

Post 9/11 challenges

It's guilty until proven innocent for American Muslim charities

In the name of “anti-terror financing campaign,” the government has launched a systematic campaign against the Muslim American charities. In the post 9/11 era, Muslim American charities and donors lived in constant fear of frozen funds, indictments and even closure, regardless of whether they have done anything wrong. The government's campaign has had its desired effect: to scare Muslim Americans to donate freely to their charities thus abandoning one of the premier tenets of Islam -- giving to those in need and donate freely to their own charities.

The government denies these charges, saying it is merely trying to cut off funding to a wide variety of so-called charitable organizations that funnel money to groups that practice terrorist tactics. The Treasury Department cites President Bush's pledge to ensure "that Arab Americans and American Muslims feel comfortable maintaining their tradition of charitable giving".

However, facts belie this assertion. Dozens of charitable groups have been investigated since 2001. Several have been shut down, without any official finding that they were aiding terrorist organizations. The organizations shut down were not on any government watch list before their assets were frozen. The predictable result is that Muslims have no way of knowing which groups the government suspects of ties to terrorism.

Organizations and individuals suspected of supporting terrorism are guilty until proven innocent.

The USA Patriot Act gives the government largely unchecked powers to designate any group as a terrorist organization. Once a charitable organization is so designated all of its materials and property may be seized and its assets frozen. The charity is unable to see the government's evidence and thus understand the basis for the charges. Since its assets are frozen, it lacks resources to mount a defense. And it has only limited right of appeal to the courts. So the government can target a charity, seize its assets, shut it down, obtain indictments against its leaders, but then delay a trial almost indefinitely.

The community has been in a great deal of limbo, because there is no standard established for what would constitute material support of terrorism. Money that used to go to large national or international organizations is going instead to smaller, local projects. The government investigations have also been focusing more closely on local mosques and imams. As a result, donors were concerned that any involvement will bring you under scrutiny. People have also stopped giving to local organizations, because they don't want to be viewed as supporting anti-American sentiment in the US. (1)

In 2002, members from several Arab and Muslim American groups requested that the US Treasury Department assist US-based Islamic charities in building trust with donors while ensuring the government that their financial activities were clear of wrongdoing. In response, the Department developed a set of “voluntary best practice guidelines” that advise charitable organizations on how to establish proper transparency and vetting of potential foreign aid recipients.

Treasury Department says that the department's Office of Foreign Assets Control maintains a "one-stop shopping" list of banned entities, known as the Specially Designated Nationals List, on its Web site, <http://www.treasury.gov/ofac> . The department has declined to produce a list of approved charities in the Middle East "for two reasons: No. 1, any charity that we deemed clean,

It's guilty until proven innocent for American Muslim charities [2]

we could not guarantee that it would always remain so. And No. 2, it would put the government in the position of playing favorites." (2)

On Dec. 15, 2005, the U.S. Department of Treasury released new guidelines, which replace ones Treasury issued three years ago. The new guidelines in many parts closely resembled the original rules and the new guidelines did not go far enough to assuage the worries of Muslim charities. The guidelines were further revised on Sept. 29, 2006. But nonprofit groups say revised government guidelines still are too onerous and vague.

The Illinois General Assembly passed bipartisan resolutions, in May 2006, calling on the federal government to create a list of Muslim charitable organizations to which one can safely donate. These were the first resolutions of its kind. It was natural that such an effort would begin in Illinois because it is home to a sizable and well-organized Muslim population, as well as some of the most prominent charities shut down after the attacks.

"Americans giving charity to Muslim charities need assurance that the charitable contributions they make in good faith to charities in good standing will indeed go to humanitarian purposes and will not give rise to potential retroactive criminal or immigration prosecution," read the advisory resolutions, which passed by voice vote.

"It's an issue of fairness and what's right," said John Millner, a Republican from Carol Stream who sponsored the Illinois House measure. The resolutions also cited legislation known as the REAL ID bill--passed in the 2005 spring by Congress and signed by the president--that threatens to deport immigrants who make a donation to a charity that was in good standing at the time but is later linked to terrorism.

Since 9/11, millions of dollars in donations have been seized and frozen. Some donors have found FBI agents at their doors, asking about specific checks they have written.

Consequently, Muslim charities reported a precipitous decline in contributions. Contributions that do arrive come increasingly in cash from anonymous givers. And donors who happen to be Muslim are increasingly turning to the large household names like Oxfam and Save the Children, which may conduct programs in predominantly Muslim areas abroad.

Another impact has been that a number of charities that support Muslim causes have been forced to shut down. This applies not only to the few that have been formally named as wrongdoers, but also to smaller groups that are not in a position to pay for defense lawyers if fingered by the government.

Campaign against Muslim charities

Soon after the terrorist attacks of Sept. 11, 2001, the U.S. government shut down three major U.S.-based charities - Holy Land Foundation for Relief and Development, Global Relief Foundation and Benevolence International Foundation - for allegedly funneling support to terrorists and it has designated more than 40 charities internationally as terrorist financiers. In August 2006, the Treasury Department barred U.S. citizens from contributing to two more groups: the Philippine and Indonesian branches of the Saudi Arabia-based International Islamic Relief Organization.

Under the USA Patriot Act, the U.S. government is authorized to close down a charity while an investigation is going on. The government is under no obligation to reveal the evidence used to justify the seizure of assets and the designation of the charity as an entity supporting terrorists and put it on the list of banned groups issued by the Treasury Department.

It's guilty until proven innocent for American Muslim charities [3]

The administration while shutting down the Muslim charity organizations, using new powers under the USA Patriot Act, filed no criminal charges against these organizations, nor were they officially designated terrorist supporters. Law enforcement officials simply froze their assets and seized their property "pending an investigation" without producing any evidence, as authorized by the Act. Consequently, the burden of proof has shifted to the organizations, which must prove their innocence even though, in many cases, the government has not specified wrongdoing. Moreover, they must do this without access to their own documents, computers, records, or other materials that might make their case.

The organization can file an appeal, but as was noted by the OMBWatch - in its report titled Muslim Charities and the War on Terror - appealing Treasury actions to the federal courts is relatively useless, as the court's scope of review is very limited.

Since Sept. 11, 2001, at least six major American Muslim charities have been shuttered in this fashion. The government still doesn't have a single terrorism conviction against any of the employees or board members of any of those charities. Similarly, the government has never been able to document a bona fide trail showing how money from the charity got into the hands of actual terrorists.

The five year campaign against the Muslim charities leads to the belief that under former attorney general John Ashcroft, American Muslim charities were closed as part of the charade to make the American people believe that the government was disrupting terrorist financing and under Alberto Gonzales, the message was that Muslim Americans would be punished if they want to help Palestinians. Either way the assault on the charities was not about the safety and security of the American people but about politics. (3)

Major charities shut down

Since 9/11, the Bush administration has shut down a number of Muslim charity organizations including the following major charities:

Holy Land Foundation for Relief and Development (HLF)

On Dec. 4, 2001, the FBI raided the Texas office of the Holy Land Foundation for Relief and Development. Interestingly, the same day during a public appearance with Israeli Prime Minister Ariel Sharon, President Bush said HLF was diverting funds to Hamas -- which he described as "one of the deadliest terror organizations in the world today" -- and providing funds to families of suicide bombers. HLF denied the charge, saying it only provided humanitarian relief, with a focus on Palestinian refugees and victims of the wars in Bosnia, Kosovo, and Turkey.

In shutting down HLF, the FBI seized more than \$5 million, along with all documents and property, which included satellite offices in three states. FBI agents and local police guarded the offices while all property was removed. Two weeks after being shut down, Ghassan Elashi, HLF's founder and co-chair, and three of his brothers were arrested on a 33-count indictment, which charged that they used an Internet services company to make investments for Hamas leader Mousa Abu Marzook. On October 13, 2006, Ghassan Elashi, was sentenced to nearly seven years in prison for financial ties with Abu Marzook and for making illegal computer exports to countries that back terrorism.

