

Muslim Charities: Denial of Due Process to Muslims Disgraces Us All

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Theme: [Law and Justice](#), [Religion](#)

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“One cannot level one’s moral lance at every evil in the universe. There are just too many of them. But you can do something, and the difference between doing something and doing nothing is everything.” Daniel Berrigan

“We are apt to shut our eyes against a painful truth.... Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the number of those, who having eyes, see not, and having ears, hear not..? For my part, whatever anguish of spirit it might cost, I am willing to know the whole truth; to know.. it — now.” Patrick Henry

Since the events of September 11, 2001, the U.S. Government has pursued its “war on terror” on two fronts. The obvious one is the military front, which has taken American soldiers to battle in places like Afghanistan and Iraq; less obvious is the financial front. The government has instituted a strategy of tracking and freezing money internationally as a way to stem the flow of the “terror-dollar” which it sees as the “lifeblood” of terrorist operations.¹

Thomas Naylor, a McGill University professor and author of *Satanic Purses: Money, Myth and Misinformation in the War on Terror*, accuses the U.S. government of fueling the myth of “coordinated global terror” by providing local groups across the world with an “Al Qa’idah brand name” that gives these groups a global significance they don’t deserve.² He challenges the idea of “great terror treasuries” and “huge sums of terror-dollars” washing through global financial systems.³ Using the 1993 World Trade Center attack as an example, Naylor shows that enormous sums of money are not required to commit horrendous acts. Materials for this attack, which killed six people and did \$500 million in damage, cost only around \$400.⁴ Even the spectacular 9/11 attacks needed a relatively small amount of money: funds for accommodation in cheap motels and airline tickets. What was crucial to the attack was “four committed individuals with some basic knowledge of how to fly, fifteen dupes who were just along for the ride, so to speak, and publicly accessible airline schedules, plus the freak occurrence of airlines actually running on time,”⁵ not a huge cash reserve.

This notion has been used to justify targeting Muslim charities in the U.S. and since September 11, 2001, six major U.S. Muslim charities and several smaller Muslim charities have been shut down.⁶ Naylor compares this strategy to someone “furiously throwing lethal

punches in the air and hoping there are not too many innocent bystanders, or at least no independent witnesses, in the general vicinity.”[7](#), [8](#)

In *Satanic Pursues*, he explores the reasons that Islamic charities have suffered this fate. Although bigotry and political opportunism play a significant role, Naylor finds this is not the whole story. The problem is compounded by a profound ignorance of Islamic culture and the Qur’an.

In many ways, the Qur’an lays out an early blueprint for a welfare state. Prosecuting attorneys and “national security experts” often have no basis for understanding an economic ideology so contrary to the one prevalent in the West; this in turn leads to both misinterpretation and misrepresentation. According to Naylor:

Part of the West’s confusion over Islamic charities arises because the Qur’an supports an economic ideology very different from the canons of savage capitalism so beloved of today’s bond brokers and televangelists. Islamic ethic imposes on Muslims as their primary duty the creating of a just society that treats the poor with respect. It favors equity over economic hierarchy, cooperation over unscrupulous competition, and charitable redistribution over selfish accumulation.[9](#)

The first wave of attacks on U.S. Muslim charity came in December 2001 when the government closed down the three largest charities, Holy Land Foundation (HLF), Global Relief Foundation (GRF) and Benevolence International Foundation (BIF), accusing each of supporting terrorism. In each of these cases, the charities’ assets were frozen and their principals imprisoned without bail.[10](#)

In its report “Muslim Charities and the War on Terror,” OMB Watch voices its concerns about the treatment of Muslim charities and the people involved with them, along with the questionable evidence used to shut them down. The closures have resulted in blocking humanitarian assistance to people who desperately need it, denying these charities the right to due process, and holding the individuals associated with their humanitarian work “guilty until proven innocent.” The report concludes that, despite their expanded investigative powers, the authorities have failed to produce evidence of terror financing by U.S.-based charities.[11](#)

The government assault on U.S.-based Muslim charities has left many Muslim communities with some of their most esteemed members behind bars. Associates of charities are often held without bail and subjected to smear campaigns by the government and press long before their cases come anywhere near a court of law.[12](#) They are denied the most basic rights of due process: the right to liberty, to be secure in their persons from unreasonable search and seizure, to a speedy trial by an impartial jury, to be informed of the nature and cause of the accusations, and to be presumed innocent until and unless proven guilty.[13](#) Many Muslims have been virtually forced to accept plea agreements, either because they did not believe they could get fair trials in the post-9/11 climate and the consequences of losing at trial under present draconian federal sentencing laws was too big a gamble to take, or because they were threatened with being declared “enemy combatants” and stripped of their rights under the Geneva Conventions and the U.S. Constitution.

