihad (PIJ), Lashkar-e-Tayibba (LeT) and the Hamas' Izz al-Din al-Qassam Brigades (Hamas Brigades) as terrorist organisations for the purposes of section 102.1 of the *Criminal Code Act 1995* (the Criminal Code).

The PIJ, LeT and the Hamas Brigades were last re-listed as terrorist organisations by the *Criminal Code Amendment Regulations 2005 (No. 13)*, with effect from 7 October 2005. Under subsection 102.1(3) of the Criminal Code these regulations will cease to have effect on 7 October 2007.

I am satisfied on reasonable grounds that the PIJ, LeT and the Hamas Brigades are organisations that are directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not a terrorist act has occurred or will occur).

The re-listing of the PIJ, LeT and the Hamas Brigades will ensure that the offence provisions under Division 102 of the Criminal Code will apply.

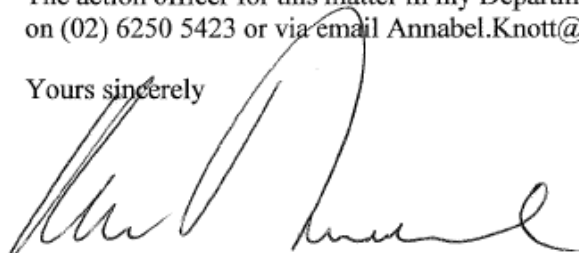
My decision to re-list the PIJ, LeT and the Hamas Brigades was made following careful consideration of unclassified intelligence information provided by the Australian Security Intelligence Organisation (ASIO) in consultation with the Department of Foreign Affairs and Trade, in relation to these organisations, as well as legal advice provided to me by the Australian Government Solicitor.

Section 102.1A of the Criminal Code provides that the Parliamentary Joint Committee on Intelligence and Security may review the regulations as soon as possible after it has been made, and report the Committee's comments and recommendations to each House of the Parliament before the end of the applicable disallowance period for that House.

To assist the Committee, should it decide to review the regulations, I enclose a copy of the Statement of Reasons provided by ASIO, in relation to the PIJ, LeT and the Hamas Brigades upon which my decision to re-list these organisations was based. Additional information detailing the procedure followed for the purposes of re-listing the PIJ, LeT and the Hamas Brigades will be provided to you upon the registration of the regulations.

The action officer for this matter in my Department is Annabel Knott who can be contacted on (02) 6250 5423 or via email Annabel.Knott@ag.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Ruddock', written in a cursive style.

Philip Ruddock

Palestinian Islamic Jihad (PIJ)

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

The following information is based on publicly available details about the Palestinian Islamic Jihad (PIJ). These details have been corroborated by material from intelligence investigations into the activities of the PIJ and by official reporting. ASIO assesses that the details set out below are accurate and reliable.

The Palestinian Islamic Jihad (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.

Current status of the PIJ

The PIJ was founded in 1979-80 in Egypt by Palestinian members of the Muslim Brotherhood. 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 and it has grown to become one of the main Palestinian Islamic extremist movements.

In August 1988, Israel expelled two primary 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 Revolutionary Guard Corps elements and Lebanese Hizballah. From this time, the PIJ increasingly used terrorist actions, including suicide bombings, to promote its cause. Suicide bombings, including explosive belts and car bombs, continue to be the PIJ's favoured method of attack; however, the PIJ is also responsible for shooting attacks.

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, including as recently as May 2007, when the al-Quds Brigades, PIJ's operational arm, and a Fatah-affiliated group carried out a joint shooting attack against Israeli soldiers in the Gaza Strip.

The PIJ has confined its activities to the Middle East. It has not deliberately targeted Western interests, although it has previously threatened to target the US Embassy and its personnel if it moves from Tel Aviv to Jerusalem. 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 six to seven years 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 active and has claimed responsibility for suicide bombings and rocket attacks in 2006 and 2007. In April 2007, a member of the PIJ leadership stated the group continuously makes plans to carry out 'martyrdom operations'. 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.

Objectives

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

Leadership and Membership

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 PIJ has a small membership base of approximately 50-200. The PIJ's main membership base is in the West Bank (particularly Hebron and Jenin), 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, which serves to give advice to group members on all matters.