On July 27, 2004, the Holy Land Foundation for Relief and Development and seven of its directors and fundraisers were charged with supporting the militant Palestinian group Hamas and with money laundering and conspiracy. The 42-count indictment, returned by a federal grand jury in Dallas, alleges that the Holy Land Foundation for Relief and Development provided more than \$12.4 million to individuals and organizations linked to Hamas from 1995 to 2001.

It's guilty until proven innocent for American Muslim charities [4]

The indictment names the foundation along with its president, Shukri Abu Baker; chairman, Ghassan Elashi; executive director, Haitham Maghawri; and four others. The charges include conspiracy, providing material support to a foreign terrorist organization, tax evasion and money laundering. The indictment accused Abu Baker, el-Mezain and Elashi of creating Holy Land in 1988 to provide financial and material support to Hamas.

The HLF trial

The Holy Land Foundation for Relief (HLF) went on trial on July 24, 2007 in Dallas, Texas. The same day, as the HLF prosecution presented its case to the jury, the federal agents were raiding two other Muslim charities in Dearborn, Michigan. The Holy Land was being tried on suspicion of aiding terrorism by helping the Palestinian militant group Hamas while the two Michigan charities - the Goodwill Charitable Organization and Al-Mabarrat Charitable Organization - were suspected of having ties to extremist groups in Lebanon. Just like the Holy Land, assets of the two Michigan charities have been frozen.

The Holy Land, founded in 1989 was one of the largest Muslim charities in the nation before it was shut down under executive orders in December 2001. The government says Hamas' support organization in the United States, known as the "Palestinian Committee," organized the "Occupied Land Fund" in 1988. The name was later changed to the Holy Land Foundation. First based in California, the foundation moved to Richardson, Texas in 1992.

The Bush administration froze the Holy Land Foundation's assets charging it with funneling money to Hamas, an allegation strongly refuted by the Holy Land officials. According to its mission statement, the Foundation is a humanitarian organization that works to find "solutions to human suffering," primarily focusing on providing urgent nutritional and medical care to the destitute and displaced Palestinian refugees in Jordan, Palestine, and Lebanon.

The defendants named in a 42-count indictment in 2004 are Holy Land Foundation; Shukri Abu Baker, the charity's president; Ghassan Elashi, its chairman; Abdulrahman Odeh; Mohammad El-Mezain; and Mufid Abdulqader. Two other men named in the indictment remain fugitives.

The five men on trial aren't accused of being terrorists. Rather, they are charged with funneling \$36 million to individuals and groups tied to Hamas, including \$12.4 million sent after Clinton's designation.

Acknowledging that the Holy Land Foundation did not directly carry out terrorist attacks, prosecutors say that the charity acted as the "social wing" of Hamas, "much like a social welfare agency," providing money and assistance to such places as schools, clinics and worship centers "to win the hearts and minds of the Palestinian population and solidify loyalty to Hamas." "In order for Hamas to achieve its ultimate ... goal of annihilating Israel, it had to win the broad support of the Palestinian population. The [foundation] set out to do just that," the government's brief said.

This case is shrouded in secrecy and heavily dependent on testimony from Israeli agents. Prosecution witnesses to testify include a retired Israeli Army colonel.

Though defense attorneys already have government clearances that allow them to review the material, under the federal Classified Information Procedures Act they have been prohibited from sharing it with their clients. And unless the act's rules are declared unconstitutional in the case, defense attorneys argue, the defendants will have no way of proving that the statements attributed to them were misconstrued or never made.

Unindicted co-conspirators

It's guilty until proven innocent for American Muslim charities [5]

The indictment also lists about 300 individuals and groups as unindicted co-conspirators — among them long-established and U.S.-based organizations engaged in traditional lobbying efforts.

The government's co-conspirator's list includes the largest Muslim civil right group, the Council on American-Islamic Relations (CAIR); the nation's largest Muslim educational source, the Islamic Society of North America (ISNA), and the North American Islamic Trust, the country's largest holding company of deeds to about 300 mosques, Islamic centers and schools in the U.S.

Newsweek quoted an un-named senior law-enforcement official as saying that the listing of ISNA, CAIR and other groups as “unindicted co-conspirators” was largely a tactical move by the government. By listing the groups, the official said, it makes it easier for prosecutors to introduce documents, tapes and other evidence mentioning them and which relate to what the government charges is a wide-ranging conspiracy to raise money in the United States in support of Hamas.

(4)

Typically, prosecutors identify a person or a group as an unindicted co-conspirator so that their statements, or those of people involved in the listed organizations, about the defendants can be used in court without them being considered hearsay, which is not permitted in trial.

The document gave scant details, but prosecutors described CAIR as a present or past member of "the U.S. Muslim Brotherhood's Palestine Committee and/or its organizations." The government listed the Islamic Society of North America and the North American Islamic Trust as "entities who are and/or were members of the U.S. Muslim Brotherhood."

While the Holy Land was charged in the case, which was filed in 2004, none of the other groups was. However, the co-conspirator designation could be a blow to the credibility of the national Islamic organizations, which often work hand-in-hand with government officials engaged in outreach to the Muslim community.

The practice of publicly naming unindicted co-conspirators is frowned on by some in the legal community, chiefly because there is no trial or other mechanism for those named to challenge their designation. Justice Department guidelines discourage the public identification of unindicted co-conspirators by the government.

"In all public filings and proceedings, federal prosecutors should remain sensitive to the privacy and reputation interests of uncharged third-parties," the Justice Department's manual for prosecutors says. When co-conspirator lists have to be filed in court, prosecutors should seek to file them under seal, the guidelines say.

In practice, the lists are often made public. A list of co-conspirators was released in connection with the federal trial in 2005 of a former college professor, Dr. Sami Al-Arian, on terrorism support charges. However, when Enron executives went on trial in 2006, the list of alleged co-conspirators was kept under seal.

Commenting on the unindicted list, Adam Braun, a former federal prosecutor told the Los Angeles Times said: "It seems like the government is painting with a pretty broad brush." He said office policy was to avoid "sully someone's reputation unnecessarily" — generally limiting use of named co-conspirators unless there is proof of wrongdoing.

Surely, the prosecution is using McCarthyite tactics by implicating mainstream Muslim groups to silence genuine Muslim voices while providing ammunition to the anti-Muslim organizations. This is a brutal attempt to marginalize and disenfranchise mainstream Muslim groups.

It's guilty until proven innocent for American Muslim charities [6]

Three trials

The court, because of the complexities of the investigation, decided to break the HLF proceedings into three trials, with the one beginning on July 24, 2007 being the most expansive and the one directly related to the Holy Land Foundation.

In July 2004, during the trial of the export violations portion of the indictment, all five Elashi brothers (Basman Elashi, Bayan Elashi, Ghassan Elashi, Hazim Elashi and Ihsan Elashi), and Infocom Corporation, were convicted on charges they conspired to violate the Export Administration Regulations and the Libyan Sanctions Regulations.

During the second trial on the remaining charges in the indictment, in April 2005, the jury found that Bayan Elashi, Ghassan Elashi, Basman Elashi and Infocom Corporation conspired together and sent money to co-defendant Mousa Abu Marzook, an investor in Infocom and a self-admitted leader of the Islamic Resistance Movement, a/k/a Hamas.

Brothers Hazim and Ihsan Elashi were sentenced in January 2006 to 66 months imprisonment and 72 months imprisonment, respectively.

In a series of hearings conducted in October 2006 in federal court in Dallas, United States District Judge sentenced Bayan Elashi, Ghassan Elashi, Basman Elashi, and Texas-based Infocom Corporation. Basman Elashi, age 50, was sentenced to 80 months imprisonment. Ghassan Elashi, age 52, was also sentenced to 80 months imprisonment. Bayan Elashi, age 51, was sentenced to 84 months imprisonment and Infocom Corporation was sentenced to two years probation (the corporation is defunct).

In July 2007 trial, Ghassan Elashi was now facing another trial for his role in helping run the Holy Land Foundation for Relief and Development which the government has accused of funneling millions to the Palestinian militant group Hamas.

Mistrial declared for 5 defendants in HLF case

After 19 days of deliberations by the Jury, on October 22, 2007, U.S. District Judge A. Joe Fish declared a mistrial for most former leaders of HLF charged with financing Hamas militants after jurors failed to reach a verdict.