Those few who chose to go to trial, trusting in the integrity of the U.S. legal system, faced gross impediments to achieving even a measure of justice. In addition to being held

without bail, they were bankrupted, denied access to their own records and counsel, and subjected to trials that were not *really* about what they were ostensibly about.¹⁴ Where no link to terrorism could be found, the government prosecuted for routine white-collar crimes and then declared successes in the “war on terror.”¹⁵

When Attorney General John Ashcroft announced his resignation in November of 2004, he gave as evidence of success in the war on terror 211 criminal prosecutions, 478 deportations, and \$124 million in frozen assets.¹⁶ A 2006 publication, “Terrorist Trial Report Card” (NYU School of Law’s Center on Law and Security) lists many of the cases he cited.¹⁷ But what Ashcroft neglected to mention, and the Center on Law and Security failed to address, was that almost none of these cases involved any actual terrorism convictions. Indeed, at the time of Ashcroft’s resignation there had been only one *bona fide* terrorism conviction, that of the British shoe-bomber, Richard Reid.¹⁸

Naylor points out that the government is aware of the discrepancy between what people are convicted of and what they are sentenced for:

When reporters queried these oddities, a federal prosecutor responded: “Bona fide terrorism is a matter of semantics. I don’t think you can draw conclusions based on what a person is convicted of.” Indeed. In a further explanation of the inner workings of the justice system, he noted: “We charge them with readily provable offenses ... rather than what they might actually have done.”¹⁹

INNOCENT BYSTANDERS AND SEMANTICS

That the government is set on a “terrorist” prosecution from the outset in many of these cases is illustrated clearly in a 2003 “Terrorist Financing” paper by Jeff Breinholt, Deputy Chief of the Department of Justice’s Counterterrorism Section.²⁰ Under a section titled, “‘clean money’ cases” Breinholt listed not only people who had already signed a plea agreement, but many who had yet to have their days in court. In other words, regardless of the defense strategy, whether plea agreement or trial, the result would be heralded as a “win” for the government in its “War on Terror.”

At the time the article was published, July 2003, Enaam Arnaout, of Benevolence International Foundation (BIF), had been held without bail for more than a year and had already accepted a plea agreement to a charge that had nothing to do with supporting terrorism.²¹

Others named in the 2003 report, more recently arrested, included: Dr. Rafil Dhafir, of Help the Needy (HTN); Sami Omar Al-Hussayen, associated with the Islamic Assembly of North America (IANA); and Dr. Sami al-Arian, a Palestinian professor from Florida,²² who had been held without bail for four months. They had not accepted plea agreements and none of the cases had come to court.²³

Arnaout accepted a plea deal after being held for 16 months of solitary confinement in 23-hour lockdown. He and his lawyer believed this was his best option, given the political climate. Furthermore, going to trial would have been very costly and carried the risk of a 90-year prison term.²⁴ For pleading guilty to a single count of “racketeering conspiracy,” in which he admitted using BIF donations to provide boots, tents, uniforms, and an ambulance to units of the Bosnian army at a time when Muslims in Bosnia were attempting to defend themselves against Serbian atrocities, he received a sentence of more than 11 years - over

and above the 16 months he had already spent in solitary confinement.[25](#)

Dr. Rafil Dhafir, founder of the charity Help the Needy, was arrested along with other HTN associates in a high-profile operation on February 26, 2003.[26](#) His charity had a history of collecting donations and sending aid to starving Iraqi civilians during the brutal embargo on that country. The government exerted great pressure on Dhafir, including its refusal to release HTN money to pay for wheelchairs for handicapped Iraqis, to persuade him to accept a plea bargain.[27](#) Despite all the pressure and the possibility of a 250-year prison sentence, Dhafir chose to go to trial. He was subjected to a show trial that lasted four months and resulted in his conviction for conspiring to violate the embargo on trade with Iraq and for “money laundering” (forwarding the charitable contributions), as well as multiple counts of submitting inaccurate Medicare billings and of “tax evasion” (deducting his own generous contributions to HTN). Any mention that the government had prosecuted on these charges only after trying unsuccessfully to tie him to terrorist groups was strictly forbidden. After being held without bail for 31 months, he was sentenced to 22 years in prison. His appeal to the Second Circuit is pending.

Writing about Dhafir’s case and the money-laundering charges in *Satanic Purses*, Professor Naylor says: “Yet all the money he had sent went not in cash but first by check to a local bank, then by cashiers’ check to Jordan, where it was used to buy emergency supplies. Not only was it completely open, but Dhafir kept a careful ledger, which the government seized and used as evidence. This is strange behavior for a dedicated money-lauderer.”[28](#)

Meanwhile, Sami Omar Al-Hussayen, a graduate student from Saudi Arabia, was arrested on an unrelated matter in Boise, Idaho, on February 26, 2003, the same morning that associates of the Help the Needy (HTN) charity were arrested in Syracuse, New York. Yet his name appears on the same press release in which the DOJ announced “fundlers of terrorism” had been arrested.[29](#) After being held without bail under 23-hour lockdown for 17 months, Al-Hussayen was cleared of all charges at trial – which focused on his maintenance of the Islamic Assembly of North America (IANA)[30](#) website — and deported to Saudi Arabia on July 21, 2004.[31](#)

Regarding the case of Sami Omar Al-Hussayen, Naylor writes,

“On the surface that might seem another embarrassing failure [for the government]. But it succeeded in demonstrating to Muslim males that the Justice Department had the power to destroy lives. Prior to his legal vindication, al-Hussayen’s wife and children were deported; his friends were scared off; his reputation was ruined; and of course, he had spent eighteen months under lock and key. Ultimately the government agreed to drop the immigration charge, too, if he in turn agreed not to appeal his deportation order.”[32](#)

