

Project SALAM

Support and Legal Advocacy for Muslims

www.projectsalam.org

March 8, 2010

President Barack Obama
The White House
1600 Pennsylvania Ave. N.W.
Washington, DC. 20500

Attorney General Eric Holder
Department of Justice
950 Pennsylvania Ave. N.W.
Washington DC. 20530-4371

Dear President Obama and Attorney General Holder:

This is the sixth in a series of letters to you urging that you restore the rule of law in America and release innocent persons, mostly Muslims, who were illegally targeted and convicted following 9/11. In this letter we want to focus on the use of a law criminalizing “material support to a foreign terrorist organization”, (28 USC 2339B), and, criminalizing individual acts of material support (28 USC 2332A). The Material Support laws have had a devastating impact on innocent people pursuing innocent activities.

After 9/11, the US government greatly expanded the use of a 1996 statute which authorized the Secretary of State to designate a group as a “foreign terrorist organization”, and which criminalized “material support” to a “designated foreign terrorist organization.” The statute originally did not require that the support be knowingly given, and the US government did not interpret the statute to require knowledge. Indeed at one point, during oral argument before the Supreme Court, the US government asserted that if an old lady gave money to a charity believing that the money would help people in need, and the money was diverted to help a terrorist organization, the woman would be guilty of material assistance to a foreign terrorist organization even though the woman had no idea that her money would be used for terrorism, or intended that it be used in this way. However, in *Humanitarian Law Project v. United States Dep’t of Justice*, 352 F.3d 383 (9th Cir. 2003), the court required that the government prove that the person either knew the group s/he was supporting was a designated terrorist organization, or that s/he was aware of the unlawful activities causing it to be so designated.

Unfortunately this limitation has been generally ignored by government prosecutors who have used the Material Support statute to criminalize charitable, hospitable, and beneficial activities that nobody could foresee would be connected to terrorism.

For example, in *Humanitarian Law Project v. Mukasey*, 552 F.3d 916 (9th Cir. 2009) a human rights group argued that it should be permitted to provide non-violent human rights training to designated terrorist organization without fear that it would be accused of providing material support to a terrorist organization. The US government rejected this argument, and claimed that even filing an amicus brief on behalf of a designated terrorist organization could be prosecuted as providing material support..

After losing the case, the Obama Administration appealed this decision to the Supreme Court, in a manner reminiscent of the Bush Administration, claiming that the material support statute needed to be construed as broadly as possible. The Court accepted the case, and briefing is going forward as of this writing in November, 2009. (See, *Holder v. Humanitarian Law Project*, petition for certiorari filed

with the US Supreme Court on June 4, 2009). The absurdity of the Obama administration's position seems clear. If the government criminalizes efforts to reduce violence and terror, it makes criminals out of the very people who are trying to stop terrorism. We urge you to withdraw the appeal and to accept that Material Support charges should be filed only against people who truly intend their support to help terrorism – not against people who are trying to end terrorism, or who are innocent bystanders who have no intent to hurt anyone. Anything less than this simply creates and perpetrates injustice.

Material Support charges are even more devastating when used in combination with other laws, such as Conspiracy laws, to create a process for fabricating non-existent crimes. Thus if a legitimate businessman donates a portion of his profits to a designated terrorist organization, his business associates (who arguably help generate the profits) or friends (who arguably help support his work) can be accused of being part of a Conspiracy to give Material Support, even if they do not know in what way the money is used to finance terror.

For example, in the Holy Land case, about which we wrote to you earlier, the defendants were engaged in charitable activities to help end the suffering in Palestine, but the Holy Land charity had to work through zakat committees controlled in some cases by Hamas, which at that time was the only effective way to reach the people in need. The US government successfully prosecuted the Holy Land Foundation officers on the theory that even though the defendants were not directly engaged in funding terrorism, their charitable activities had the effect of enhancing the prestige of Hamas, and allowed Hamas to switch its own money for charitable relief to terrorism, and therefore constituted material support for Hamas' activities. In this way the US government used the Material Support statute to turn compassionate humanitarians into criminals serving long prison terms.