One of the defendants, former HLF Chairman Mohammed El-Mezain, was acquitted of most charges.

The outcome came about an hour after a confusing scene in the courtroom, in which three former leaders of the group were initially found not guilty. But then when jurors were polled, three of them said those verdicts were read incorrectly.

Judge A. Joe Fish sent them back to resolve the differences. After about an hour of renewed deliberations, Fish said he received a note from jury saying 11 of 12 feel further discussion would not lead to a unanimous decision.

A juror, William Neal, later told the Associated Press that the panel found little evidence against three of the defendants and was evenly split on charges against charity's former chief executive Shukri Abu Baker and its former chairman Ghassan Elashi, who were seen as the principal leaders of the charity. Neal said the jury was split about 6-6 on counts against Baker and Elashi.

"I thought they were not guilty across the board," said the juror, William Neal, a 33-year-old art director from Dallas. The case "was strung together with macaroni noodles. There was so little

It's guilty until proven innocent for American Muslim charities [7]

evidence," Neil said adding that the government's case had "so many gaps" that he regarded the prosecution as "a waste of time."

Global Relief Foundation (GRF)

Ten days after closing HLF, the FBI raided the Global Relief Foundation's headquarters in Chicago, freezing all of its assets "pending an investigation" and taking computers, filing cabinets, furniture, pictures, and more. On the same day, the Immigration and Naturalization Service arrested GRF's director, Rabih Haddad, and raided his home.

The INS (now renamed as US Citizenship and Immigration Services) cited visa violations as the reason for Haddad's imprisonment and potential deportation. In the past, these violations would have resulted in small fines or other minor punishment. Yet for the next 14 months, Haddad was transferred from one jail to the next, without notice to his family. Haddad's deportation trials were held in secret, were not listed on the courthouse docket, and were closed to the press and Haddad's family. Eventually, Haddad sued to open his deportation hearings, and won. However, the government pressed forward without ever accusing Haddad of a serious crime -- just visa violations -- or linking him directly to terrorism. Nineteen months after the day of his arrest, Haddad was deported, again without notice to his family. Two weeks later, on July 28, 2003, Haddad's wife and four children (ages 5-13) flew to Kuwait after being deported by the INS. The story of Rabih Haddad and his family is not unique, as scores of Muslims have been deported since 9/11 on minor visa violations, without open trials, or any factual evidence associating them with terrorism.

How Al Qaeda was linked to Global Relief through false reporting?

In April 2004, USA Today admitted that its star correspondent Jack Kelley linked the Global Relief Foundation, one of the Muslim charity that was shut down in December 2001, with Al Qaeda. Among Kelley's fictitious story of January 2002 reported that the CIA and U.S. Special Forces searching caves and safe houses in Afghanistan had found documents linking two Chicago-based Islamic charities to al Qaeda. One of those charities was Global Relief Foundation (GRF), which was co-founded by Rabih Haddad, an imam who was arrested in Ann Arbor shortly after 9/11 for a visa violation. Haddad was detained for 19 months before his deportation in 2003. The USA Today reported that soon after Kelley's story ran, GRF attorney Roger Simmons contacted the paper challenging the reporter's claims. USA Today told Simmons "that the newspaper would neither correct nor retract the story." (5)

Benevolence International Foundation (BIF)

On the same day as the GRF was raided, the FBI raided Benevolence International Foundation, another Muslim charity based in Illinois that describes its mission as providing humanitarian relief services worldwide. In 2002, Enaam Arnauout, BIF's chief executive officer, was indicted on racketeering charges for misleading donors and using funds to provide material support to terrorist organizations, including al Qaeda. In February, Arnauout pled guilty to a lesser fraud charge -- using charitable donations to fund fighters in Chechnya and Bosnia. In August he was sentenced to 11 years in prison. Prosecutors had sought a 20-year sentence, but Judge Suzanne B. Conlon said they had "failed to connect the dots" to prove the al-Qaeda ties. Arnauout had contact with al-Qaeda leader Osama bin Laden during the Afghan war against the Soviet Union during the 1980s, but the FBI could not establish subsequent contact.

Safa Trust

In March 2002, Customs agents raided Safa Trust -- a Herdon, Va., group founded by major Republican decision makers and Bush associates -- and the headquarters of what the

It's guilty until proven innocent for American Muslim charities [8]

Washington Post (**Oct. 7, 2002**) called some of the nation's "most respected Muslim leaders," including the Institute for Islamic Thought and the Graduate School of Islamic and Social Sciences. The government did not reveal the reasons for its actions, but "sources familiar with the investigation said the agents were looking for evidence of money laundering and tax evasion as well as possible ties to a worldwide private financial empire that Western governments have long suspected of funding terrorist activities," according to the Post. (6)

During the raids, federal agents fanned out to more than 15 sites in Falls Church, in Leesburg and in Fairfax County, including Herndon. They spent 12 hours alone at IIIT -- an Islamic think tank set up in Herndon in the early 1980s -- where they seized about 25 computers and documents that included financial records, mailing lists and staff lists.

In May 2002, these organizations sued in U.S. District Court in Alexandria, Va., alleging a government "fishing expedition." In August the government filed an affidavit claiming the charities gave \$3.7 million to BMI Inc., an investment company the government said may have passed money on to terrorists.

On January 13, 2005, BMI founder Soliman Biheiri was sentenced to 13 months in prison for lying to investigators about his dealings with Mousa Abu Marzook, a former northern Virginia resident who has been deported and was now a top officer in the political wing of Hamas. Defense lawyer David Schertler said there is no evidence that Marzook received any money from Biheiri after Marzook was designated a terrorist. Biheiri said during the hearing that he rejects any associations with terrorism. "How did I know that three years later Abu Marzook would be a member of Hamas?" Biheiri asked, reflecting on the fact that most of his dealings with Marzook came before Marzook ever joined Hamas. (7)

However, after more than four years, till October 2006, no charges were filed against the principals of the Herndon-based cluster of companies and charities that are at the center of the investigation. Federal prosecutors have strongly defended the raids, saying during a 2004 court hearing that they would file charges against some or all of the Herndon-based network, possibly under racketeering statutes once used to target the Mafia.

Washington Post, in a report entitled, "Muslim anger burns over lingering probe of charities," said: More than four years ago, federal agents swarmed into homes and businesses in Herndon and elsewhere in Northern Virginia, carting away 500 boxes of documents they believed contained evidence of an international terrorism financing network. The raids, which targeted some of the most established Islamic organizations in the United States, caused an immediate firestorm in the Muslim community. But no charges have been filed against the principals of the Herndon-based cluster of companies and charities that are at the center of the investigation, and Muslims say the raids were no more than a fishing expedition. (8)

Al-Haramain Islamic Foundation

In February 2004, the U.S. Treasury's Office of Foreign Assets Control seized the assets of the US branch of the Saudi charity, Al-Haramain Islamic Foundation, while investigating whether the charity was involved in terrorism. Seven months later, in September, Treasury officials designated Al-Haramain a global terrorist organization, accusing it of sending money to fighters in Chechnya. On February 17, 2005, a federal grand jury in Eugene, Oregon returned a three-count indictment against the Al-Haramain and two of its officers on charges of conspiring to defraud the U.S. government. The indictment charged that defendants Pirouz Sedaghaty, also known as Pete Seda and Abu Yunus, and Soliman Al-Buthe conspired with the U.S. branch of the Al-Haramain to defraud the U.S. government by obtaining \$150,000 in funds intended for distribution in Chechnya, and concealing their intent by filing a false tax return and failing to acknowledge they were transporting funds out of the United States.

It's guilty until proven innocent for American Muslim charities [9]

In September 2005, a federal judge in Eugene, Oregon, dismissed criminal charges against the Al-Haramain Islamic Foundation but prosecutors said new charges are possible. Federal prosecutors had asked in August that the charges be dropped, saying the case would be a waste of time because all that remains of the organization is its corporate shell. However, the two men – an Iranian Perouz Sedaghaty and a Saudi named Soliman Al-Buthe - who ran the Ashland branch of Al-Haramain were considered international fugitives.