Professor Sami al-Arian, a Palestinian, was arrested on February 20, 2003, and held without bail for 28 months prior to a 6-month trial that included 80 government witnesses. The verdict, on December 7, 2005, was “not guilty” on the most serious charges of abetting terrorism, and the jury was hung on other lesser charges because the judge interrupted deliberations.[33](#) The government refused to release him. Last year, believing it was the only way he could secure his release, Al-Arian accepted a plea agreement that included a few extra months in jail and his deportation upon release. Despite this agreement he was given a maximum 57-month sentence. He is currently being held in contempt of court for refusal to testify in front of a Grand Jury. While he is held on “contempt” charges

his original criminal sentence is not running.[34](#)

Unfortunately these four cases are not unique; rather, they are just a sampling of how these prosecutions – even when unsuccessful – have wrecked so many people’s lives.[35](#)

THE COSTS TO ONE MUSLIM COMMUNITY

The assault on Muslim charities and their principals has had enormous detrimental psychological and financial impact on Muslim communities. Not only do many Muslims live in fear of a knock at the door, but their communities are also burdened with the financial support of those families with breadwinners in prison and with colossal legal bills for defending their members against a government with unlimited finances, a government unwilling to let facts get in the way of its pursuit of success stories in the “war on terror.”[36](#)

Dr. Dhafir, mentioned above, is a founding member of the mosque in Syracuse, New York, and an esteemed member of that community. An Iraqi-born oncologist, he had been a U.S. citizen for almost 30 years when he was indicted. He and his American wife were very active in the local community and Dhafir often spoke at events and on local TV and radio about cancer care. In the early 1990s, in direct response to the humanitarian catastrophe created by the U.S. and U.K.-sponsored UN sanctions on Iraq, he founded the charity HTN and for 13 years openly sent food and aid to starving civilians who were the sanctions’ victims.[37,38](#)

A devout man, he devoted much of his life to prayer and charity and, according to the government, donated half his income to charity each year. In his oncology practice he treated those without medical insurance for free, paying for expensive chemotherapy medicine out of his own pocket and telling patients to pay whatever they could whenever they could.[39](#),

As he was arrested on his way to work, just weeks before the U.S. invasion of Iraq,[40](#) other agents broke down the door of his home and held guns to Mrs. Dhafir’s head. Both Ayman Jarwan, Executive Director of HTN, and Osama Al-Wahaidy, were arrested the same morning, agents having awakened their families, including young children.[41](#) At the same time, between the hours of 6:00 and 10:00 a.m., 150 Muslim families who had donated to the HTN were interrogated.[42, 43](#) It was later that same day that Attorney General Ashcroft made his announcement about “funders of terrorism” having been arrested.[44](#)

In a statement handed to the press on the day of his sentencing, Dhafir said:

What was the result of Feb 26, 2003 besides imprisoning of innocent people? Scores of innocent elderly American cancer patients died needlessly, innumerable tens of thousands of Iraqi needy (children, women and men) died, and more than that suffered malnutrition and the humiliation of poverty. An entire segment of our society here was treated as criminals, intimidated, interrogated and threatened. Never in the history of the Islamic Society of Central New York had we had so many cases of depression and suicide that the mosque had to engage the services of a psychiatrist to help out. The dream of this Republic being a sanctuary for the oppressed was shattered on that day and a new sad reality was erected in its place.[45](#)

Although not under arrest, Mrs. Dhafir spent much of the day in her nightclothes and was not allowed to go to the bathroom without an escort. Meanwhile, approximately 85 agents

collected “evidence” at the Dhafir home.[46](#)

After his arrest, Al-Wahaidy was taken to the Justice Center in Syracuse and spent all day in his pajamas handcuffed to a wall bar.[47](#)

Jarwan was held without bail for two weeks and then released when the judge granted him bail. Prosecutors tried to deny bail to Jarwan because he had a degree in nuclear physics and suggested that he was capable of making a “dirty bomb,” but the judge, fortunately, agreed with Jarwan’s lawyer that this was a ludicrous suggestion.[48](#)

The government did eventually press a charge against Mrs. Dhafir and she accepted a plea bargain, pleading guilty to lying to a government agent because she had said in a claim for Medicare reimbursement that her husband was physically present in the office of his oncology practice when he was not.[49](#) She received two years’ probation and a \$10,000 fine. In addition she had to pay Medicare \$62,000 and do 150 hours of community service.

Dr. Dhafir’s associate Osameh Al-Wahaidy, a math instructor at Oswego State University, was initially told that there was no problem with his job because “he hadn’t been arrested on a sexual harassment charge.” The following day he was fired. The judge did not allow him to return to work at Auburn Prison, where he had a position as imam; yet the prison guard union supported him and he was put on paid leave and thus could continue to support his family.

