

How the US Used a “Terrorism” Ploy to Attack Islamic Charity to Iran

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image: President Barack Obama reads a document in the Oval Office, January 7, 2014. (Official White House Photo by Pete Souza)

Contrary to President Obama’s promise to make it easier for American Muslims to fulfill their religious obligation to give one-fifth of their surplus income to charity, federal prosecutors continue to target Islamic charities and their donors, as illustrated by the recent prosecution of a Portland, Oregon, couple.

In his speech at Cairo University in June 2009, President Barack Obama pledged to change regulations that had made it harder for American Muslims to fulfill their religious obligation to give one-fifth of their surplus income to charity.

But for Iranian-American doctor Hossein Lahiji and his wife, Najmeh Vahid, who had donated \$1.8 million to an Islamic charity for needy children in Iran, that Obama pledge has turned to be a bitter joke. They were convicted last year in Portland, Oregon, of conspiracy to defraud the United States and violating the US economic embargo against Iran. Now the US government is using the threat of prosecution on Medicare fraud charges to pressure them to give up his citizenship and her ten-year application for citizenship – and return to Iran under a plea bargain.

Along with the closely related prosecution of the Child Foundation (CF) and its founder, the prosecution of the couple [was part of a long trail of cases](#) in which the US government has sought to suppress US-based Islamic charities that work in the Middle East by charging them with material support to terrorism or with violating US economic embargos on Iraq or Iran.

Evidence introduced at the trial showed that Lahiji, a McAllen, Texas, urologist, is a devout Shi’a Muslim who believed that his faith required that he give one-fifth of his income after expenses to charity – a practice called *khums* in Shi’a Islam. Nevertheless the US government sought to portray the couple as motivated by “greed” and the donations to the Child Foundation as a device for illegally claiming deductions for business investments in Iran.

But the US attorney’s office in Portland also pursued a cynical strategy in its case against the Child Foundation and the Lahiji-Vahid couple of linking them to “terrorism.” The US attorney’s office made a prominent Iranian cleric with whom the foundation had been in contact a vehicle for dragging Lebanese Hezbollah into the case.

Playing the Hezbollah Card

The grand jury indictment in the Lahiji-Vahid case issued in December 2010 mentioned "Grand Ayatollah Makarem Shirazi" six times, calling him a "a supporter of Hezbollah and of the Islamic Republic of Iran." Iran and Hezbollah, it pointed out, had been designated by the US government as terrorist entities. The document went on to claim that the Child Foundation, to which Lahiji and Vahid had donated, had "engaged in financial transactions in Iran in which they would split the proceeds of certain donations" with Shirazi.

The government sentencing memo after the conviction of the Child Foundation and founding director Mehrdad Yasrebi for conspiracy to defraud the US government and money laundering in March 2012, said some of the money had "funded radical Grand Ayatollah Makarem Shirazi." The memo further quoted Shirazi as joining three other leading Iranian clerics in declaring that he would allocate a percentage of their funds to the Lebanese people "as a way to support Hezbollah."

The government memo conveniently omitted the fact that the statement by Shirazi and other clerics was made in the context of Iran's Red Crescent Society providing planeloads of medicine and medical equipment to Lebanese victims of Israeli air and ground attacks in Lebanon in 2006, as reported August 1, 2006, by Radio Free Europe and Radio Liberty.

The sentencing memo also made an explicit argument against humanitarian aid to Iran, asserting that that "the resources provided by defendant and Child Foundation US in Iran helped to strengthen and perpetuate the current regime, a designated State Sponsor of Terrorism."

The presiding judge in both the Child Foundation and Lahiji-Vahid cases, M. Garr King, was appalled by the government's attempts to link the defendants to terrorism. He warned Assistant US Attorney Charles Gorder in a telephone conference before the start of the Lahiji-Vahid trial in April 2013 that he would not tolerate the attorney's office making statements relating the case to terrorism, because it had produced no evidence to support such a contention.

Despite the judge's warning, Gorder made it clear in his opening statement that he would continue to play the terrorism card. "I am going to mention Ayatollah Shirazi," he declared to the judge. "He is the key to the case." The government's trial memorandum called Shirazi "a prime supporter of Hezbollah" who had "bragged that he and other clerics allocated a portion of their monies to Hezbollah in Lebanon, gave condolences for the death of the person who was responsible for killing of the US marines in Beirut in 1983."

Government prosecutors repeatedly charged that donations from Lahiji through the Child Foundation were going to an Ayatollah who was, by implication, using them in part to support Hezbollah. But Ahmad Iranshahi, the former head of the CF in Iran, confirmed in a signed statement after the trial September 9, 2013, that his organization never transferred any funds "to any Ayatollahs or other religious leaders."

Iranshahi said the foundation had "consulted with Ayatollah Shirazi and other Ayatollahs to ensure religious dues ... could be credited by Muslim donors as proper religious khums without actually paying any money to the Ayatollahs or other religious causes."

A letter from Child Foundation in Iran to Iranian supreme leader Ali Khamenei in November 2005 introduced into evidence by the defense supported that contention. It indicated that Shirazi had agreed that 50 percent of the charity donations from US residents would be used

to support the Foundation's charity work, and the other 50 percent would go to needy families who were categorized as *sadats*, or descendants of Mohamed, except for a small amount for a cultural center.

Did Lahiji and Vahid Benefit?