At the hearing Marc Blackman, the attorney representing the Al-Haramain, asked U.S. Magistrate Thomas Coffin to reject the government's motion to dismiss the charges. He argued that the case should either proceed to trial with the current indictment or be dismissed with prejudice, which would prevent the government from reviving it.

The Al-Haramain Foundation filed a lawsuit on February 28 2006 asserting that the Bush administration had circumvented the US Constitution by authorizing warrantless wiretaps. They asserted that the President lacked the authority to authorize wiretaps that circumvented the Foreign Intelligence Surveillance Act. Three individuals whose conversations were intercepted, Suliman al-Buthe, Wendell Belew and Asim Ghafoor, learned of the eavesdropping when U.S. officials accidentally delivered transcripts to them.

Islamic American Relief Agency (IARA)

In the crackdown on Muslim charities, on Oct. 13, 2004 , US authorities froze the assets of the Islamic American Relief Agency (IARA) of Columbia, Missouri, and accused five of its officials of helping finance Osama bin Laden and the Palestinian organization Hamas. The agents also searched home of its director. Earlier in the day, the U.S. Treasury Department designated the IARA and five of its international officers as financial sponsors of terrorists. The designation freezes IARA's assets and accounts and makes it a crime to contribute to the group.

U.S. Rep Kenny Hulshof, R-Columbia, in a news release aimed to reassure anyone who might have donated to Islamic American Relief Agency, said: "Treasury officials point out that people who have given donations to IARA in good faith, prior to Wednesday, need not worry about the legality of their donation."

"The government has not presented one shred of evidence linking IARA to funding for terror, but by seizing their funds and interviewing their donors, they have effectively destroyed the charity and created a chilling effect in the Muslim community in Columbia," its attorney, Shereef Akeel argued. He suggested the government may have confused IARA, founded two decades ago as the Islamic African Relief Agency (the name changed during the Bosnia conflict when demands for aid moved beyond an African focus), with a Sudan-based charity called the Islamic African Relief Agency, which the government claims has links to terrorists. (In these times - May 27, 2005)

On Dec. 30, 2004, IARA filed a suit in the U.S. District for the District of Columbia challenging the constitutionality of Treasury's action, asking for a preliminary injunction against the designation and seizure of its assets. In January 2005, Treasury wrote to Akeel saying the designation of IARA was not a case of mistaken identity with the African group. The court denied the injunction request in February, and on Sept. 15, 2005 granted the government's motion to dismiss.

KindHearts USA

On Feb. 19, 2006 the Treasury Department froze the assets of KindHearts USA, padlocking the doors of the Toledo-based charity "pending an investigation." The Treasury Department claimed the group has connections to Hamas, but KindHearts officials vigorously denied the allegations.

It's guilty until proven innocent for American Muslim charities [10]

The Treasury Department announcement stated, "KindHearts officials and fund-raisers have coordinated with Hamas leaders and made contributions to Hamas affiliated organizations." Hamas has been designated as a terrorist organization by the U.S. government. Stuart Levey, Treasury Under Secretary for Terrorism and Financial Intelligence, said, "KindHearts is the progeny of Holy Land Foundation (HLF) and Global Relief Foundation (GRF)," groups that were shut down by Treasury in 2001. The announcement says "former GRF official Khaled Smaili established KindHearts from his residence in January 2002... KindHearts leaders and fundraisers once held leadership or other positions with HLF and GRF."

KindHearts, a humanitarian aid organization, raised \$5.1 million in 2004 and has branches in Lebanon, the Gaza Strip and Pakistan. The Treasury Department alleges it gave more than \$250,000 to the Sanabil Association for Relief and Development, which was designated as a terrorist organization in August 2003. KinderHearts board chair Dr. Hatem Elhady told the Toledo Blade, however, that it contracted with Sanabil to provide aid in refugee camps before the designation was made, and the amount was no more than \$115,000. He said: "We did not just give money. We gave it for specific projects, and we saw the results, and we have the receipts."

The Treasury Department also cites a KindHearts "connection" to a former employee of HLF who was indicted by a federal grand jury in Texas for providing material support to Hamas. Mohammed El-Mezain had been retained to raise funds for the organization, but Smaili said the contract was voided as soon as KindHearts learned about the indictment.

Jihad Smaili, an attorney and KindHearts board member, rejected the Treasury Department's allegations: "I know the government has listened to every conversation that we've made and traced every wire sent from KindHearts USA to Lebanon or Palestine. They know exactly what's going on and that we have not done anything wrong." Smaili noted that by using its authority under Executive Order 13224, the Treasury Department does not have to prove its allegations in court. There is no deadline for the Treasury Department to complete its investigation, making it likely that the organization will go out of business even if it is ultimately cleared.

A statement from KindHearts said that over \$1 million was frozen, most of which had been earmarked for earthquake victims in Pakistan and for a new office in Indonesia.

The statement also pointed out that KindHearts was among the Muslim organizations investigated by the Senate Finance Committee, which found no wrongdoing.

Kids in Need of Development, Education and Relief (KinderUSA)

In January 2005, the board of Dallas charity, Kids in Need of Development, Education and Relief (KinderUSA), made an unusual request to its 6,800 donors: Please don't send gifts. The Islamic charity, which delivered food and aid to children in war zones, had just received a federal grand jury subpoena asking its officials to turn over all meeting minutes, tax returns, and other documents. It feared that the government could freeze its assets or seize its list of donors at any moment.

In a statement, KinderUSA said the government probe has taken the form of unwarranted and obtrusive surveillance by the FBI, wiretapping, attempts to bribe and subvert our employees (which has caused them to resign in fear), spreading of malicious disinformation about the organization, and the possible invasion of our office space.

"In the current environment, we cannot in good faith continue to solicit donations when there are no safeguards in place to guarantee that the federal government will not seize these funds and divert them from their intended, legitimate destination. We have approached the government

It's guilty until proven innocent for American Muslim charities [11]

seeking an explanation to help us understand the basis of this investigation and are currently awaiting a response.

"We feel it is in the best interests of the beneficiaries, donors and the foundation to enter into a period of evaluation and review of our options during the calendar year of 2005," KinderUSA concluded.

After four months with no word from the FBI about whether KinderUSA was being investigated, the board resumed fund-raising. However, it was difficult to bring back its donors. Board Chairperson Dr. Laila Al-Marayati said "Our donors are afraid. They don't know what to do." KinderUSA had gained a reputation among Islamic charities for good governance and transparency and posts audited financials on its Web site. But such measures did little to prevent a formal inquiry. (9)

Life for Relief and Development raided

On Sept. 21, 2006, US authorities, raided another major Muslim charity in the United States, the Michigan-based Life for Relief and Development (LIFE). Federal agents also raided the home of the charity's President and Chief Executive officer, Khalil Jassemm, and the Dearborn office of Muthanna Alhanooti, a former official of the charity who has ties to an Islamic party in Iraq. Its officials say the charity has distributed more than \$50 million to more than 13 million people since its founding in 1992. Most recently, the group distributed \$2.2 million in medicine in August 2006 to Lebanese people affected by the conflict between Hizballah and Israel.

The charity operated in a number of countries, including Pakistan, Iraq, Palestinian territories, Lebanon, Afghanistan and parts of Africa. It was founded by a group of Iraqi-Americans who said they were concerned about the condition of Iraqis after the Gulf War in 1991. The charity's head of legal services, Ihsan Alkhatib, said the agents are investigating whether the charity conducted business in Iraq before the 2003 war in violation of legal sanctions against the country.

LIFE is one of the very few American organizations licensed by the U.S. Treasury Department to do humanitarian relief in Iraq during the embargo period. It is the only American humanitarian organization that is working throughout Iraq. Many other U.S. charities have partnered with LIFE to deliver medicines and other humanitarian aid to the central part of Iraq. It also runs schools for orphans in Afghanistan as well as medical clinics in poor neighborhoods in Iraq.

The charity is registered with the United States Agency for International Development (USAID), which is a U.S. government agency under the State Department. It is also a member of the American Council for Voluntary International Action (InterAction), which is the largest alliance of American international NGOs, and a member of the Michigan Non-Profit Association. It is also certified by the Combined Federal Campaign (CFC), which promotes philanthropy among all federal employees. In addition, it is in Consultative Status with the Economic and Social Council of the United Nations.