PIJ engagement in terrorist activities

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

- July 2005: Gunmen opened fire on a vehicle travelling on the main road connecting the Gaza Strip settlements to Israel, killing two people and wounding four others;
- October 2005: Suicide bombing in Hadera, Israel, killing five and injuring 30;
- December 2005: Suicide bombing outside a shopping mall in Netanya, Israel, killing five and injuring at least 40;
- March 2006: A shooting in the West Bank town of Nablus, killing one person - reportedly in retaliation for the death of a PIJ commander in a missile strike against his car in the Gaza Strip;
- March 2006: A rocket fired from the Gaza Strip, killing two people;
- April 2006: Suicide bombing in Tel Aviv killing at least seven people and injuring around 40 others;
- May 2006: A Grad rocket fired from Gaza at the Nativ Ha'asharan settlement in the Negev desert;
- June 2006: Five homemade rockets launched at the southern Israeli city of Sederot. There were no casualties;

- October 2006: A homemade shell was fired on Sederot. There were no reports of any casualties;
- October 2006: A homemade medium-range rocket landed near Ashkelon, Israel, causing only slight damage;
- November 2006: Five homemade rockets were fired at the Israeli settlements of Mivtahim, Ofaqim and Kibbutz Magen;
- January 2007: A suicide bombing in Eilat, killing three people;
- May 2007: A joint shooting against Israeli soldiers with a Fatah-affiliated group near al-Qaraya al-Badiawiya, in the Gaza Strip;
- June 2007: A homemade projectile was fired at Sederot, wounding three people; and
- June 2007: An improvised explosive device was detonated against an Israeli patrol in Nablus, in the West Bank.

Conclusion

The Criminal Code provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied that:

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

On the basis of the above information, ASIO assesses the PIJ is directly engaged in preparing, planning, assisting in or fostering the doing of terrorist acts. It is considered that the acts attributable to the PIJ are terrorist acts as they:

- i. 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;
- ii. are intended to coerce or influence by intimidation the governments of foreign countries, including Israel, and/or intimidate sections of the public; and
- iii. constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

This assessment is corroborated by information provided by reliable and credible intelligence sources.

Lashkar-e-Tayyiba (LeT/LT)

Also known as: Lashkar-e-Taiba, Lashkar-e-Toiba, Lashkar-i-Toiba, Lashkar-Tayyiba, Lashkar-i-Tayyaba, Lashkar-e-Tayyaba, the Army of the Righteous, Army of the Pure, Army of the Pure and Righteous, Soldiers of the Pure, Army of Medina, Jama'at ul-Da'awa, JuD, Jamaat-ud-Dawa, JUD, Jama'at al-Dawa, Jamaat ud-Daawa, Jamaat ul-Dawah, Jamaat-ul-Dawa, Jama'at-i-Dawat, Jama'iat-ud-Dawa, Jama'at-ud- Da'awah, Jama'at-ud-Da'awa, Jamaati-ud-Dawa, and Idara Khidmat-e-Khalq, the Party of Preachers, Party of the Calling, al Mansoorian, al Mansoorcen, Paasban-e-Kashmir, Paasban-i-Ahle- Hadith, Pasban-e-Kashmir, Pasban-e-Ahle-Hadith, Paasban-e-Ahle-Hadis.

The following information is based on publicly available details about Lashkar-e-Tayyiba (LeT). These details have been corroborated by material from intelligence investigations into the activities of the LeT. ASIO assesses that the details set out below are accurate and reliable.

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.

Current status of Lashkar-e-Tayyiba

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) when Soviet troops withdrew from Afghanistan in the early 1990s. LeT is one of the largest and most brutal of the Pakistan-based militant groups active in Kashmir. LeT has conducted numerous attacks, including bombings, assassinations and kidnappings against Indian security forces (military and police), government, transport and civilians in IAK, 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 is an LeT front organisation, masking its activities and soliciting its funds.

LeT subscribes to a Salafist interpretation of Islam which has similarities 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 domestic Islamic extremist groups, including the Kashmir focused terrorist group, Jaish-e-Mohammed (JeM), and the sectarian group Lashkar-e Jhangvi (LeJ). LeT is reported to have been involved with mujahideen in other places where Islamist conflicts have arisen including Bosnia, Chechnya and Kosovo. LeT has also participated in the post-Taliban insurgency in Afghanistan. In 2004, several LeT operatives were captured by British forces in Iraq.