Simply because many people are in contact with a person who is later identified as someone who has given material support to a terrorist organization does not mean that these people knew the person to be a terrorist, or are terrorists themselves, or have anything to do with terrorism. They may believe the person is a legitimate businessman, or feel obliged to show normal social hospitality. The US government however, may use such innocent acts as an excuse to bring Material Support charges against such "associates" in order to have these persons locked up, or as a threat to force them to cooperate with the FBI. Then the government targets the associates of these people and the web of manufactured conspiracy spreads.

In *US v. Syed Fahad Hashmi*, the government learned that in 2004 a bag of waterproof socks and raincoats was delivered to a terrorist official by Junaid Babar. Mr. Babar was arrested, eventually pleaded guilty to Material Support charges, and received a reduced sentence in exchange for his cooperation. In tracing back the delivery of the clothing bag, the FBI learned that the bag had been stored for a week in Hashmi's apartment in London. As a result Hashmi was charged with Material Support even though there apparently is no evidence that Hashmi was involved in terrorism, or knew that the bag of clothing was to go to a terrorist. Hashmi simply allowed an acquaintance to store a bag in his apartment for a week. (A trial in this matter is expected soon.)

In August 2006, Ali Asad Chandia was prosecuted and convicted for proving material support for terrorism. Mr. Chandia, age 30, was a highly respected 3rd grade teacher in his religious community school, and showed no inclination to violence or criminality. The charges astonished people who knew Mr. Chandia, because they did not reflect his character in any way. The evidence showed that in 2002 and 2003, Mr. Chandia allowed Mohammed Ajmal Khan, who was traveling to America from abroad, to stay at his home and use Mr. Chandia's home computer. Mr. Khan ordered some equipment on the computer, including night-vision goggles, video cameras, and Kevlar bullet-proof material. Mr. Chandia also helped Mr. Khan to send a package to Pakistan containing paint balls. This is the sum total of what the government said Mr. Chandia actually did as material support for terrorism.

Since none of this was illegal by itself, the cases hinged on Mr. Chandia's "associations" with others – principally Mr. Khan.

In March 2005, Mr. Khan had agreed to plead guilty in Britain to providing material support to a terrorist organization LET, (a group trying to end India's occupation of Kashmir), in exchange for dropping the charges against his co-defendants. In other words he pleaded guilty to spare other persons from having to go through the ordeal that he was going through. Mr. Khan believed that in pleading guilty he could finally end the harassment of his friends and associates. Instead, the FBI used Mr. Khan's plea of guilty as a starting point to trace back all of his friends and associates until they found Mr. Chandia who had loaned his computer to Mr. Khan in 2002 and 2003. The FBI were thus able to charge Mr. Chandia with giving Material Support to Mr. Khan, a convicted terrorist. Mr. Chandia was convicted of Material Support charges, and is serving a long prison sentence. This is how the "Conspiracy to provide Material Support" game is played and how the innocent are turned into criminals.

In *US v. Ehsanul Islam "Shifa" Sadequee*, the government identified a group of persons in Toronto (The Toronto 18) who conducted discussions of Islam on the internet which from time to time included general references to jihad. No actual terrorist plots were discussed however. The government then looked for associates of this group and found Shifa, who had engaged in general conversations with the group about various topics including jihad, and had posted translations of Islamic documents and pictures of Washington landmarks on the internet. When Shifa took a trip to Dubai, the government searched his luggage and found a map of Washington DC. The government conceded that no terrorist plot was being discussed by Shifa. At best, the government claimed that Shifa was trying to get in contact with terrorists abroad. The government essentially decided that Shifa was in some way "associated" with the Toronto 18, and then reinterpreted Shifa's normal activities, like taking pictures of Washington DC landmarks, and traveling with a map of Washington DC in the luggage, as something sinister. Like Chandia, Shifa was guilty by association.