The charity has established partnerships with many of the largest American and international NGOs including AmeriCares, Veterans For Peace, American Friend's Service Committee (AFSC), Brother's Brother Foundation, Care International, Wheelchair Foundation, United Nations Development (UNDP) and United Nations Children's Fund (UNICEF).

LIFE President Dr. Khalil Jassemm had participated in an outreach effort by the U.S. State Department speaking about successful Arab and Muslim integration in the U.S. He believed that LIFE presents a positive image of America to the Muslim world. However, "the pattern of ongoing investigations, raids and closure can only curtail our country's efforts to combat the negative

It's guilty until proven innocent for American Muslim charities [12]

image of America abroad, especially during the time when we need win hearts and minds in the Muslim and Arab world," he argued. (10)

Agents raid two Muslim charities in Michigan

On July 24, 2007, as the trial of the Holy Land Foundation began in Dallas, Texas, federal agents raided two Muslim charities - the Goodwill Charitable Organization and Al-Mabarrat Charitable Organization - in Dearborn, Michigan.

In a news release, the U.S. Treasury Department said that the Goodwill Charitable Organization is a Hizballah front group that solicits money from Hizballah members who live in the United States. "We will not allow organizations that support terrorism to raise money in the United States," said Stuart Levey, the Treasury Department's undersecretary for terrorism and financial intelligence.

The other charity that was raided, Al-Mabarrat Charitable Organization, often held fund-raisers in metro Detroit and enjoyed support from many in the area. Federal officials maintained that its founder, Hussein Fadlallah, is the spiritual leader of Hizballah and a terrorist. But the Treasury Department did not designate Al-Mabarrat as a terrorist group, which means it technically can still operate, though agents hauled away its documents and computers, making it difficult to function.

The Treasury Department, however, placed the Goodwill Charitable Organization and its parent group, the Iran-based Martyrs Foundation, on its list of terrorist groups. The move freezes the groups' assets and prohibits any person in the United States from conducting transactions with them. According to the Treasury Department, the Martyrs Foundation also backs Hamas and the Palestinian Islamic Jihad, two other groups the U.S. government considers to be terrorist outfits.

Interestingly many politicians, including Congressman John Dingell, a Dearborn Democrat, donated money to Al Mabarrat. According to tax records, Goodwill Charitable received \$167,628 in contributions in 2005 and \$202,500 in 2004. Al-Mabarrat raised \$954,027 in 2004. (11)

Muslim charity's account closed

Since 9/11, the American Muslim community has also noticed disturbing trends within the national banking community where law-abiding American Muslims are seemingly and summarily being denied service based solely on their name, religion or ethnicity.

In March, 2005, a Chicago bank closed the account of a Bridgeview mosque because the mosque donated \$10,000 to the Islamic American Relief Agency that is now under federal scrutiny for allegedly helping terrorists. The mosque made its donations in August and September 2004, before the U.S. government froze the charity's assets and raided its Missouri offices in October. At that time, the Treasury Department alleged the organization was involved in helping terrorist activities.

In November 2005, the Herndon, Virginia-based Foundation for Appropriate and Immediate Temporary Help (FAITH) received a letter informing them that its Wachovia accounts would be closed effective January 2006 despite its good standing as a customer. However, the bank officials failed to sufficiently explain the decision, instead wrote that the decision was in line with "the Bank's contract with FAITH which provides that the Bank can close any customer's account at any time..."

The FAITH is a social service organization that provides emergency aid and crisis counseling to Northern Virginia residents of all faiths. Current anti-terror financing legislation requires financial institutions to report suspicious activity to the Treasury Department. FAITH Treasurer Margaret

It's guilty until proven innocent for American Muslim charities [13]

Farchtchi told the *Washington Post* that a recent donation to the charity may have sparked suspicion. In April 2005, the charity received \$150,000, intended as an endowment, from M. Yaqub Mirza, a Northern Virginia resident. Although Mirza's home and offices were raided by federal officers in 2002, he has not been officially charged with any crime. Farchtchi said that the "origin and purpose of the money could have been easily explained if bank officials had asked" (12)

In response to the closure of the group's accounts without warning or explanation, CAIR and the MAS Freedom Foundation had planned a campaign against Wachovia that was to include protests and boycotts. However, Wachovia contacted FAITH and CAIR directly to inform them that the case was being re-examined.

In "terror war" all names are not equal

A major Washington-based government watchdog group, OMB Watch, has charged that Muslim charities are being shut down for supposedly backing terrorist causes, while giant firms like Halliburton are receiving the full protection of U.S. law for allegedly breaking government sanctions against doing business with Iran -- a country designated as a sponsor of terrorism. "There is unequal enforcement of anti-terrorist financing laws," the OMB Watch said in a report on the plight of Muslim charities in April 2006.

Even though little is known about the evidence the Treasury's Office of Foreign Assets Control (OFAC) relied on to freeze and seize assets of Muslim charities, it appears there is much stronger evidence against Halliburton... What legal distinction is OFAC making? If U.S. charities formed Cayman Island subsidiaries, could they avoid the USA PATRIOT Act, IEEPA, and Executive Order restrictions on dealings with groups or countries linked to terrorism?

To support its claim that the government is applying the law unevenly and targeting Muslim-American groups, OMB Watch cites the government's "velvet glove" treatment of the Halliburton Corporation, a giant defense contractor once headed by Vice President Dick Cheney.

Halliburton has been under investigation by the Treasury Department, which oversees the terror-financing campaign, and the Department of Justice since 2001 for doing business with Iran, which is listed as a sponsor of terrorism.

But, says OMB Watch, rather than seizing and freezing assets "pending an investigation", Treasury's Office of Foreign Assets Control (OFAC) and the Justice Department sent an inquiry to Halliburton requesting "information with regard to compliance".

Halliburton sent a written response explaining why it felt it was in compliance with the law. Halliburton's defense seemed to rest on the fact that its dealings with Iran were done through a Cayman Islands subsidiary, not its U.S.-based entity.

Over two years later, in January 2004, OFAC sent a follow-up letter requesting additional information, to which Halliburton responded that March. In July of that year, the U.S. attorney for the Southern District of Texas sent a grand jury subpoena requesting documents and the case was referred to the Justice Department.

On Sep. 22, 2005, the Progressive Caucus in the House of Representatives wrote to President George W. Bush, asking that Halliburton be suspended from hurricane relief contracts for a host of reasons, including "dealing with nations that sponsor terrorism". The White House took no action and Halliburton received no-bid contracts valued currently at 61.3 million dollars, and growing, to provide clean-up, rebuilding and logistical assistance to victims of Hurricanes Katrina and Rita. (13)

It's guilty until proven innocent for American Muslim charities [14]

Senate Finance Committee's McCarthyite witch hunt of Muslim charities

In December 2003, the Senate Finance Committee launched an enquiry against 24 Muslim charities and groups. The Senate Committee asked the Internal Revenue Service to turn over confidential tax and financial records, including donor lists, of 24 Muslim charities and foundations as part of a widening congressional investigation into alleged ties between tax-exempt organizations and terrorist groups.

Government officials, investigations by federal agencies and the Congress and other reports have identified the crucial role that charities and foundations play in terror financing," Committee chairman Charles Grassley, an Iowa Republican, and the panel's senior Democrat, Montana Senator Max Baucus, wrote in a 22 December, 2003 letter to the IRS.

"We have a responsibility to carry out oversight to ensure charities, foundations and other groups are abiding by the laws and regulations, to examine their source of funds, and to ensure government agencies, including the IRS, are policing them and enforcing the law efficiently and effectively," the letter added.

The Washington Post pointed out that the request "marks a rare and unusually broad use of the Finance Committee's power to obtain private financial records held by the government."

Muslim leaders and attorneys for charities protested saying that the government's investigation has tarnished their reputations and chilled financial support for groups that provide humanitarian support in the Middle East and elsewhere. According to the Council on American-Islamic Relations (CAIR), the Senate Finance Committee's investigative net has been cast so wide that it seems to target all American Muslims as terrorism suspects. Its indiscriminate scope smacks of a McCarthyite witch hunt and creates the impression that the presumption of innocence no longer applies to Muslims. "The Muslim community would view this as another fishing expedition solely targeting Muslims in America," Ibrahim Hooper, spokesman for CAIR said. "Are they now going to start a witch hunt of all the donors of these now closed relief organizations, so that Muslims feel they're going to be targeted once more based on their charitable giving?" he questioned.