Indian and Pakistani initiatives to resolve the conflict in Kashmir have led to an overall reduction in the level of LeT infiltration and insurgent activity since 2002. However, LeT continues its attacks against Indian civilians and security forces. While LeT does not claim responsibility for its attacks on civilians, 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. LeT is also widely held to have been responsible for a number of significant attacks in India in recent years, including the 29 October 2005 serial explosions at marketplaces in New Delhi, and the 11 July 2006 serial bombings on trains in Mumbai, which killed more than 240 people in total. While two little known groups claimed responsibility for each of the Mumbai and New Delhi attacks, subsequent investigations have led Indian authorities to conclude that LeT was behind both attacks.

While IAK and Indian interests remain LeT's primary focus, some elements within LeT 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. As members of a previously unknown group "Jundallah," LeT trained members were among a number of militants drawn from several Pakistani extremist groups responsible for the twin car-bomb attack near the US Consulate in Karachi on 26 May 2004. On 9 June 2004, the same terrorist cell was involved in a terrorist attack against a heavily-armed military convoy carrying Karachi's military commander resulting in seven deaths. In October 2006, LeT issued its own 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 being proscribed as a terrorist organisation by the Pakistan government in 2002, some LeT training facilities are now smaller in scale, some of which are mobile, and focused on preparing jihadists for either low intensity, hit and run type operations or suicide attacks.

Reporting indicates LeT may also be helping to facilitate training of foreigners who are possibly intending to conduct terrorism related activities in their countries of origin. 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, of planning terrorist attacks in Australia in 2003 in conjunction with suspected LeT Chief for overseas operations, Sajid Mir. In June 2006, Brigitte's associate in Sydney, Faheem Khalid Lodhi, was convicted by a New South Wales Supreme Court jury of planning acts of terrorism (Mr Lodhi has appealed against his conviction). Aside from facilitating training, it is not clear whether the terrorist activities of any of these foreign born individuals have been sanctioned by LeT or are self-directed.

Objectives

LeT is a group that uses violence in pursuit of its stated objective to unite IAK with Pakistan under a radical interpretation of Islamic law. LeT's broader objectives include the establishment of an Islamic Caliphate across the Indian subcontinent. To this end, LeT intends to pursue the 'liberation,' not only of the Muslim-majority in Kashmir, but of all of 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.

Leadership and membership

The leader of LeT is Hafiz Muhammad Saeed (sometimes rendered Hafiz Mohd Saeed). Saeed has been detained and subsequently released, by Pakistani authorities on several occasions. He 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.

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.

Lashkar-e-Tayyiba engagement in terrorist activities

LeT conducts attacks in IAK on a monthly 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:

- November 2005: Car bomb attack near the main entrance of the J&K Bank Corporate Headquarters in Srinigar which killed four civilians and injured 72;
- October 2005: Coordinated bomb attacks at marketplaces and on a bus in New Delhi, killing over 60 persons;
- May 2006: Massacre 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 Srinigar, 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 civilians and one Indian civilian in Kulgam, Jammu & Kashmir;
- July 2006: Serial bombings on trains in Mumbai, killing more than 200 persons; and
- February 2007: Attack on a Central Reserve Police Forces (CRPF) patrol party, killing two CRPF officers.

Conclusion

The Criminal Code provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied that:

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

On the basis of the above information, ASIO assesses that LeT is directly preparing, planning, assisting in or fostering the doing of terrorist acts. It is submitted that the acts attributable to LeT are terrorist acts as they:

- (i) 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.
- (ii) 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
- (iii) constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

This assessment is corroborated by information provided by reliable and credible intelligence sources.

Hamas' Izz al-Din al-Qassam Brigades

(Also known as Ezzedeem Al-Qassam Brigades)

The following information is based on publicly available details about Hamas' Izz al-Din al-Qassam Brigades. These details have been corroborated by material from intelligence investigations into the activities of the Brigades. ASIO assesses that the details set out below are accurate and reliable.

Hamas' Izz al-Din al-Qassam Brigades (the Brigades) has been proscribed as a terrorist organisation by the government of the United Kingdom. Hamas (including the Izz al-Din al-Qassam 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.

