

Executive Council of Australian Jewry Inc.

הוועד הכולל של
יהודי אוסטרליה

The Representative Organisation of Australian Jewry

Level 2, 80 William Street
Sydney NSW 2000

Address all correspondence to:
PO Box 1114, Edgecliff NSW 2027

Tel (+61 2) 8353 8500
Fax (+61 2) 9361 5888
Web: www.ecaj.org.au
E-mail info@ecaj.org.au

PRESIDENT

Jillian Segal AO

DEPUTY PRESIDENT

Robert M Goot AO, SC

HON. TREASURER

Peter Wise AM

HON. SECRETARY

Daniel Aghion

Co-CEOs

Peter Wertheim AM
Alex Rychin

VICE PRESIDENTS

Lesli Berger (NSW)
Andre Oboler (VIC)
Joan Hillman (WA)
Paul Myers (QLD)
Annetay Henderson-Sapir (SA)
Jeff Schneider (TAS)
Veronica Leydman (ACT)

IMM. PAST PRESIDENT

Anton Block

CONSTITUENTS

NSW Jewish Board of Deputies
Jewish Community Council
of Victoria Inc
Jewish Community Council of
Western Australia Inc
Queensland Jewish Board of
Deputies
Jewish Community Council
of South Australia
Hobart Hebrew Congregation
ACT Jewish Community Inc

AFFILIATES

Australasian Union of Jewish
Students
Australian Federation of WIZO
Union for Progressive Judaism
Federation of Jewish Aged
Care Services
Maccabi Australia Inc
National Council of Jewish Women
B'nai B'rith of Australia/ NZ
Jewish National Fund of Australia
Joint Distribution Committee Australia

OBSERVERS

Council of Progressive Rabbis
Federation of Australian Jewish
Ex-Service Associations
New Zealand Jewish Council
Zionist Federation of Australia
Council of Orthodox Synagogues of
Australia



24 August 2021

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House Canberra ACT 2600

Email: pjcis@aph.gov.au

Dear Sir/Madam

Re: Review of the relisting of Hamas' Izz al-Din al-Qassam Brigades as a terrorist organisation under the Criminal Code

The Executive Council of Australian Jewry (ECAJ) makes the following submission in response to the Review by the Parliamentary Joint Committee on Intelligence and Security (PJCIS) of the relisting of Hamas' Izz al-Din al-Qassam Brigades as a terrorist organisation under the *Criminal Code*. We consent to this submission being made public.

The ECAJ is the peak, elected, representative body of the Australian Jewish community. This Submission is also made on behalf of the ECAJ's Constituent and Affiliate organisations throughout Australia.

Executive Summary

The intentional use of violence against civilians to achieve political, religious and ideological objectives is embedded in the worldview, doctrine and *modus operandi* of Hamas as a whole. This ideology is translated into terrorist action, including suicide bombings, incendiary arson attacks and indiscriminate rocket attacks against Israeli cities. The declared aim is not only to bring to an end Israel as a political entity but also to drive Jews out of the entire country.

Hamas political leaders have overseen and participated directly in terrorist operations and activities. They have admitted in a variety of contexts that Hamas's military wing is subordinate to the political leadership, and that assistance from the Iranian regime, aimed at expanding Hamas's terrorist capacities, extends to the whole organisation. There is thus no justification for limiting the proscription of Hamas to its so-called "military wing". The ECAJ therefore supports the re-listing of Hamas' Izz al-Din al-Qassam Brigades as a terrorist organisation pursuant to Division 102 of the Criminal Code and further calls for the listing to be extended to Hamas in its entirety.

The ECAJ also supports the re-listing of Palestinian Islamic Jihad as a terrorist organization, and for substantially the same reasons as are set out in the Minister's Statement of Reasons in relation to that organisation.

Recommendations

We have read the letter from the Hon Karen Andrews MP, Minister for Home Affairs, to the Chair of the PJCIS and the attachments to it, which collectively comprise Submission 1 to the current Review.¹ Our submission is directed to the Explanatory Statement concerning the listing of the ‘Izz al-Din al-Qassam Brigades’ (al-Qassam Brigades) which is included in Submission 1 and, in particular, to the Statement of Reasons concerning the al-Qassam Brigades which was provided by the Department of Home Affairs and is Attachment C to that Explanatory Statement (Statement of Reasons).