Guilt by association is a familiar and chilling pattern in American justice. During the McCarthy communist witch hunts, for example, the government would demand to know from a target who his "associates" were, and then tried to find something incriminating about the associates so that the pattern could be repeated. Chandia, and Shifa are victims of this same process.

With respect to the Shifa case, the US attorney stated "We can't wait until something happens, or until things get very close to happening. I think we all learned on Sept. 11, 2001 that we don't wait anymore". But surely we still have to wait for a crime to be committed before we convict people of crimes. In the Shifa case, like the other cases above, no crime had been committed, and the government simply invented a crime based on guilt by association.

As presently interpreted, the Material Support for Terrorism charge is so vague that it fails to provide any guidance as to what is illegal, and allows people to be convicted of a crime for doing perfectly normal acts like taking pictures of Washington landmarks, carrying a map of Washington on a trip, loaning a computer to an acquaintance, and allowing an acquaintance to store a bag of clothes in an apartment for a week. All that is needed is for the government, perhaps through an "expert", to explain to the jury how these innocent acts could be combined into some kind of a plot based on guilt by association, and the government has created a crime. It is not necessary to show the defendant ever intended to commit such a crime. This is not justice. We urge you to reexamine the Material Support for terrorism statutes and limit them only to cases in which the defendant actually intended to help terrorism.

The Case of Tarek (Tariq) Mehanna

On October 21, 2009, the FBI arrested Tarek Mehanna in Boston and charged him with Material Support for terrorism. The charge surprised people who knew Mehanna as a peaceful devout Muslim who was highly educated, and respected not only in the Muslim community but in the interfaith community as well. There was wide support for Mehanna in the media.

Since Mehanna's arrest it has been reported that several years earlier the FBI approached Mehanna and asked him to be an informant for the FBI. He refused. The FBI continued to approach Mehanna over the coming months, each time applying more and more pressure and threats. The FBI supposedly told him that unless he cooperated, they would find ways to disrupt his life. FBI agents told him that they knew he was innocent of any crimes, but they would not be satisfied until he cooperated. In 2008, Mehanna was charged with making a false statement to an FBI agent and bail was set at over \$1 million dollars.

In this context it is important to note that when an FBI agent interviews a witness, even down at the FBI headquarters, the interview is normally not recorded. The FBI may secretly record telephone conversations, or secretly record eavesdropping, but when they formally interview someone, they deliberately do not record it, supposedly to prevent their investigative techniques from being analyzed. If this sounds unfair it is. The agents can claim that a witness made false statements during the interview and there is no way for the witness to disprove it. It is the witnesses' word against the agents. As long as this policy continues, one must view with skepticism any claim by the FBI that a witness made a false statement to them during an unrecorded interview.

A year after the false statement arrest, Mehanna was arrested again, and charged with Material Support for terrorism. The indictment charged Mehanna with engaging in conversations with co-conspirators about wild plots to go to training camps in the Middle East, and to randomly shoot people in malls, using code words with his co-conspirators like "peanut and jelly" and "culinary school". The government concedes no specific plots were planned, and claimed that this is because the defendants could not obtain guns. (In America where guns are freely sold this excuse seems implausible.) This case sounds depressingly similar to other cases (such as US v. Aref; the Ft. Dix 5, and the Newburgh 4), in which an FBI agent provocateur joins a group, talks generally about vague plots using code words that nobody understands, and then claims the whole group was part of a conspiracy to give material support to terrorism.