Al-Wahaidy, like all the other HTN defendants except for Dr. Dhafir, accepted a plea bargain.[50](#) He pled guilty to conspiracy to violate the International Economic Emergency Powers Act (IEEPA, commonly known as the Iraq sanctions) but reserved the right to challenge the legality of the Presidential Proclamation imposing sanctions against Iraq.[51](#) Two co-workers from Auburn Prison testified on his behalf at his sentencing and he received two years’ probation, a \$5,000 fine and 100 hours of community service. On appeal, the Second Circuit upheld the validity of the Proclamation and thus of Al-Wahaidy’s sentence.

Ayman Jarwan’s attorney, Jim McGraw, advised him to accept a plea bargain; although he was “facing substantial prison time for something he was not guilty of,” the anti-Muslim climate made a fair trial unlikely.[52](#) Jarwan pled guilty to violation of IEEPA and cooperated fully with the government, traveling the country to educate the FBI and other government agencies about Muslim culture. Yet he was unexpectedly sentenced to 18 months, and McGraw felt that the government had gone back on its part of the bargain.[53](#) Jarwan’s wife and children returned to Jordan just after his sentencing; after serving 15 months, Jarwan was released on December 22, 2006. He was then held in county jail in immigration custody until February 2007 when he was finally deported to Jordan, where he now lives with his family. Apart from Dhafir, Jarwan was the only other HTN defendant to get prison time.

As a consequence of Dr. Dhafir’s refusal to accept a plea bargain the government piled on charges, and when his case came to trial 19 months after his arrest, he faced a 60-count indictment of white-collar crime charges. The government employed many tools to impair his ability to defend himself. Despite the facts that the Muslim community in Syracuse put up \$2.3 million in bond money and that Dhafir offered to wear an electronic tag, he was never granted bail. His assets were frozen, making it more difficult to secure defense counsel, [54](#) and while being held, he was denied access to both his own records[55](#) and, at one point, to his counsel.[56](#)

Just prior to the start of the trial, New York Governor Pataki – who of course had no official interest in the matter — denounced Dhafir’s activities as a “money laundering case to help terrorist organizations.”⁵⁷ And while state and national level officials smeared Dhafir in the press, local prosecutors successfully petitioned Judge Norman Mordue, the presiding judge who had denied Dhafir bail on four occasions, to prevent the accusation of terrorism from being part of the trial. This ruling turned into a brick wall that the defense kept hitting; throughout the trial the government could hint at more serious charges but the defense was never allowed to address them.⁵⁸

Although he was not convicted of any terrorism-related crime, the government continues to tout Dhafir’s case as yet another success in its “war on terror.”⁵⁹ In the sentencing phase, where the rules of evidence do not apply, he was labeled a “national security threat” because he had violated IEEPA,⁶⁰ and a government pre-sentencing memorandum linked him with people who, although at the time were allies of the U.S., later became enemies:

In the 1980s Rafil Dhafir traveled repeatedly to Pakistan where he worked as a volunteer doctor in the mujahidin refugee camps on the border of Afghanistan. Photographs and videotapes seized from his home show that, during that time, he met and interviewed Abdalla Azzam, the founder of Al Queda, and Gulbuddin Hekmatyar, the future Taliban Prime Minister of Afghanistan. At the same time, Rafil became more involved in Salafism in the United States, becoming the Vice President of the Islamic Assembly of North America (IANA), which styled itself as an umbrella organization for Salafists in North America.⁶¹

The government neglected to mention that the reason Dhafir went repeatedly to Pakistan during the 1980s was as a volunteer for Doctors Without Borders, although it did acknowledge in a footnote that at the time Dhafir met these people, it was “U.S. policy to support the mujahidin who were engaged in jihad against the Soviet Union.”⁶²

Barrie Gewanter, Executive Director the American Civil Liberties Union, Central New York Chapter, issued a statement on Dhafir’s case the day after he was sentenced. She expressed deep concern about selective prosecution, questioning whether Muslims in the U.S. could truly receive a fair trial. She reiterated an ACLU concern about impediments that denial of bail placed on the legal defense and criticized his unequal treatment under the law. She stated that Dhafir “was presumed guilty long before the trial began, and of much more than indicated in the charges against him.” The statement continued:

The federal government has repeatedly tried to pitch this as a case with national security implications. Both the US Attorney General and the NY State Governor referred publicly to this case in the context of a terrorism prosecution. However, federal prosecutors never filed any charges related to terrorism nor did they prove any link to terrorists. Instead, this turned out to be a case of white-collar crime; the trial process was filled with descriptions of financial statements and details of financial transactions. The government should not have engaged in inflammatory publicity before the trial, nor introduced highly prejudicial allegations of terrorist links through the back door of sentencing.⁶³

Within weeks of Dhafir’s sentencing Jeff Breinholt, author of the article on “Terrorist Financing,” mentioned supra, and Greg West, one of the prosecutors in the HTN case, presented a lecture to faculty and students at Syracuse University Law School entitled “A Law Enforcement Approach to Terrorist (sic) Financing,” in which they talked about this case.⁶⁴

Breinholt asserted that Dhafir's case had been "under-prosecuted."[65](#) In the context of the lecture's title, his implication was clear. Although prosecuted for "money laundering" of voluntary charitable contributions, tax evasion, and Medicare fraud, Breinholt insinuated Dhafir's real offense was money laundering for terrorist organizations. He compared the government's strategy towards Muslim charities with its prosecution of the early 20th Century Mafia boss Al Capone for tax evasion when everyone knew that was not his "real" crime, that he was guilty of much more serious things, although those could not be easily proven.