We fully agree with the stated reasons for renewing the listing of the al-Qassam Brigades of Hamas as a terrorist organisation. The al-Qassam Brigades have been characterised as the so-called ‘paramilitary wing’ of Hamas.

However, we take issue with the fact that the listing has once again been limited to the al-Qassam Brigades, thereby excluding the remainder of Hamas from the listing. For the reasons stated in this submission, we believe there is no basis for treating different facets of Hamas as severable from one another in any sense.

As set out in this submission, there is considerable evidence that:

- a commitment to terrorism is inherent in the political doctrine and choice of strategy of Hamas as an organisation;
- the so-called political leadership of Hamas not only authorises and directs the organisation’s general embrace of terrorism as a strategic choice in conducting “resistance”, but also sanctions or vetoes terrorist campaigns and at times specific terrorist operations;
- certain key figures in Hamas’s political leadership have been personally involved in terrorist activities; and
- Hamas acts as a proxy for the Islamic Republic of Iran and uses terrorist methods to further the Iranian regime’s policies.

Further support for these propositions comes from statements made by Hamas leaders themselves, and from the practice of other States which have proscribed Hamas in its entirety.

We therefore recommend that the PJCIS:

- 1. support the re-listing of Hamas’ Izz al-Din al-Qassam Brigades pursuant to Division 102 of the *Criminal Code*; and**
- 2. recommend to the Minister of Home Affairs that the entirety of Hamas be listed as a terrorist organisation.**

[All links accessed as at 22 August 2021]

¹ [Minister for Home Affairs submission](#).

Terrorism is inherent in the political doctrine of Hamas

Hamas combines Palestinian nationalism with Islamic fundamentalism. It is openly committed to the destruction of Israel, to displacing the internationally-recognised Palestinian Authority as the leader of the Palestinian nationalist movement, and to raising "*the banner of Allah over every inch of Palestine*", stretching "*from the Jordan River to the Mediterranean Sea*".² Its leaders have called suicide bombings the "F-16" of the Palestinian people.³

The foundational document of Hamas, which sets out its worldview as well as its political doctrine and strategy, is the 1988 Hamas Covenant.⁴ It is replete with crudely anti-Jewish language, with an explicit eliminationist theme.

For example:

- The preamble declares "*Israel will exist and will continue to exist until Islam will obliterate it*".
- Article 7 states: "*The Day of Judgement will not come about until Moslems fight the Jews (killing the Jews), when the Jew will hide behind stones and trees. The stones and trees will say O Moslems, O Abdulla, there is a Jew behind me, come and kill him*".
- Article 13 unequivocally commits Hamas to violence: "*There is no solution for the Palestinian question except through Jihad. Initiatives, proposals and international conferences are all a waste of time and vain endeavours.*"
- Article 28 declares that Jews control "*the Freemasons, The Rotary and Lions clubs, and other sabotage groups...Israel, Judaism and Jews challenge Islam and the Moslem people.*"

The Statement of Reasons notes that Hamas's overarching goal is to establish an independent Palestinian state comprising the territory of Gaza, the West Bank and Israel "*and destroying Israel as a political entity in the process*". Whilst this statement is true, it misses one of the fundamental objectives of Hamas. Hamas does not merely seek to destroy Israel "*as a political entity*" but also to drive out its Jewish inhabitants. According to Mahmoud Al-Zahhar, one of the co-founders of Hamas and a Hamas leader in Gaza, this goal is a religious duty.

"...removing the Jews from the land they occupied in 1948 is an immutable principle because it appears in the Book of Allah".⁵

This aim has been stated many times in Hamas documents and by Hamas leaders, most recently by the Deputy Chairman of the Hamas Political Bureau, Musa Abu Marzouk, in a television interview during the May 2021 hostilities between Hamas and Israel, when he said:

² Hamas Leader Ismail Haniyeh, [Interview on Lusail TV \(Qatar\)](#), 26 July 2020

³ Jonathan Masters, '[Backgrounder on Hamas](#)', *Council on Foreign Relations*, November 16, 2012

⁴ For an English translation, see [The Covenant of the Islamic Resistance Movement](#), 18 August 1988, The Avalon Project, Yale University.