We must await the evidence in the Mehanna trial to know if this case is similar to so many other cases where the FBI manufactured evidence to entrap innocent Muslims based on agents provocateur. What is significant here is the allegations that the FBI tried to persuade Mehanna to work for them and when he refused, the FBI framed him, first with a dubious charge of false statements to an FBI agent, and later with a conspiracy charge that had no specific plot, and a group that could not even figure out how to buy guns in America. It raises significant issues as to the behavior of the FBI toward Muslims, like Mehanna, who do not want to become FBI informers, and it is similar to allegations we wrote to you about earlier in connection with US v. Niazi. We urge you to investigate Mehanna's claim, and if it is true that he resisted pressure to become an informant, to take appropriate action to stop this obviously illegal blackmailing of innocent Muslims.

Release of the FBI's Operations Guide

Recently, in response to a FOIL request, the FBI released part of its "Domestic Investigations and Operations Guide" which sets out the basic rules under which FBI agents conduct their investigations. Under the Bush Administration and continued under the Obama Administration there has been a significant relaxation of the rules under which investigations can be commenced, the scope of the

investigations, and the tactics used. In opening investigations agents are permitted to consider ethnicity or religion as long as these are not the only factors. The investigations should be based on something more than “arbitrary or groundless speculation”, but the standard according to the manual is “hard to define” and no particular factual basis is required. Investigation can now include infiltration of organizations and the following and photographing of people in public.

The released Operations Guide provides a partial confirmation of what Muslims already know and experience all across America. They know they are being watched all the time. They have to assume that in speaking to someone they may be speaking to an FBI informant; that their conversations are being recorded; that they may be investigated based on the associates that they have; that if any of their associates are found guilty of a terrorist act they may be charged with Material Support for terrorism based on guilt by association; that secret government agents provocateur may come into their places of worship and try to involve them in fake plots, using offers of money and friendship; that agents may demand that they cooperate with the government; that if they refuse, deportation, harassment or false charges may be brought against them. This is the reality for Muslims in America.

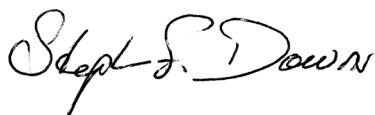
The Killing of Imam Luquman Ameen Abdullah

On October 28, 2009, members of an FBI counter terrorism unit, raided a warehouse in Detroit, and gunned down Imam Luquman Ameen Abdullah who was present there, supposedly when he shot a police dog. The FBI claimed that this shooting was not part of a terrorism case; as justification for the killing the FBI slandered Imam Abdullah and the community that he was serving (Ummah) as a violent black separatist group. This story does not explain why Imam Abdullah was killed, and why it was done in a supposedly non-terrorism case by a counter terrorism unit of the FBI. In fact there is every reason to believe that there is far more to this story than the FBI is telling.

Since 9/11 the US government has squandered the credibility of the FBI and the Justice Department, defending indefensible violations of US laws, imposing a cloak of secrecy over outrageous abuses and human rights violations, and lying to the public about the violations and abuses. Only an independent investigating body can be trusted to establish the facts of the case and explain how a religious leader like Imam Abdullah who according to the government was not engaged in terrorism, came to be shot and killed by the FBI counter terrorism unit while he was apparently pursuing peaceful lawful activities. This inquiry must not be delayed or suspicions of a cover-up will flare into certainty.

Within the Muslim-American community it is common for Muslims to express dismay at how the American government has turned the law against innocent Muslims since 9/11. Many of these Muslims came to this country because they saw the US and its constitutional legal system as a shining pillar of fairness and justice, and they are shocked that the hijackers on 9/11, as horrible as their crimes were, could cause the US to simply abandon the Constitution and engage in a campaign of unfairness and injustice toward Muslims. Mr. President, Muslims are Americans also. They are entitled to the same Constitutional rights as everybody else. It is time to end the reign of terror against them and to free those who were entrapped in the government’s vindictive prosecutions.

Sincerely,



Stephen Downs, 26 Dinmore Road, Selkirk NY. 12158; (518) 767-0102; swdowns68@aol.com

Signature

Comment

Lynne Jackson
Joe Lombardo
Janet McMahon

Please investigate these injustices.