The US attorney's charge that Lahiji and Vahid had conspired to reduce their tax liabilities by approximately \$656,000 by improperly deducting funds provided to Child Foundation that violated the embargo then hid the fact that from the government, was similarly misleading.

The government claimed the couple purchased \$250,000 of private property in the form of an office building in Tehran and invested \$350,000 in a bank account for a five-year term at 20 percent interest per year, over which Lahiji "retained control."

But the Memorandum of Understanding on the account between Lahiji and three officials of the Iranian affiliate of Child Foundation introduced into evidence shows that the funds could be used for humanitarian charity in Iran only. Under the agreement, Lahiji was to send \$350,000 for a bank account in the names of the Child Foundation officials. At the end of the five-year term, Child Foundation could use the full amount of the principle for its charitable work, while Lahiji could use the interest earned for medical treatment centers or schools or on help for orphans or indigent families in Iran.

Government prosecutors did not challenge the authenticity of the agreement but argued instead that the Child Foundation US had not signed the agreement, so it had no control over the funds it sent to Iran, thus making the deduction for a donation to Child Foundation impermissible. During the trial of Child Foundation founder Merhdad Yasrebi, however, the government had cited multiple indications that Child Foundation US had "maintained a tight rein" over Child Foundation in Iran.

The office building in Tehran purchased with Lahiji's donation in 2000 was used rent-free for ten years by the Child Foundation Iran, which also got substantial additional income from renting out two of the three floors to other tenants. Iranshahi said the foundation and Lahiji's family had agreed that after ten years, the foundation would vacate the building and that Lahiji's sister would "sell the property and have the proceeds committed to charitable purposes."

The defense had counted on Yasrebi, the head of Child Foundation US, to testify to these details on behalf of Lahiji and Vahid. But shortly before the trial, Yasrebi suddenly invoked the Fifth Amendment and refused to testify - despite the fact that he already had been convicted of evading the Iran embargo and defrauding the US government and sentenced to five years of probation.

Only in September 2013 after the trial of Lahiji and Vahid did defense lawyers discover the suspicious circumstances surrounding Yasrebi's refusal to testify: After his March 2012 sentencing, he had been incarcerated for seven months pending an immigration hearing on possible deportation back to Iran. During that hearing, he was grilled intensively on his interactions with the Lahijis. Then he was removed from his cell and questioned for hours without his lawyer having been informed. Immediately after that interrogation, his deportation proceedings were dismissed abruptly without prejudice, and a few months later, Yasrebi refused to testify on behalf of Lahiji and Vahid.

That sequence of events, which Gorder did not deny in response to an inquiry by defense counsel, makes it difficult to avoid the conclusion that the US attorney's office had used the offer of dropping deportation proceedings, combined with the threat of additional criminal charges to force Yasrebi not to testify as defense witness for Lahiji and Vahid.

The Prohibitions That Weren't

The US attorney charged that Lahiji and Vahid had deliberately hidden their transfer of funds to Iran from the government and that they knew those transfers violated the regulations. But the couple's accountant, Sam Gainer, testified that Lahiji and Vahid had been unaware of the Treasury Department's Office of Foreign Asset Control (OFAC) and the economic embargo against Iran that it administered.

And after years of secretly listening to Lahiji and Vahid's phone conversations and intercepting their e-mails, the government was unable to cite a single mention in any of those communications of OFAC regulations that supposedly forbade the transactions with the Child Foundation.

The most startling testimony at the trial, however, showed that OFAC officials had not even considered the use of charitable donations to Iran to purchase a building or to establish a bank account as illegal. Immigration and Customs Enforcement agent Paffen testified that in April 2004, after the defendants he had learned about the purchase of the office building with \$245,000 from the Child Foundation's 990 IRS forms, he had checked with OFAC and was told that it was "no violation of OFAC's regulation."

Steven Pinter, chief of licensing at OFAC from 1987 to 2000, testified that there was nothing in the regulations forbidding donations that were put into a bank account in Iran. "We assume that if funds are given, those funds are deposited in a bank account," Pinter said. "They are not kept in a sack under the bed."

Hal Eren, who worked at OFAC from 1992 to 2000 and helped write the regulations for OFAC, confirmed in testimony that there was "no prohibition" against a "non-commercial remittance" such as humanitarian aid to Iran. That meant that the Child Foundation was not required to have a license to send humanitarian aid to Iran as the government had insisted.

The Child Foundation had sent a letter to OFAC in 2000 laying out in detail what it was doing in Iran and asking whether a license was required. OFAC acknowledged the letter but never responded to the question. The foundation wrote again to inquire in 2001 but got no response.

But a November 2002 memo signed by Hal Harmon, the chief of enforcement for OFAC, revealed the real reason no answer had been sent: The US attorney's office and customs service had a "criminal investigative interest" in the case. OFAC's enforcement office and its allies in Justice and Treasury engaged in seeking to shut down Islamic charities preferred to keep the Child Foundation in the dark to add yet another Islamic charity to their target list.

In the years following 9/11, the US government shut down nine Muslim charities - seizing their assets - and raided six of them, all on the charge that they were linked to terrorism - for which the evidence was scant or nonexistent. The prosecution of the Child Foundation and the Lahijis, with its invocation of terrorism as a ploy, sheds further light on a policy of repression of Islamic charities that continues to be exercised to this day, contrary to Barack

Obama's 2009 promise.

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