⁵ '[Hamas Official Mahmoud Al-Zahhar: The Quran Tells Us to Drive the Jews Out of Palestine in Its Entirety](#)', MEMRI, Clip No. 5946, 6 March 2017

*“This is just one of a [series] of wars, and a war will come when we negotiate with them about the end of their occupation, and their leaving of Palestine. Israel will come to an end just like it began...”*⁶

The intentional use of violence against civilians to achieve political, religious and ideological objectives is therefore embedded in the worldview, doctrine and *modus operandi* of Hamas as a whole. It is *constitutionally* committed to “preparing, planning, assisting in or fostering the doing of a terrorist act” (namely, attacking Jewish civilians in Israel in order to force them into “leaving Palestine”), and its exhortations to its followers along these lines also constitute advocating the doing of terrorist acts. Indeed they constitute advocating genocide. This alone warrants listing Hamas in its entirety as a terrorist organisation.

Another Hamas document entitled “A Document of General Principles and Policies” was first published in 2017.⁷ It is of lesser status than, and complements rather than negates, the 1988 Covenant, which remains in full force and effect.⁸ Apologists for Hamas hailed the 2017 document as a “New Hamas Charter”, but it was in reality an attempt to live down the appalling 1988 Covenant without repealing it.⁹

In fact, the 2017 policy document reaffirms the principle contentions of the original Hamas Covenant. It expressly rejects the UN General Assembly resolution of 1947 which endorsed partition of the land between a Jewish and an Arab State (Article 18), as well as the Oslo Accords of 1993 “*and their addenda ...and all that flows from them*” (Article 21). Most importantly, it states that “*armed resistance is regarded as the strategic choice for protecting the principles and rights of the Palestinian people.*” (Article 25).

The document makes explicit that any suggestion that Hamas might respect the creation of a Palestinian state in the territory captured by Israel during the 1967 war does not in any way alter Hamas’s commitment “*to the full and complete liberation of Palestine, from the river to the sea*” (Article 20), and this would be by way of a truce only, not a permanent peace. Further, this would be conditional on Israel granting the “*right of return*” to Israel itself of all Palestinian refugees and their descendants (Article 4) – meaning the end of Israel as a State. In summary, the Palestinian state – to be achieved piecemeal if necessary – is to be created by force at the expense of the very existence of Israel.

Most tellingly, the 2017 document brought no change in the character of the actions or rhetoric of Hamas. Hamas has continued to commit and celebrate the killing of Jewish civilians, including children, in acts of terrorism, dehumanising them as “sons of apes and pigs” and with racist language and themes parallel to that used by the Nazis.¹⁰

⁶ Deputy Chairman of Hamas Political Bureau, Musa Abu Marzouk, [Interview on Russia Today TV](#), 17 May 2021.

⁷ ‘[Hamas in 2017: The document in full](#)’, *Middle East Eye*, 2 May 2017

⁸ Dr Eran Lerner, ‘[The New Hamas Policy Document: Same Old Same Old \(Mostly\)](#)’, BESA Centre Perspectives Paper No. 462, May 9, 2017.

⁹ Tamar Sternthal, ‘[In English, Haaretz Upgrades Hamas' New Document to New 'Charter'](#)’, CAMERA, 14 May 2017

¹⁰ Joseph S. Spoerl, ‘[Parallels between Nazi and Islamist Antisemitism](#)’, *Jewish Political Studies Review*, Vol. 31, No. 1/2 (2020) pp. 210–244, Jerusalem Centre for Public Affairs

During the “March of Return” protests organised by Hamas in Gaza in May 2018, Hamas leader Yayha Sinwar openly declared:

*“Our people and our boys will surprise the entire world with what they have in store. Let them wait for our big push. We will take down the border and we will tear out their hearts from their bodies.”*¹¹