Addressing this shopworn comparison in *Satanic Purses*, Naylor suggests that: "A better analogy would be if the U.S. decided to curb bootlegging in the 1920s by charging everyone with an Italian surname with vagrancy, then locking them up on Ellis Island."[66](#)

Dhafir was recently sent to the federal "correctional" institution in Terre Haute, Indiana and is being held in a new program there, the Communications Management Unit (CMU). Most of his fellow CMU residents are other Arab and Muslim prisoners who were not convicted of any serious terrorism offense.[67](#) In a recent letter, Dhafir wrote about the nationally coordinated plan, ordered by the Attorney General himself, to put all these Muslims/Arabs in one place.[68](#) Prisoners are held completely segregated from the general population and all communication is heavily monitored. All ingoing and outgoing mail is screened and inmates are allowed one 15-minute phone call per week, in English, and one four-hour non-contact visit a month.[69](#) (Ordinarily, medium-security federal prisoners have extensive contact visits, regular access to the mails, and 300 minutes each month for telephone use.)

"THE PRICE OF LIBERTY IS ETERNAL VIGILANCE"[70](#)

Today in the U.S., Muslims and Arabs are being subjected to an ad hoc redefinition and contraction of their basic freedoms.[71](#) It is obvious that Dhafir and the others mentioned in Breinholt's "Terrorist Financing" paper were not afforded the protections the Bill of Rights guarantees to all, and yet there is little outcry against, or public debate about, such blatant aberrations. What happened in Nazi Germany and Europe during the 1930s did not happen overnight; there was a gradual erosion of freedoms from the late 1920s through to 1945. Afterwards, people looked back in horror at what had been done in their name.

In his new book *Nemesis: The Last Days of the American Republic*, Chalmers Johnson decries the lack of political will to confront the grave threats facing our democratic republic. He likens the United States of today to a cruise ship on the Niagara River: upstream from the falls a few people on board have begun to detect a slight hiss in the background, and notice a faint haze of mist in the air and on their glasses, and a slightly faster current in the river, but none has realized that it's almost too late to head for the shore.[72](#) Whether we are a society willing to struggle to regain the protection of our freedoms and the equitable application of the law remains to be seen.

The government still hounds Dhafir; it recently demanded reconsideration of an appeals court order allowing Dhafir copies of his trial transcripts at the expense of the court.[73](#) Completely unverifiable insinuations of personal wealth persuaded the court to place some \$15,000 in additional costs on the defense. As a result, the Dr. Dhafir Support Committee was forced to raise these additional funds, at risk of seeing the appeal dismissed before it could even be briefed. Fundraising continues in order to repay the most dedicated donors who borrowed most of the amount needed to pay the court reporter and for the anticipated

high costs of printing the brief and appendix. Dr. Dhafir is now represented by nationally respected criminal appeals attorneys Barry Boss, of Cozen & O'Connor in Washington, DC, and Peter Goldberger, who is also a longtime member of the NLG Military Law Task Force.

If you care about the Constitution's guarantee of civil liberties, please help by sending a donation in any amount to: Dr. Dhafir Appeal Fund, c/o Peter Goldberger, Esq., Attorney at Law, 50 Rittenhouse Place, Ardmore, PA 19003. Make checks payable to "Dr. Dhafir Appeal Fund." Please note that donations are **not** tax deductible.

For more information go to: www.dhafirtrial.net.

Katherine Hughes is a student at Syracuse University. She attended almost every day of the seventeen-week Dhafir trial, taking notes for five hours each day. For the last three years she has tried to educate people about the Help the Needy case and the plight of Islamic charities in the U.S.

Notes

1 Thomas Naylor, "Satanic Purses: Money, Myth and Misinformation in the War on Terror" (hereafter Naylor, Purses), McGill-Queens University Press, 2006, p.5

2 Naylor, Purses, p.6

3 Naylor, Purses, p. 337.

4 Naylor, Purses, p. 339.

5 Naylor, Purses, p.338.

6 L. Al-Marayati, "American Muslim Charities: Easy Targets in the War on Terror," presented on December 3, 2004 at Pace University Law Symposium, *Anti-Terrorist Financing Guidelines: The Impact on International Philanthropy* (hereafter Al-Marayati, Easy Targets): <http://www.library.law.pace.edu/PLR/25-2/Al-Maryati.pdf>.