As President Obama told the Chinese: "I think that the more freely information flows, the stronger the society becomes, because then citizens of countries around the world can hold their own governments accountable." Perhaps that concept can be applied here as well.

Bob Elmendorf
Kathy Manley
May Saffar

As and American Muslim, I demand that you look into the content of this petition thoughtfully and bring us justice equally to any other citizen of the United States.

None
Saima Mohammad
Shamshad Ahmad

A wrong done is wrong done and remains wrong for a long long time, unless corrected. We can only hope that the present administration will take right steps to bring out corrections.

Kathleen M. Pelton

We hold so much hope that your administration will do its best to right these many wrongs against our peaceful Muslim citizens and neighbors. Please take the time to investigate.

Kurt Pelton
Asia Siddiqui
Lorena
Katherine Hughes
Robert Newman
Melva Underbakke
margaret Murtagh
Laura Murphy
Susan G. Lee

Lois Price

Although I am not Muslim, I personally know of several innocent Muslims who have been persecuted by US "anti-terrorism" laws. This new brand of McCarthyism must stop. I implore you to put an end to the injustices being done to many Muslims at the hands of the US government.

Dave Capone
S Tomeh
john shelley
Omar Zarka
Barbara F. Hildebrand
Esther Kleine

Please pursue justice for all Americans.

No more conspiracy accusations or vindictive prosecutions for Muslims! They should be able to live peacefully in this country and be protected by the Constitution

Jesse E. Kern
Denis S.
JOSEPH PIETTE
Bea Dewing

Charitable giving is a religious duty for people of many faiths. To criminalize honest giving is to impede the free exercise of religion. This is an intolerable burden on our cherished religious liberty.

Joanne Herrmann
Lucinda Knox
Barbara Nicholson

Justice for ALL, not just caucasian males who all look alike!

Paul Wolf We do not need this law at all. Conspiracy, aiding and abetting, and incitement cover all the indirect forms of criminal liability that exist. The law is simply meant to scare people and reduce political support for the designated groups.

Thomas Giacobbi This is not a Muslim problem. This is an American problem. Our legal system has been abused and made dirty by the most despicable minds to accomplish amoral ends. We must rectify this situation and redress the injustices that have been wrought.

Magda Bayoumi
Jeanne Finley
moses seenarine
Stephen Lendman
CLAIRE SHEARER All over the world, decent people support your battle for the rights of man and woman. We know how difficult this is being made by the self-interested and the prejudiced but I beg you to attend urgently to this petition.

Elaine Donovan
Suzanne Abrams
C Husbands
mahboob.k. The substance of the appeal appears to be based on rational and real world argument.

Jennifer Van Bergen
Rosa Shea I endorse all the arguments against injustice towards Muslims included in the above letter. Rosa Shea

ed kinane
Jeanie Shaterian
Mark Briggs I worked hard to support the Obama candidacy in the belief that his presidency would bring a new justice to this country. Many policies of the new administration have been a breath of fresh air after the Bush administration. However, in this respect the Bush administration is seriously lagging behind any civilized standard of fairness.

William A. Cook Mr. President, you were elected by the American people to bring justice and peace to the world in contrast to the injustice and war mongering of your predecessor. Here is a chance to take one small step toward that end.

John Majeski Muslim-Americans, much like Japanese-Americans during the darkest, ill-begotten days of the Second World War, have been woefully harangued, targeted and humiliated by the very governmental bodies and institutions that are supposed to protect all of us from unwarranted surveillance, arrest and harrassment. If this is the new America under the Obama administration, it is little changed from the demagoguery and jingoistic tactics of the former illegal administration of George W. Bush. To subject citizens to such scrutiny solely because of their religious or ethnic background is poisonous to the fundamental principles of our democracy for which so many have sacrificed.