Lest there be any doubt that the hearts were intended to be torn from the bodies of Israeli civilians, Hamas printed maps for its operatives indicating the civilian population centres within Israel situated only a few hundred meters from the barrier which their terrorists were to attack if the attempts to breach the barrier had been successful.¹² Hamas co-founder Mahmoud al-Zahar openly admitted that claims that the protests were a form of “*peaceful resistance*” against Israel were “*a clear terminological deception*.”¹³

It was also at this time that Hamas stepped up the number and range of incendiary and explosive kites and balloons it has launched into southern Israel, devastating thousands of acres of farmland and natural bushland and killing wildlife, as well as threatening the physical safety of civilians.¹⁴

On 10 May 2021, Hamas initiated an armed attack against civilian population centres in Israel. It used as a pretext the growing tensions in Jerusalem between Palestinians and Israelis, emanating from multiple sources. While shielding themselves behind Palestinian civilians in Gaza, operatives of Hamas and other groups fired more than 4500 rockets at Israel's cities, with the clear intention of causing maximum civilian casualties.

Even Human Rights Watch, which usually places primary blame on Israel for any hostilities with Hamas, belatedly condemned Hamas for deliberate attacks on Israeli civilian areas during the May conflict, and confirmed that some Hamas rockets killed Gazans when they fell short in the northern section of Gaza. It concluded that these attacks were indiscriminate and therefore amounted to war crimes.¹⁵

Whilst the firing of rockets may have been carried out by the al-Qassam brigades, the statements made by Hamas political leaders taking responsibility for the rocket fire on behalf of the whole organisation, indicate that the initiation of hostilities against Israel was pre-approved by them, most probably to enhance the political standing of Hamas among Palestinians after the indefinite postponement of elections that had been promised by Hamas's political rival, the Palestinian Authority.¹⁶

¹¹ Ben Shapiro, ‘[Hamas Planned The Violence On The Gaza Border. The Media Act As Their Propaganda Arm](#)’, Daily Wire, 15 May 2018

¹² ‘[Hamas leaders planned victory rallies inside Israel – but were absent when fence was charged](#)’, Times of Israel, 19 May 2018

¹³ ‘[Hamas co-founder admits ‘we are deceiving the public’ about peaceful protests](#)’, Times of Israel, 17 May 2018

¹⁴ Matan Tzuri, ‘[Kite, balloon terrorism continues scorching Israel's land](#)’, Ynet News, 10 July 2018

¹⁵ ‘[Palestinian Rockets in May Killed Civilians in Israel, Gaza: Indiscriminate Attacks by Gaza-Based Armed Groups Are War Crimes](#)’, Human Rights Watch, 12 August 2021

¹⁶ Rebecca Shimoni-Stoil, ‘[Israel violence, from Al-Aqsa protests to Palestinian rockets, helps Netanyahu and Hamas](#)’ Think, 12 May 2021

Within Gaza, Hamas has increasingly tightened its grip on power, including by executing, maiming and jailing opponents, conscripting child soldiers and suppressing dissent.¹⁷

The fact that Hamas and other terror groups operate “summer camps” in Gaza at which an estimated 50,000 Palestinian children are indoctrinated each year with radical Islamic ideology and given weapons and other military training, culminating in their conscription in Hamas’ armed forces,¹⁸ indicates that the need to proscribe Hamas as a whole is likely to be long lasting.

From the foregoing, it can be concluded as follows:

- Since adopting its ‘new’ policy document in 2017, Hamas has made no change at all in its doctrines, objectives or methods of operation, as set out in the original Hamas Covenant.
- A commitment to and advocacy of violence amounting to terrorism, indeed genocide, is imbued in the organisation as a whole.
- Criminality lies at the heart of the way Hamas in its entirety acts against Israelis and rules over Palestinians in Gaza.

Organisational structure

The Statement of Reasons notes:

“The Brigades exist within the overall organisational structure of Hamas, subordinate to its political leadership, but structured as a distinct military wing. While decisions of the political leadership probably take precedence, the Brigades operate with a significant degree of independence and are unlikely to seek approval from the political leadership for operational activities.”