In November 2005, the U.S. Senate committee concluded its work with no plans to issue a report, forward any findings to law enforcement agents, hold hearings or propose new legislation. "We did not find anything alarming enough that required additional follow-up beyond what law enforcement is already doing," Senator Charles Grassley, the Iowa Republican who heads the committee, said in a statement. "If something in the future does cause new concern, we will continue the investigation." (14) However, three weeks later, Senator Grassley issued a new statement saying its lack of action does not mean the groups had been "cleared." The committee, the statement said, "will continue to gather information and examine the operations of the charities." (15)

List of Muslim groups probed by the senate finance committee

Al Haramain Foundation
Alavi Foundation
Benevolence International Foundation
Global Relief Foundation
Help the Needy
Holy Land Foundation for Relief and Development
Human Appeal International
Institute of Islamic and Arabic Sciences in America
International Islamic Relief Organization
Islamic American Relief Agency

It's guilty until proven innocent for American Muslim charities [15]

Islamic Assembly of North America
Islamic Association for Palestine
Islamic Circle of North America
Islamic Foundation of America
Islamic Society of North America
Kind Hearts
Muslim Arab Youth Association
Muslim Student Association
Muslim World League
Rabita Trust
SAAR Foundation
Solidarity International
United Association for Studies and Research
World Assembly of Muslim Youth

4 – It's guilty until proven innocent for American Muslim charities

Common law says, you are innocent until proved guilty. However, in the case of Muslim charities, they are guilty until proved innocent. The emerging national trend also goes to the very foundation of America's legal system: transparency. If one side makes an argument to a judge, the other side gets to be there to disagree. But not in the cases of Muslim charities.

While the Treasury Department has allowed U.S.-based groups an opportunity to submit information on their behalf after assets have been frozen “pending an investigation,” the groups cannot respond effectively, because they are put in the position of having to prove a negative (i.e. that they do not support terrorism) without knowing what secret information Treasury is using against them.

This new standard of “guilty until proven innocent” is reflected in the actions of the Senate Finance Committee. In November 2005, the Senate Finance Committee concluded a high-profile investigation into U.S. Muslim organizations and terrorism financing, saying it discovered nothing alarming enough to warrant new laws or other measures. The inquiry, which took nearly two years to conduct, used financial records given to the Internal Revenue Service, including donor lists of two dozen Muslim charities. Yet despite a lack of any alarming evidence of terror financing, Grassley’s committee issued a statement on Dec. 6, 2005 saying that “the fact that the committee has taken no public action based on the review of these documents does not mean that these groups have been ‘cleared’ by the committee,” and that they will “continue to gather information and examine the operations of the charities.” Perpetual suspicion seems to be the order of the day. (16)

Under a provision of the newly reauthorized U.S.A. Patriot Act, the government has largely unchecked power to designate any group as a terrorist organization. When that happens, a group's property may be seized and its assets frozen. The charity is unable to see the government's evidence and thus understand the basis for the charges. And it has only a limited right of appeal. So, the government can target a charity, obtain indictments against its leaders, then delay a trial indefinitely.

Holy Land Foundation’s prosecution reveals questionable evidence

Criminal prosecution of the Holy Land Foundation, shut down in December 2001, provided a glimpse into the government's use of evidence to justify seizure and freezing of charitable assets in the name of the war of terrorism. Pre-trial filings show sanctions have been imposed against charities and their officials for contacting organizations that are *not* designated by the government as supporters of terrorism. The case also appears to depend on questionable foreign intelligence information and faulty translations.

It's guilty until proven innocent for American Muslim charities [16]

The Holy Land Foundation brought a formal complaint with the Justice Department inspector general and requested an investigation, saying that the F.B.I. used as the crux of its case a "distorted" and erroneous translation of sensitive Israeli intelligence material. The Holy Land said it hired an independent translating service in Oregon, which cited 67 discrepancies or errors in translation in a four-page F.B.I. document used in the case.

John Boyd, a lawyer for the foundation, maintained that the courts relied on secret evidence, including the challenged F.B.I. memorandum, and that Holy Land was never allowed to present a full defense. "The government's case rests on highly questionable evidence, and my hope is that someone in a position of authority is finally going to take a look at what happened here," Boyd said.

According to Los Angeles Times, the Justice Department's criminal case against officials of the Holy Land Foundation relies more heavily than previously known on Israeli intelligence. Federal prosecutors, accusing charity officials of aiding terrorists, have disclosed receiving 21 binders of documents from the Israeli government, according to records originally sealed by the court. The binders contain an estimated 8,000 pages that, in sheer volume, dwarf earlier shared intelligence — including Israeli military and police reports, translated interrogation transcripts and financial analyses.

Previous intelligence from Israel was a factor in 2001 when the White House, with great fanfare, froze assets of the Holy Land Foundation for Relief and Development, based in Richardson, Texas.

The paper pointed out that the case figures to hinge on the government's ability to prove, largely with Israeli-provided information, that the defendants knowingly supported groups tied to Hamas. Israel's prominent investigative role appears to be unprecedented in post-Sept. 11 terrorism cases.

Defense lawyers already have argued that allegations against Holy Land are influenced by political pressure from Tel Aviv. Bush's presidential order closing down the charity came on the eve of a White House visit by then-Israeli Prime Minister Ariel Sharon.

Contents of the evidence binders provided by Israel have not been disclosed, but court records make clear that they are considered sensitive. During one hearing, for example, prosecutors revealed that the Israeli government retained control over what specific intelligence materials the U.S. could use publicly. And Justice Department lawyers traveled to Israel to negotiate what could be disclosed in court, prosecutors acknowledged.

Court records available to the public show that Israeli intelligence is central to a claim that the charity specifically earmarked money for the families of suicide bombers. That allegation was based on records seized in an Israeli raid on Holy Land's Jerusalem offices a decade ago.

(17)

Substantial discrepancies

According to a February 25, 2007 report by the Los Angeles Times, Holy Land Foundation defense attorneys cited substantial discrepancies between an FBI official summary and a word for word transcript of a wiretapped conversation involving Holy Land officials in 1996. The summary, used as evidence by the government, ascribes numerous hateful anti-Semitic statements to charity officials that are not found in the recorded conversation.

The LA Times said that when the Bush administration shut down the nation's largest Muslim charity five years ago, officials of the Dallas-based foundation denied allegations it was linked to terrorists and insisted that a number of accusations were fabricated by the government. Now,

It's guilty until proven innocent for American Muslim charities [17]

attorneys for the Holy Land Foundation for Relief and Development say the government's own documents provide evidence of that claim.

The LA Times (18) reported:

"In recent court filings, defense lawyers disclosed striking discrepancies between an official summary and the verbatim transcripts of an FBI-wiretapped conversation in 1996 involving Holy Land officials. The summary attributes inflammatory, anti-Semitic comments to Holy Land officials that are not found in a 13-page transcript of the recorded conversation. It recently was turned over to the defense by the government in an exchange of evidence.

"Citing the unexplained discrepancies, defense lawyers have asked U.S. District Judge A. Joe Fish in Dallas to declassify thousands of hours of FBI surveillance recordings, so that full transcripts would replace government summaries as evidence. In December, the judge denied a defense request to declassify the documents so they could be examined by defendants in the case.

"The recently declassified summary of surveillance on April 15, 1996, asserts that during a conversation wiretapped by the FBI, Holy Land's former executive director Shukri Abu Baker told two associates there was no need to worry about the foundation being unfairly targeted because U.S. courts were not under the control of the American Israel Public Affairs Committee or its sponsor, "the government of the demons of Israel."

The summary portrays Baker as raging against "the Jews of the world" and as claiming that Jews have no allegiance to anything but "their pockets and to preserving the illegal Zionist state of Israel."