7 Naylor, Purses, pp. 8 & 337

8 Naylor, Purses, p. 168

9 L. Al-Marayati and B. Abdelkarim, "The Crime of Being a Muslim Charity" (hereafter Al-Marayati, Crime), Washington Post, March 12, 2006: <http://www.washingtonpost.com/wp-dyn/content/article/2006/03/10/AR2006031001859.html>

10 OMB Watch, "Muslim Charities and the War on Terror" (hereafter OMB Watch Report), revised March 2006: <http://www.ombwatch.org//npadv/PDF/MuslimCharitiesTopTenUpdated.pdf>

11 Naylor, Purses, p. 339; OMB Watch Report

12 "The Bill of Rights Defense Committee (BORDC) is creating a Human Rights Abuse Database with the stories of hundreds of individuals whose lives have been harshly affected or ruined entirely by U.S. government policies since 9/11." See information on this Database in the Bill of Rights Defense Committee newsletter, November 2006: <http://www.bordc.org/newsletter/bordcnews5-7.php>

13 Naylor, Purses, p.339 and The Bill of Rights: <http://usinfo.state.gov/usa/infousa/facts/funddocs/billeng.htm>

14 See Michael Powell's Washington Post article where he describes the government's approach to this case as "shadow boxing" for a description of the arrest. "High-Profile N.Y. Suspect Goes on Trial: Arrest Was Called Part of War on Terrorism, but Doctor Faces Other Charges" (hereafter Powell, Washington Post), *The Washington Post*, October 19, 2004: www.washingtonpost.com/wp-dyn/articles/A43278-2004Oct18.html

15 Dr. Rafil Dhafir, an upstate New York oncologist, was charged for white-collar crimes but sentenced to 22 years as a national security threat.

16 Naylor, Purses, p. 332

17 The Center on Law and Security at the NYU School of Law "Terrorist Trial Report Card: US Edition," September 11, 2001 - September 11, 2006: http://www.lawandsecurity.org/publications/TTRC_US_2006_Appendix_B.pdf

18 Naylor, Purses, p. 332

19 Naylor, Purses, p.332

20 Jeff Breinholt, "Terrorist Financing," U.S. Attorney Bulletin, July 2003, Volume 51, number 4 (hereafter Breinholt); http://www.usdoj.gov/usao/eousa/foia_reading_room/usab5104.pdf.

21 To one count of racketeering conspiracy:

http://www.usdoj.gov/usao/iln/pr/chicago/2003/pr021003_01.pdf

22 Al-Arian's involvement with charity organizations was prior to 1992. Listen to Amy Goodman's interview of Al-Arian from prison. Democracy Now, February 2007: <http://www.democracynow.org/streampage.pl>

23 Dhafir's case went to court in October 2004; Al-Arian's case went to court in July 2005.

24 All other HTN defendants accepted plea bargains for the same reason. A video interview with Ayman Jarwan's lawyer, Jim McGraw, is available (15 minutes in two parts): PART 1: <http://www.youtube.com/watch?v=i123mRoBtEo>

PART 2: <http://www.youtube.com/watch?v=bZJJTf5mak>

(Hereafter, McGraw Video.)

25 A statement issued after the plea agreement was made stated, "The plea agreement entered into today is an acknowledgment by the government that neither Mr. Arnaout nor BIF ever provided any support to al Qaeda, Osama bin Laden, or any other terrorist organization. The agreement further demonstrates that Mr. Arnaout and BIF never supported any activity that was contrary to the interests of the United States." Statement of Enaam Arnaout: <http://islam.about.com/library/weekly/aa021103b.htm>

26 For a description of the arrest see Powell, Washington Post.

27 HTN's lawyer Scott Porter offered a deal whereby all of HTN's assets would go to buy wheelchairs (the vendor offered two for one price) for handicapped Iraqis. The prosecution

blocked this because Dhafir would not enter a guilty plea. The money was dispersed to other charities unrelated to the donors' intentions after Dhafir was sentenced. See <http://www.dhafirtrial.net/2005/12/06/please-write-to-judge-mordue/#more-218>

28 Naylor, Purses, p. 229.

29 Powell, Washington Post.

30 <http://www.iananet.org/>

31 Al-Hassayen's defense lawyer, David Nevin, said he asked a pool of about 150 potential jurors to raise their hands if they had ever known a Muslim. Only about four or five raised their hands and they were all vetoed as jurors by the prosecution. Nevin compared the trial that followed to the "Far Side" cartoon in which a dog faces a jury of cats. From Amy Waldman's "Prophetic Justice:" Atlantic Monthly, October Issue: <http://www.theatlantic.com/doc/200610/waldman-islam/3> (hereafter Waldman, Prophetic).

32 Naylor, Purses, p.333. Here Naylor also contrasts treatment of Muslim males with a case involving a non-Muslim male.

33 Listen to a February 2005 interview of Professor Sami Al-Arian by Amy Goodman of Democracy Now: <http://www.democracynow.org/streampage.pl> Al-Arian spoke by telephone from prison.

34 Peter Erlinder, "The Ordeal of Dr. Sami Al-Arian: Despite Acquittal on Terrorism Charges, No Prospect of Release for Dr. Al-Arian," Washington Report On Middle East Affairs, April 2007: http://www.wrmea.com/archives/April_2007/0704024.html

35 See this author's correspondence with John O'Brien, the local reporter on the Dhafir trial: <http://www.dhafirtrial.net/2005/02/09/strongdisagreement-over-correctionstrong/#more-73>

36 It is estimated that the prosecution cost of Sami Al-Arian's case is somewhere in the region of \$80 million: <http://www.freesamialarian.com/home.htm>

37 See A. Arnove, "Iraq Under Siege: The Deadly Impact of Sanctions and War," South End Press, 2002 and R. Clark, "The Impact of Sanctions on Iraq: The Children Are Dying," a report by the UN Food and Agriculture Organization. World View Forum, Inc. 1996.