The assertion that the al-Qassam Brigades “are unlikely to seek approval from the political leadership for operational activities” seems, with respect, to be an oversimplification. Whilst this might sometimes be true for specific operations that are conducted as part of an overall campaign, the evidence referred to in this section (below) suggests that any such campaign itself must be pre-approved by the political leadership, and meet the political objectives of the organisation as a whole. The “March of Return” in May 2018 and the initiation of armed hostilities by Hamas against Israel in May 2021 in the service of clear political ends within the context of internal Palestinian politics (see note 16 above) provide examples of this, and are a further indication of the limits of any distinction between the al-Qassam Brigades and the rest of Hamas.

Hamas has a host of leadership bodies that perform various political, military, and social functions. There are also local committees which manage grassroots issues in Gaza, where Hamas exercises effective control, and in the West Bank. However, general policy is set by an overarching 15-member body, often called the politburo, headed by Ismail Haniyeh, which operates in exile from Qatar.¹⁹

¹⁷ ‘[Gaza 10 years later](#)’, *United Nations Country Team in the occupied Palestinian territory*, 11 July 2017

¹⁸ Amelia Navins, ‘[Hamas’ Summer Indoctrination Camps for 50,000 Children](#)’, *Jerusalem Centre for Public Affairs*, 6 July 2021

¹⁹ Zachary Laub and Kali Robinson, [Backgrounder: What is Hamas?](#), Council on Foreign Relations, 17 August 2021

Whilst some academic commentators have asserted that the al-Qassam Brigades operate with complete independence,²⁰ senior Hamas leaders have themselves pointed out that a separation between the political and military wings does not exist. Former FBI counterterrorism intelligence analyst, Matthew Levitt, has dismissed the idea of separate political and military wings as a 'myth'. He cites Hamas founder Sheikh Ahmad Yassin's statement in 1998: "*We cannot separate the wing from the body. If we do so, the body will not be able to fly. Hamas is one body.*"²¹ This view was supported by Hamas military commander Salah Shehadeh, who said: "*the political apparatus is sovereign over the military apparatus, and a decision of the political [echelon] takes precedence over the decision of the military [echelon], without intervening in military operations.*"²²

Since 2010, the Council of the European Union has listed "Hamas (including Hamas-Izz al-Din al-Qassem)" on its register of organisations in respect of which certain anti-terrorism measures apply. Hamas applied to the European Union General Court in 2018 to be removed from the register. Hamas stated in its application:

"Although the armed wing is relatively independent, it is still subject to the general strategies drawn up by the Political Bureau". The Political Bureau takes the decisions, and the Brigades comply with them because of the strong sense of solidarity engendered by the religious component of the movement."²³

The Court dismissed the application and noted that the foregoing statement "*has a strong probative value, since, first, as the Council points out, it is made by the applicant and, secondly, the applicant put it at the forefront of its arguments in the application*".²⁴

A further application to the Court was made by Hamas in 2019. It too was dismissed and the above passage was again cited.²⁵ The judgment noted that "*the Court asked the applicant to provide proof of its assertions [that the al-Qassam Brigades operate entirely independently], but the applicant was unable to produce any*".²⁶ An appeal by Hamas seeking to overturn the Court's decision was rejected by the Court's Seventh Chamber on 10 September 2020.²⁷

Personal involvement of Hamas political leaders in terrorist operations

There is a long history of Hamas political leaders being personally involved in terrorist operations. Imad al-Alami, a member of Hamas's external leadership in Damascus who was shot dead in January 2018, Usama Hamdan, a senior Hamas official in Lebanon, Khalid Mishal, former head of the Hamas political committee when it was based in Damascus, Mousa Mohammed Abu Marzook, a member and former Deputy Chairman of the Hamas Political Bureau, Ismail Abu Shanab, a

²⁰ Ilana Kass and Bard E. O'Neill, *The Deadly Embrace: The Impact of Israeli and Palestinian Rejectionism on the Peace Process*, (Lanham: University Press of America, 1997), p.267.