Additional anti-Semitic comments the FBI summary attributed to Baker or Ghassan Elashi, Holy Land's former board chairman, included:

- "Their [Jews'] only purpose here in the U.S. is to purchase as many politicians as possible and to warp the way the American Christians feel and think not just about the Christian religion but mainly about the Palestinian people ... and to rob as much money as possible from American taxpayers for the illegitimate excuse of protecting and preserving the chosen people of God."
- "Even Jesus Christ had called the Jews and their high priests ... the sons of snakes and scorpions."
- "I am confident that in the end justice, and not the Jews, will prevail. I believe that there is still justice in America."

None of those quotes was contained in a 13-page transcript of the conversation, defense lawyers said in their motion to expand access to classified evidence.

The LA Times pointed out that because the court records are heavily redacted, it could not be determined who provided the summaries of the FBI wiretaps.

Other alleged discrepancies also have dogged the case, the paper said. Holy Land lawyers challenged the accuracy of an FBI memo, for example, that quoted a foundation office manager as telling Israeli authorities that charitable funds were "channeled to Hamas." But defense lawyers told the court the translation from Arabic to Hebrew to English distorted the official's original statement, and that he should have been quoted as saying, "We have no connection to Hamas."

Government is trying to keep proceedings in the dark

It's guilty until proven innocent for American Muslim charities [18]

Meanwhile a veil of secrecy prevails in the court proceedings in the trial of charities. The story of the Al-Haramain Islamic Foundation attorney, Terence L. Kindlon, is perhaps the best example of how the government is trying to keep the court proceedings in the dark.

Kindlon got security clearance to look at classified documents in the case, but watched as government lawyers repeatedly brought matters to the judge privately. "Despite my elevated status as a trustworthy, secure guy, I was defending a case in which there were, I think, 19 (private) communications of which I know absolutely nothing," Kindlon told the Oregonian. (19)

The Al-Haramain Foundation, against whom criminal charges were dismissed in Sept. 2005, filed a lawsuit in February 2006 asserting that the Bush administration had circumvented the US Constitution by authorizing warrant-less wiretaps. The lawsuit accuses federal officials of illegally intercepting telephone calls between Soliman al-Buthe, a director of Al-Haramain, and two of the charity's American lawyers, Wendell Belew and Asim Ghafoor, in 2004

After filing the suit, attorneys filed under seal a classified document that they said supports the allegations. Government officials have acknowledged that a classified document was inadvertently turned over to Al-Haramain lawyers while the Treasury Department was in the process of designating the charity as providing support for terrorists.

Neither government lawyers nor lawyers for Al-Haramain specifically described the document. The government filed a 19-page response opposing the unsealing of the classified document. The government filed another response, but for the judge's eyes only.

Something remarkable and disturbing is happening in this case and in others across the country, Al-Haramain lawyers wrote in a court brief filed in April 2006. The government "is attempting to draw a veil of secrecy over judicial proceedings."

"Unless a party can see and respond to evidence submitted against it, the court's impartiality is jeopardized," Al-Haramain lawyers wrote. Private "contacts that limit a party's ability to participate in hearings or refute the government's evidence violate the spirit of due process."

However, the District Judge Thomas J. McAvoy allowed the government to respond privately, then rejected Kindlon's motion and classified his reasoning.

No guarantee that a charity is clear even if it follows the Anti-Terrorist Financing Guidelines

In 2002, several Arab and Muslim American groups requested the US Treasury Department to assist US-based Islamic charities in building trust with donors while ensuring the government that their financial activities were clear of wrongdoing. In response, the Department developed a set of voluntary best practice guidelines that advise charitable organizations on how to establish proper transparency and vetting of potential foreign aid recipients.

However, the problem is that while most of the guidelines involve basic, common sense accounting standards, the section called "Anti-Terrorist Financing Procedures" contains some parameters that are too far-reaching and logistically impractical.

Among other things, these guidelines say charities should take steps to ensure that no individual employees of any foreign recipient organizations or subcontractors of those organizations support terrorism in any way. It also recommends a thorough investigation of any financial institutions used by the organizations in order to determine whether they could be "shell banks" involved in money laundering activities.

It's guilty until proven innocent for American Muslim charities [19]

In short Muslim charities:

Must be on guard on several fronts. They must make sure they do not accept funds from anyone identified as a suspected terrorist, which they say can be difficult when many donations come as \$10 or \$20 bills given by anonymous donors at religious services.

Must also ensure that none of their employees or board members are affiliated in any way with thousands of individuals or groups designated as terrorist by the U.S. government.

Once they raise money, charities must make certain none goes to a project or person linked to terrorists or banned groups.

Severe restrictions

According to Dr Riad Abd al-Karim, co-founder of Kids in Need of Development, Education and Relief (KINDER USA) certain aspects of the guidelines are beyond the scope of what many charities are able to do and called them "ridiculous and burdensome". During times of humanitarian crisis, conducting background checks of every individual who could possibly be involved with foreign relief organizations is irrational. The Red Cross does not keep a list of everyone they give a band aid to after a tornado," he argues.

Attracting charities to help rebuild Lebanon in the aftermath of Israeli rampage of July/August 2006 highlighted the problem faced by the Muslim charities in the post-9/11 America. While various US groups and organization were busy in easily raising millions of dollars for Israel, Muslim and Arab groups faced serious difficulties in raising money for the reconstruction of Lebanon devastated by the Israeli attacks on mainly civilian targets such as residential buildings, bridges, industries and infrastructure.

The Illinois-based Zakat Fund pledged to raise \$250,000 for Lebanon, but it was able to collect about \$140,000 because many Muslims and Arabs feared that writing a donation check could bring FBI agents to their doors. Only about \$40,000 came from Chicago donors despite the Charity Without Fear resolutions passed by the Illinois Legislature. The donors were particularly cautious because their donations may not land in the hands of Hizbullah which the U.S. government considers a terrorist organization. (20)

Umar Moghul, a partner in the law firm of Ahmed & Moghul LLP, in Manhasset, N.Y., says it was beyond the capacity of most donors, and even many foundations, to comply with guidelines. Compliance requires, for example, detailed information about the names and legal status of groups and staff members overseas that administer the American contributions. Moghul said: "You have to question just how practical it is to obtain this information while people are dying you're waiting to get certified copies of passports." For Muslim charities a donor can't really donate with absolute confidence in the current environment." (21)

New regulations have also affected donations to the American Muslim charity organizations due to the lack of assurance that donors will be protected if any charity organization later deemed by the government to be a terrorist organization. A fundamental problem is that even those American Muslim charities who follow the government's "best practices" guidelines to the letter do not receive any assurances that they will be safe.

The Council on Foundations in Washington, which represents more than 2,000 philanthropic groups in humanitarian work around the world, called on the Treasury Department to reconsider its antiterrorism financing guidelines issued in 2002. Calling the guidelines "unrealistic, impractical, costly, and potentially dangerous," the council said they discourage organizations from efforts to relieve suffering at a time of great need.

It's guilty until proven innocent for American Muslim charities [20]

Anti-Terrorist Financing Guidelines revised

On Sept. 29, 2006, the U.S. Department of the Treasury released the third version since 2002 of its Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities. The new Guidelines come after Treasury requested public comments on the Dec. 2005 revision of the original Guidelines. Nonprofit groups say revised government guidelines still are too onerous and vague. The OMB Watch, in an analysis of the new guidelines said that in an annex to the latest version, Treasury provides an unconvincing explanation of its perception that abuse of charities by terrorists is a substantial problem. "Treasury also uses the latest version to place greater emphasis on the voluntary nature of the guidelines. However, the fundamental problems that lead the nonprofit sector to call for withdrawal of the Guidelines remain unchanged."

Although the guidelines are voluntary, the Treasury Department has taken a passive aggressive approach in promoting their usage, hinting that any charity unable or unwilling to fully comply with them could be subject to closure under Executive Order 13224.

Even when the Muslim charities abide by the guidelines, the government said there are no guarantees that you'll be cleared. "Even if you comply with all of these, there is no guarantee you won't get in trouble," says Ihsan Alkhatib, a lawyer working with Life for Relief & Development, a Muslim charity in Southfield, Michigan.