Donna Wallach The FBI has a long history of abusing its power, there are many political prisoners in U.S. prisons who have been incarcerated for decades. However, this Material Support law is obviously being used to target innocent Muslims. All the people mentioned in this petition should be released IMMEDIATELY and President Obama and Attorney General Eric Holder should make public announcements acknowledging that these people were wrongfully charged and wrongfully convicted, and the FBI was breaking the law, violating the U.S. Constitution. Targeting Muslims MUST stop NOW!

Alan Lipke
David Whitten Smith
David R. Applebaum
Peggy Boyd This is only one example of the gross injustice in this country. The criminals are still running the country.

Carol Partington
patrizia albayaty

Rafi M. Ziauddin
Agata Towarek
Bert Sacks
Smiley Goodman
luke haydn charles
Stefanie Collins
Tracie McLain
Ann Alexander
Richard Wu Mei De
Ahmad Mehaiche
Suzy Youngman

I support to investigate on such issues.

I agree. As developed countries the US and the UK have a responsibility to maintain their hitherto unparalleled justice systems. The UK especially is often considered the father of modern ideas of justice. Steps need to be taken to ensure that further miscarriages of justice cannot occur, and that if they do, there are adequate systems of redress.

Shaunta Adams
Robert Welch

Do the right thing and stand for the truth and justice that our country is supposed to stand for!

Samira Turk
patricia allen
Umair Khokhar
Catherine Callan
Sharmin Sadequee

Stop these bogus Zionist cases against Muslims and Islam. Appoint educated Judges to handle these cases who are not prejudicial towards Muslims and Islam. Judges who preside over these cases should demonstrate their knowledge of Islam before they can make a ruling.

Thomas C. Washburn
Maha Akhtar
Abu horayra Hossain
abid Adams
Ann Alexander

Laila Yaghi

Please President Obama help us Muslim people. We voted for you and wish you stop the oppression of innocent people.

Desiree Howells

All countries are under threat as long as so many powerful countries have double standards. When ordinary people see that all human beings are treated the same way and receive just treatment, there will be no need for anyone to want to take revenge or attack others.

Fred Childs

How many real innocent American families must be sacrificed as "collateral damage" in order to manufacture fictional victories in the war on terrorism? If it weren't for the very real and tragic consequences these tactics would just be stupid, but such absurd and purely symbolic campaigns to stop fictional terrorist activities are worse than useless, they are self-destructive. Couldn't some of these resources be fruitfully devoted to "connecting the dots" and preventing real terrorist activities?

Nancy Ellis

Junaid

I am from Canada. You should all be ashamed of your war on Islam and innocent Muslims. If you believe in God, be sure he will punish you in eternal hellfire if you don't repent and accept Islam. If you don't believe in God, be sure that what goes around comes around. Karma you call it. Chickens will come home to roost. May Allaah ta'ala free these noble brothers.

Athar Rana, M.D.

I am another living example of the farce they play US district Courts. They started by accusing me of writing a threatening letter to Mr. Bush and the rest is a shameful detail of horrible injustice.

We, the undersigned, agree with Stephen F. Downs and Project SALAM in the letter to President Obama and Attorney General Holder which begins:

This is the sixth in a series of letters to you urging that you restore the rule of law in America and release innocent persons, mostly Muslims, who were illegally targeted and convicted following 9/11. In this letter we want to focus on the use of a law criminalizing "material support to a foreign terrorist organization", (28 USC 2339B), and, criminalizing individual acts of material support (28 USC 2332A). The Material Support laws have had a devastating impact on innocent people pursuing innocent activities.

We add our signatures and our voices to this letter.

Name	Address	Email Address (Print Clearly)
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Touquan Scott	26 South Swan	✓
Hashim Davis	196 I Dayan brough	_____
Chuck Manning	18 Salisbury St, Dehar	~

Please Put your Name and Address and E-mail address in a Petition

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ARMA

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