²¹ Matthew Levitt, "[Hamas from cradle to grave](#)," *Middle East Quarterly*, Winter 2004, pp.3-15

²² *Ibid.*

²³ Quoted in the judgment of the European Union General Court delivered on 18 December 2018 in [Hamas v Council of the European Union](#), Case T-400/10 RENV, para 292.

²⁴ *Ibid*, para 293.

²⁵ Judgment of the European Union General Court delivered on 6 March 2019 in [Hamas v Council of the European Union](#) Case T-289/15, paras 103-104

²⁶ *Ibid*, paras 105-106.

²⁷ [Hamas v Council of the European Union](#), Case C-386/19 P.

Hamas political leader killed in 2003, and Abdelaziz al-Rantisi, a former Hamas head who was killed in 2004, are just some Hamas political leaders who have had direct personal involvement in commanding and co-ordinating the operations of the military wing of Hamas, recruiting and training terrorist operatives and planning attacks on the ground.²⁸

Some of the attacks have been directed against political rivals of Hamas in the Palestinian Authority. Brigadier-General Nizar Ammar of the Palestinian Authority, highlighting the overlap between Hamas's political, social, and military wings, stated:

*"We learned from interrogations that some of the people involved in operations inside Israel had been in the political wing only forty-eight hours before the operation. This is a big problem for the PA interrogators because people jump between the political and military wings at a moment's notice."*²⁹

Hamas political leaders have openly advocated to Palestinians that they engage in terrorist acts. In a public address as recently as May 2021, which aired on Al-Aqsa TV, Hamas Politburo member and former Minister for the Interior, Fathi Hammad, urged Palestinians in Jerusalem to buy cheap knives and "*cut off the heads of the Jews.*" He also demonstrated the method of beheading from the main artery.³⁰

Support from Iran

High-level contacts between Hamas and the Iranian regime began in 1990-1991 as a counterweight to the 1991 Middle East peace conference in Madrid and the beginnings of the Arab-Israeli peace process. For the last thirty years, the Islamic Revolutionary Guard Corps (IRGC), a branch of Iran's armed forces, and Hezbollah, Iran's proxy in Lebanon, have steadily intensified co-operation with Hamas. This has included training Hamas figures in suicide bombing in building rockets, and smuggling weapons and munitions from Iran into Gaza.³¹

Relations between Iran and Hamas soured between 2011 and 2017 when Hamas backed the Sunni Arab opposition in Syria during the civil war and Iran supported the incumbent al-Assad regime. Iran's financial support for Hamas was greatly curtailed. However, since 2017 when Hamas appointed a more Iran-friendly leader, Ismail Haniyeh, to replace Khalid Meshal, relations between Iran and Hamas have been reinvigorated.³²

Iran's sponsorship played a major role in enabling Hamas to initiate the armed attack against Israel in May 2021. In January, IRGC Aerospace Force commander Amir Ali Hajizadeh had stated, "*All*

²⁸ These are detailed by Matthew Levitt in '[Hamas's Political Wing: Terror by Other Means](#)', *Washington Institute for Near East Policy*, 6 January 2004, citing '[U.S. Designates Five Charities Funding Hamas and Six Senior Hamas Leaders as Terrorist Entities](#)', US Department of the Treasury, August 22, 2003.

²⁹ *Ibid*

³⁰ '[Senior Hamas Official Fathi Hammad To Palestinians In Jerusalem: Buy 5-Shekel Knives And Cut Off The Heads Of The Jews](#)', *MEMRI*, #8828, 7 May 2021

³¹ Ido Levy, '[How Iran Fuels Hamas Terrorism](#)', *The Washington Institute for Near East Policy, Policy Analysis/Policy Watch 3494*, 1 June 2021

³² *Ibid*

the missiles you might see in Gaza and Lebanon were created with Iran's support."³³ This included transfers by sea and apparent deliveries from Libya. When hostilities commenced in May 2021, it is estimated that Hamas and other Gaza groups possessed up to 15,000 rockets, many with enhanced accuracy, longer range, heavier warheads, and improved launchers, as well as at least six Shahab kamikaze drones. Such capabilities enabled Hamas to maintain frequent barrages of up to twenty-seven rockets per minute against civilian targets as distant as Tel Aviv, in line with the goal of overwhelming Israeli missile defenses and causing higher civilian casualties.³⁴