Many American Muslim advocacy groups have argued that a line must be drawn between policing charities and interfering with an individual's right to practice his or her religion. The California-based organizations, American Muslim Voice and Muslim Public Affairs Council, have argued that the ability to contribute to charity is both an American right and, for Muslims, a religious commandment.

Impact on donation collection

Government crackdown of Muslim charities has caused tremendous fear and anxiety among Muslims, with many fearful that a simple act of charity could lead to federal agents knocking at their door. Since 9/11, millions of dollars in donations have been seized and frozen, leaving Muslims with unfulfilled obligations. Some have found FBI agents at their doors, asking about specific checks they have written. According to the Illinois Coalition for Immigrant and Refugee Rights, the U.S. government has closed down 25 Muslim charities and frozen \$8 million in donations in Illinois alone.

The case of Dr. Nasar Chaudhry of New York symbolizes the Muslim dilemma. In April 2005, the Internal Revenue Service's Criminal Investigation Division raided the home and office of Pakistani-American Dr Nasar Chaudhry. for making donations to a Muslim charity in 1996. Dr Chaudhry of Hornell, New York state, was contacted in 1996 by a former medical school peer for making donation to his Florida-based charity to aid needy Pakistani children. He decided to give Zakat to the charity. Dr Chaudhry said if the charity misused the funds, how would he be responsible for that? (22)

In January 2005, Kinder USA suspended its operation as it was targeted for federal investigation. "In the current environment, we cannot in good faith continue to solicit donations when there are no safeguards in place to guarantee that the federal government will not seize these funds and divert them from their intended, legitimate destination," Kinder USA said. The charity later resumed its operation but found difficult to bring back its donors.

On the impact of government campaign against the Muslim charities, Washington Post reported on October 30, 2006, many US Muslims are donating less and less to Islamic charities, fearing that they might be placed on FBI watch lists and accused of channeling money to organizations

It's guilty until proven innocent for American Muslim charities [21]

designated as terrorist by the State Department. The Washington Post substantiated its story with three examples:

1. Ahmad Chebbani, the owner of Omnex Accounting and Tax Service Corporation and the president of the American Arab Chamber of Commerce for eight years until June 2006, used to donate \$50,000 annually to charity, basically to Muslim organizations. Now he changed the target to avoid unwanted attention from federal powers, giving money to secular institutions like the Arab American National Museum.

2. In the past, Najah Bazy, who established the Zaman International charity in Dearborn, used to raise up to \$10,000 in cash donations for the poor and needy. By the end of `Eid Al-Fitr last week, which marks the end of the holy fasting month of Ramadan, donations amounted to less than \$4,000. When she called people to donate, they hung up, fearing that their phones might have been tapped by authorities. Nobody wants to write a check for any amount, and they look at her in horror when she offers a receipt.

3. The Islamic Center of America Dearborn, Michigan, has not managed to raise funds to cover the \$15 million spent on building the center because of the clampdown on charity. , The center - the largest in the U.S. - is indebted by \$6 million.

US Muslim charity in Dearborn, Michigan, home to the largest Muslim and Arab concentrations in the US, is down by almost half.

Amaney Jamal, a Princeton University professor who completed a survey of the Dearborn, Michigan, Arab-American community, said the uncertainty is one of the most distressing problems Muslims feel these days. "If someone says to me, `Do you want to support an orphan for US\$30 a month?' I say, `Sure, that's a noble cause.' And then later someone comes and knocks on my door and says, `Her father was a suicide bomber.'" Hence, charity giving to the Arab world has become a big no-no. One result has been an increase in non-traceable cash donations to local mosques or religious institutions. (23)

The "Cat Stevens affair" is another example. Yusuf Islam, a popular singer in the 1970s, when he was known as Cat Stevens, was barred in Sept. 2004 from entering the United States because he allegedly supported terrorist groups through donations he made to Muslim charities. The case against Yusuf Islam, whom most Muslims regard as a moderate voice, has had a chilling effect on local Muslims. If it could happen to the man who wrote "Peace Train," it could happen to anyone. "If they have a problem with this guy, there is not an imam in the whole of America that the U.S. administration would not have a problem with," said Asad Zaman, treasurer of the Muslim American Society's Minnesota chapter. "We do not perceive that the administration is trying to help. We think they're trying to put a cap on Muslim charity." (24)

Despite difficulties, the Muslim organizations were among the first to respond to the relief efforts for the hurricane Katrina victims. Islamic Relief transferred \$1 million to an interfaith fund to feed 25,000 persons. In Sept. 2005, a coalition of major American Islamic groups meeting at the annual convention of the Islamic Society of North America (ISNA) in Chicago announced a pledge to raise \$10 million in humanitarian relief for the victims of Hurricane Katrina. However, they were disappointed to see that not a single Muslim organization was included in the list of charities accepting donations.

Muslim Groups Form National Council of American Muslim Non-Profits

In March 2005, the Treasury Department endorsed and guided the creation of a National Council of American Muslim Non-Profits, as a self-policing organization working for transparency, accountability and the safe delivery of charitable funds to the proper recipients. The Council,

It's guilty until proven innocent for American Muslim charities [22]

spearheaded by the Muslim Public Affairs Council and the Islamic Society of North America, was established during a meeting of twenty national American Muslim organizations in Chicago.

The Council envisaged generating a collective bargaining power in a bid to bolster the community's ability for advocacy, and encourage the government to engage with the American Muslim community with full transparency. By creating a structure to allow for a community-based certification process, the Council planned to empower the community by instituting a culture of responsibility and self-governance.

Assistant Secretary of the Treasury Department for Terrorist Financing Juan Zarate, who sat in on the working session, expressed his Department's support for the Council. "The creation of the national council is also a testament to the community taking ownership of this corrosive and difficult issue," said Zarate. "At stake in the project to preserve the sanctity of charity is not only the confidence of the Muslim American donor community but also the compassionate voice and view of America in the Muslim world. The work of the members of the council -- which will now begin in earnest -- will shape how charities are protected, how Muslim American's dollars are spent at home and abroad, and how America is viewed in the Muslim world."

Timothy Keefer from the Homeland Security Department told the Supplemental Human Dimension meeting in Vienna on July 15, 2005: "The Treasury Department has also encouraged and helped facilitate the creation of the National Council of American Muslim Non-Profits by the Islamic charitable community in the United States. The Council is comprised of a diverse group of representatives from the Muslim-American community who are joining forces to organize, protect and promote charitable giving against the backdrop of demonstrated terrorist abuse."

However, the National Council of American Muslim Non-Profits could not help in protecting the Muslim charities and the initiative suffered a major set back when one of its steering committee member, KindHearts, was shut down in February 2006.

The OMB Watch has pin pointed the following top ten concerns about the negative overall impact of U.S. anti-terrorism policy on the Muslim charities:

1. Drastic sanctions in anti-terrorist financing laws are being used to shut down entire organizations, resulting in loss of badly needed humanitarian assistance around the world and creating a climate of fear in the nonprofit sector.
2. Despite sweeping post-9/11 investigative powers, authorities have failed to produce significant evidence of terror financing by U.S.-based charities.
3. Questionable evidence has been used to shut down the largest U.S.-based Muslim charities.
4. Anti-terrorist financing policies deny charities fundamental due process.
5. There are no safe harbor procedures to protect charities acting in good faith or to eliminate the risk of giving to Muslim charities or charitable programs working with Muslim populations.
6. Government action has created the perception of ethnic profiling and negatively impacted Muslim giving.
7. Organizations and individuals suspected of supporting terrorism are guilty until proven innocent.
8. Charitable funds have been withheld from people in need of assistance and diverted to help pay judgments in unrelated lawsuits, violating the intentions of innocent Muslim donors.
9. There is unequal enforcement of anti-terrorist financing laws. Treatment of Muslim charities hurts, not helps, the war on terrorism. (25)

For 10 years before 9/11, American Muslim groups were working to make the Muslim relief organizations more professional, and to raise funds for more effective long-term projects. Now people are reverting to giving cash to individuals they know who are traveling to a specific

It's guilty until proven innocent for American Muslim charities [23]

country, to offer to the needy. They also prefer to give cash donations to their mosques and Islamic centers. That surely undermines the beneficial growth of Muslim nonprofit institutions.