38 At trial the defense showed that a 1990 New York Times article had mentioned humanitarian exception to the sanctions. Susan Hutner of the Office of Foreign Assets Control said in her testimony that mosques and Iraqis were not targeted for education about the sanctions, although she personally gave lectures to members of the oil and banking industries. From this author's witness of the proceedings. (Hereafter, Hughes Witness.)

39 See Kristen Hinman, "The Iraqi Doctor: Patients Revere Him, the Government Wants to Put Him Away:" http://www.jrn.columbia.edu/studentwork/801mag/2004/801_IRAQIDR.pdf Hinman's grandmother was a patient of Dhafir.

40 This was part of a government operation ahead of the Iraq war. Code named "Imminent Horizon," its stated purpose was to "disrupt and rattle" potential terrorist operations ahead of the invasion of Iraq. Reported by ABC news March 5, 2003, see

news<http://www.jubileeininitiative.org/DhafirOperationImminentHorizon.htm>

41 Hughes Witness. A detailed description of the arrests can be found in court transcripts.

42 See R. Gadoua, "Up to 150 Questioned; Doctor Is Denied Bail; Muslims Afraid to Speak Out Publicly," The Post-Standard (Syracuse, NY), March 1, 2003, available here: <http://www.freedhafir.org/> and McGraw Video

43 The ACLU-CNY expressed concerns about how the interrogations had been handled among other questions, families were asked how often they prayed and whether they celebrated Christmas: <http://www.cnyclu.org/>. At one meeting I attended, a man recounted that the government had gone back 20 years in his bank records because he had donated \$150 to HTN.

44 See the government press release from that day: <http://www.dhafirtrial.net/court-documents/indictment-from-arrest/>

45 Dr. Dhafir's sentencing statement: <http://www.dhafirtrial.net/about-dr-dhafir/dhafir-sentencing-statement/>, p. 36.

46 Hughes Witness.

47 Hughes Witness.

48 Hughes Witness. Fuller descriptions of the arrests of Jarwan and Al-Wahaidy are available in court transcripts.

49 The whole Medicare part of the case, 25 counts, revolved around the "incident to" rule, which decided how billing should be handled "incident to" the doctor's treatment. For coverage of this part of the trial see, Katherine Hughes, "Dr. Dhafir's trial concluded today, Wednesday, January 26, 2005:" <http://www.dhafirtrial.net/2005/01/26/strongdr-dhafirs-trial-concluded-todaystrong-today/#more-19>

50 Other defendants in the case include William Hatfield, Dhafir's accountant and Ahmed Yusef Ali, head of Somali Relief Network, the charity that had shared its tax-exempt status with HTN. On the day of the arrests government agents went to Hatfield's office in Oneida, New York, blocked the street at both ends and entered the office where he and his secretary worked. He was told that it would be better for him if he did not call a lawyer but cooperated with government agents. Hatfield accepted a plea agreement, pleading guilty to helping Dhafir file a false statement to the IRS; he received 2 years probation, a \$15,000 fine, and 150 hours community service.

Ahmed Ali accepted a plea agreement and pleaded guilty to impeding IRS collection; he received 2 years probation and a \$10,000 fine. Two others arrested on the morning of February 26, 2003 are former HTN associate, Walid Smari, of Idaho, and Danya Wellmon, Dhafir's laboratory technician at his medical practice. Both accepted immunity in exchange for their testimony at Dhafir's trial. Jean Karp, a former Catholic nun and Dhafir's nurse for many years, had left Dhafir's practice to start a free clinic for the poor. She was grandfathered into a new Medicare program and received her own Medicare number that meant she could bill Medicare directly. She was not charged with any crime by the government, but when Dhafir was arrested her Medicare number was taken from her; as a

consequence the free clinic closed. She had no idea why it had been taken and it had not been reinstated when she testified at Dhafir's trial.

51 See a New York Times article mentioned in the cross testimony of Susan Hutner, the Office of Foreign Asset Control (OFAC), which the defense cited as an example of information suggesting that humanitarian aid was exempt from the sanctions on Iraq. P. Lewis, "[The Iraqi Invasion; U.N. Expected to Approve Iraq and Kuwait Trade Ban](#)," New York Times, August 6th, 1990. Hutner stated that in an effort to educate the public, OFAC had contacted the press, the banking and oil industries and that she had given presentations to these industries. OFAC did not notify mosques and Hutner could not remember if she had taken any calls from mosques or Muslim charities. Susan Hutner's testimony O3-CR-64, volume XII, filed on January, 11, 2005. Executive order 13224, issued on September 23, 2001, changed the guidelines for humanitarian aid. For a more detailed description of the effects of these new regulations, see Al-Marayati, Easy Targets.