Iran's support to Hamas was extended to the entire organisation, not merely to the al-Qassam Brigades, and Hamas' Gaza leader, Yahya al-Sinwar, acknowledged this to the al-Jazeera network:

*"Our complete gratitude is extended to the Islamic Republic of Iran, which has spared us and the other Palestinian resistance factions nothing in recent years. They have provided us with money, weapons, and expertise. They have supported us in everything, with the grace of Allah. They deserve huge credit."*³⁵

The listing of Hamas by other States

Altogether, 4 countries and 2 regional organisations currently list Hamas as a whole as a terrorist organisation. Four countries, including Australia, limit their listing to the al-Qassam Brigades. Hamas is banned altogether in Jordan.

Hamas in its entirety is listed as a terrorist organisation by:
Canada, Israel, Japan, United States, the European Union and the Organisation of American States.
Only Hamas's al-Qassam Brigades are listed as a terrorist organisation by:
Australia, New Zealand, Paraguay and the United Kingdom.

Conclusion concerning Hamas

The available evidence indicates that there is no rigid separation between the al-Qassam Brigades and the rest of Hamas, and to the contrary there is considerable cross-over not only in command and control but also in terms of funding, personnel, recruitment and membership. This goes well beyond the fact, acknowledged in the Statement of Reasons, that the deputy commander of the al-Qassam Brigades, Marwan Issa, serves as its representative in Hamas' political bureau.

Hamas's political wing, and not just the al-Qassam Brigades, is systematically engaged in activity that meets the *Criminal Code* criteria for listing as a terrorist organisation. In particular:

³³ *Ibid*

³⁴ *Ibid*

³⁵ [‘Hamas Leader In Gaza Yahya Al-Sinwar Salutes Al-Jazeera TV, Iran, And Yasser Arafat’](#), MEMRI, #8879, 26 May 2021

- The intentional use of violence against civilians to achieve political, religious and ideological objectives is embedded in the worldview, doctrine and *modus operandi* of Hamas as a whole. It is *constitutionally* committed to “preparing, planning, assisting in or fostering the doing of a terrorist act” (namely, attacking Jewish civilians in Israel in order to force them into “leaving Palestine” from the Jordan River to the Mediterranean Sea), and its exhortations to its followers along these lines also constitute advocating the doing of terrorist acts, indeed genocide.
- This doctrine has been translated into systematic action, from suicide bombings to incendiary arson attacks to indiscriminate rocket fire targeting Israeli cities. Even Human Rights Watch, which usually places primary blame on Israel for any hostilities with Hamas, has concluded that the deliberate rocket attacks on Israeli civilian areas during the May 2021 conflict were indiscriminate and therefore amounted to war crimes.
- The apportionment of functions between different sections of Hamas should be regarded as, at most, a division of labour within Hamas, similar to the kind of division of labour that necessarily exists in any large organisation.
- Such a division of labour does not support the conclusion that the al-Qassam Brigades constitute an independent entity. A Hamas political leader and a military commander have both admitted that the military wing is subordinate to the politburo. Hamas’s own document filed with the European Union General Court has also conceded this.
- There is a long history of Hamas political leaders being personally involved in terrorist operations, and advocating terrorism.
- Iran’s support to Hamas has extended to the entire organisation, not merely to the al-Qassam Brigades, and has greatly expanded Hamas’s capacity to launch indiscriminate rocket attacks and other terror operations against Israel.

Accordingly, Hamas in its entirety should be listed as a terrorist organisation, as per our Recommendation 2.

Palestinian Islamic Jihad

We have no issue with Minister’s decision to re-list Palestinian Islamic Jihad as a terrorist organisation, or with the Department’s Statement of Reasons.

We therefore recommend that the PJCIS:

- 3. support the re-listing of Palestinian Islamic Jihad pursuant to Division 102 of the *Criminal Code***

We are happy to provide the PJCIS with any further information or input it may require from us.

Yours sincerely

A solid black rectangular box used to redact the signature of Peter Wertheim.

Peter Wertheim AM
Co-CEO