Current status of Hamas' Izz al-Din al-Qassam Brigades

Hamas is a radical Sunni organisation which emerged from the Palestinian branch of the Muslim Brotherhood in late 1987, shortly after the commencement of the first Intifada. The Brigades is the military wing of Hamas and its activities are distinct from the political and community activities of Hamas. The military wing emerged during the first Intifada, with the primary objective of creating a coherent military organisation to further Hamas' aims. In mid 1991, the military wing of Hamas became known as the Izz al-Din al-Qassam Brigades.

While the Brigades constitutes a 'wing' of Hamas, it operates independently and against the publicly stated aims of Hamas. Continued attacks by the Brigades during ceasefire periods in 2005 and 2006 indicate that peace initiatives announced by its parent organisation, Hamas, are not observed or binding on the Brigades. For example, on 29 June 2005, during a ceasefire period, the Brigades claimed credit for rocket attacks against the Israeli settlements of Netzer Hazani and Kissufim. On 26 November 2006, immediately following the commencement of a ceasefire, the Brigades claimed credit for launching rockets at civilian targets inside Israel.

The primary areas of operations for the Brigades are Israel and the Palestinian Territories. The Brigades operates as a network of independent cells directed by the Brigades leadership. Co-ordinating with the Palestinian Islamic Jihad (PIJ), the Brigades conducted a number of suicide bombings in the mid 1990's in an attempt to derail the Middle East peace process. The Brigades continues to conduct terrorist attacks, including joint operations with other Palestinian groups.

Funding for Hamas largely comes from Palestinian expatriates and supporters in Saudi Arabia and the Gulf Arab states. Some of the funds collected are channelled into the Brigades through specific charitable organisations located in the Palestinian Territories, which also provide support to the families of Hamas activists who have been killed. Iran provides some direct financial assistance for Hamas and it is assessed that some funding is channelled to support the operational capacity of the Brigades.

The Brigades has an ongoing intent and capability to conduct terrorist acts. Despite a decline in attacks attributed to the Brigades from late 2005 to mid 2006, the Brigades claimed the launch of hundreds of rockets, missiles and mortar shells in 2006. Attacks and statements by the Brigades indicate its arsenal also includes small arms, explosives and grenades. In April 2007, the spokesman for the Brigades warned that the group remains 'fully prepared' for action. The Brigades continues to claim responsibility for attacks.

Objectives

Hamas aims to establish an Islamic Palestinian state which would include the territory of the current state of Israel. The Brigades engages in terrorist acts in support of Hamas' political objectives.

Leadership and membership

Historically the leadership of the Brigades has been unclear. Following the assassination of Hamas leaders in 2004, the identities of leaders were hidden. However, in September 2005, the Brigades identified its leader, Mohammed Deif, and other senior and geographic commanders of the Brigades.

There is mobility of roles and activities between the civilian, military and welfare elements of Hamas and the Brigades is able to draw candidates for terrorist operations from Hamas-sponsored mosques and facilities.

Hamas' Izz al-Din al-Qassam Brigades engagement in terrorist activities

Recent terrorist attacks for which responsibility has been claimed by, or reliably attributed to the Brigades, have included:

- July 2006: Two separate rocket attacks on Ashkelon;
- October 2006: Homemade shells fired at Sederot;
- October 2006: Rocket attacks on Ashkelon;
- November 2006: Several separate rocket attacks against civilian targets inside Israel, including Sederot, Ziqim, and the Western Negev;
- May 2007: Rocket attacks against several Israeli locations including Sederot, Kefar Maymon and Nir Oz; and
- June 2007: Five mortar shells fired at Israeli military vehicles and soldiers near the Kissufim Crossing in central Gaza.

Conclusion

The Criminal Code provides that for an organisation to be listed as a terrorist organisation, the Attorney-General must be satisfied that:

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

On the basis of the above information, ASIO assesses that Hamas' Izz al-Din al-Qassam Brigades is directly preparing, planning, assisting in or fostering the doing of terrorist acts. It is submitted that the acts attributable to the Izz al-Din al-Qassam Brigades are terrorist acts as they:

- (i) are done with the intention of advancing a political cause, namely, to end Israeli occupation in Palestine and establish an Islamic state;
- (ii) are intended to coerce or influence by intimidation the government of a foreign country, namely Israel and/or intimidate a section of the public; and
- (iii) constitute acts which cause serious physical harm to persons, including death, as well as serious damage to property.

This assessment is corroborated by information provided by reliable and credible intelligence sources.