52 Mike McAndrew "Fund-Raiser for Iraq Now Helps Iranians: Man Involved in Help the Needy Case Urges People to Aid Earthquake Victims," Syracuse Post Standard, <http://dontsmeardhafir.blogspot.com/2004/11/islamophobia-syracuse-post-standards.html>

53 McGraw Video.

54 The government presented its case in minute detail, spending days and days following checks from bank to bank, followed by days and days of people from Dhafir's office verifying their signatures on Medicare forms. Because Dhafir had been bankrupted in the course of seeking justice, the defense was able to call one witness for 15 minutes. The defense lawyers felt that they had successfully defended the case using government witnesses. Having sat through almost all of the 17-week trial, I agree and do not understand the jury verdict. At the very least, the defense gave cause for reasonable doubt on each of the charges. There was a core group of about 12 court watchers, several of whom attended almost every day of the trial, who also felt the defense had successfully defended the case.

55 Dhafir was charged with only white-collar crime. In his sentencing statement, he said, "My computers were confiscated, my documents were seized, my bank records hid from me, my personal library was ransacked; books which have nothing to do with the allegations were taken. To this date I am denied to see for myself what was actually taken so that I can retrieve evidences that will refute all the allegations beyond the shadow of the doubt:" <http://www.dhafirtrial.net/about-dr-dhafir/dhafir-sentencing-statement/>

56 See ACLU-CNY Chapter Statement on Dhafir Case, 10/28/05: <http://www.dhafirtrial.net/2005/01/26/strongdr-dhafirs-trial-concluded-todaystrong-today/#more-19> <http://www.cnyclu.org/issues.htm>

57 See Naylor, Purses, p. 229

58 Hughes, Witness.

59 Department of Justice Examples of Terrorism Convictions Since Sept. 11, 2001: http://www.usdoj.gov/opa/pr/2006/June/06_crm_389.html

60 See J. Van Bergen, "How Government Forfeitures are Shutting Down U.S.-Based Muslim Charities: Going After Terrorism Financiers Is the Right Strategy, But the Law Needs Reform." Findlaw, May 1, 2006:

http://writ.news.findlaw.com/commentary/20060501_bergen.html. She discusses the fact that many forfeiture laws were reformed in 2000 because they have always been constitutionally and ethically problematic, but this was not the case with IEEPA.

61 Sentencing Memorandum Of The United States. Criminal Action No. 03-CR-64 (NAM), p.3 (Hereafter, Sentencing Memo.) That Dr. Dhafir followed the Salafi tradition did not play any part in the trial. However, during the proceedings the government did made the jury aware that Osama bin Laden was also a Salafi.

62 Sentencing Memorandum, p.3

63 To read the full statement go to, ACLU-CNY Chapter Statement on Dhafir Case, 10/28/05: <http://www.cnyclu.org/issues.htm>

64 This author attended the lecture. The other two Help the Needy prosecutor's, Michael Olmsted and Steve Green, also attended.

65 In July 2007, Jeff Breinholt joined the International Assessment Strategy Center (IASC) as a Senior Fellow and Director of National Security Law for a one-year assignment from the Department of Justice, National Security Division. Until June 2007, he served as Deputy Chief of the Counterterrorism Section at the U.S. Department of Justice: <http://www.strategycenter.net/about/>

66 Naylor, Purses, p. 333

67 J. Van Bergen, "Documents show new secretive US prison program isolating Muslim, Middle Eastern prisoners," http://www.rawstory.com//news/2007/Documents_show_new_secretive_new_US_0216.html

68 Prisoners across the country were awakened at 7:00 a.m. on December 7, held in the "hole" for two days, and then transported to Terre Haute, Indiana. Rafil Dhafir, letter from prison, written between December 17, 2006 and January 18, 2007: <http://www.dhafirtrial.net/2007/02/07/a-letter-from-dr-dhafir-about-his-transfer-and-new-prison-situation/#more-887>

69 Id. Government documentation http://www.pegc.us/archive/DOJ/THCMU_Explan_VisRuls_20061222.pdf

http://www.pegc.us/archive/DOJ/THCMU_InstSupp_20061130.pdf

http://www.pegc.us/archive/DOJ/THCMU_Notice_to_Inmate.pdf

It is likely that the program as it now stands grew out of the program mentioned here in a "Coalition Letter to Bureau of Prisons Re: Suppression of Prisoner Contacts," <http://multiracial.com/site/content/view/1110/49/> See also D. Eggen, Washington Post, February 25, 2007, "Facility Holding Terrorism Inmates Limits Communication:" <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/24/AR2007022401231.html>

70 C. Johnson, *Nemesis: The Last Days of the American Republic*, Metropolitan Books (2007), p.17. (Hereafter, Johnson, *Nemesis*). Johnson says, "It is not clear who first spoke these immortal words—Patrick Henry, Thomas Jefferson, or the anti-slavery abolitionist Wendell Philips—but during the Cold War and its aftermath, Americans were not particularly

vigilant when it came to excessive concentration of power in the presidency and its appendages, and we are now paying a very high price for that.”

71 A. Waldman, “Prophetic Justice,” The Atlantic Monthly, October 2006: <http://www.theatlantic.com/doc/200610/waldman-islam/3> p.13

72 Johnson, Nemesis, p.13

73 At the same time government lawyers challenged the appeal court decision, they put a lien against the Dhafir family home so, even if they wanted to, the Dhafir’s could not put up their house as a guarantee for a loan against money for transcripts.

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