

GW/OB ADVOCACY UPDATE

Volume 2, no. 11

October 24, 2007

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No Convictions in Holy Land Foundation Trial --- What Does This Say About the Financial War on Terror and Charities?

On Monday, October 22, 2007, none of the defendants in the Holy Land Foundation for Relief and Development trial were convicted. In fact, the jury remained deadlocked on most of the 197 charges, resulting in Judge A. Joe Fish declaring a mistrial.

The Holy Land Foundation was shut down six years ago for allegedly supporting Hamas controlled zakat committees in the West Bank and Gaza Strip. The facts surrounding the trial had many within the U.S. charitable community anxiously awaiting its verdict. Under the law, charities are prohibited from supporting designated terrorist organizations. If the government suspects a charity of illegally supporting a designated organization, the charity's assets are frozen and it is usually forced to shut down. However, the zakat committees supported by the Holy Land Foundation were not designated organizations. In addition, the Prosecution conceded that the Holy Land Foundation only supported charitable activities and no money directly sponsored violent acts. What made the support allegedly illegal was the association these zakat committees may have had with Hamas, and the increased public support for Hamas because of the charitable activities.

Many organizations, including Grantmakers Without Borders, believe that these types of arguments further complicate the already confusing anti-terrorism laws that effect U.S. charities and foundations. These laws are discouraging U.S. organizations from working overseas, and the arguments used in the Holy Land Foundation trial could further chill the charitable community, pushing the law into highly ambiguous territory. According to the Prosecution, charitable organizations can no longer rely on the government's designated terrorist watch lists to learn who it is legal to do business with. In addition, when operating in areas like those affected by the 2004 tsunami, regions where designated organizations exist, organizations expose themselves to criminal prosecution because of the real and perceived associations of beneficiaries.

Furthermore, current anti-terrorism laws provide few due process protections, thereby inviting mistake or abuse. The U.S. government relied on secret evidence to close down the Holy Land Foundation. When the Holy Land Foundation tried to challenge its closure, a federal court barred it from submitting its own evidence, reviewing only the government's secret evidence behind closed doors. Nonetheless, after one of the "most

costly post-9/11 prosecutions” the government was not able to prove a single charge. As stated by David Cole, a Georgetown University law professor who specializes in terrorism prosecutions, in a recent [LA Times article](#), this “rais[es] serious questions about the administrative process that enabled the government to shut down Holy Land almost six years ago, long before criminal charges were brought.”

Grantmakers Without Borders hopes Monday’s mistrial will provide a wake-up call, drawing attention to the flawed financial war on terror and the collateral damage it creates throughout the charitable community.

ABOUT GRANTMAKERS WITHOUT BORDERS

Grantmakers Without Borders is a philanthropic network dedicated to increasing funding for international social justice and environmental sustainability. Our members, presently numbering 150 international grantmaking entities, includes private and public foundations, individual donors, and other allies in philanthropy. Grantmakers Without Borders taps into this wealth of resources to encourage globally minded grantmaking and provide learning opportunities for global donors. For those new to the field, we provide peer-to-peer guidance on international grantmaking. For current international funders, we offer a space for continued learning and community. In all our efforts, Grantmakers Without Borders is committed to the ideals of justice, equity, peace, democracy, and respect for the environment. We value and respect the wisdom and experience of local communities in all their diversity, and we are dedicated to amplifying the voice of the global South in international philanthropy. Founded in 2000, Grantmakers Without Borders is a project of the Tides Center.

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