



CHARITABLE GIVING AMONG MUSLIM AMERICANS: TEN YEARS AFTER 9/11

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INTRODUCTION

The history of American social and civic life illustrates a hopeful, inclusivist picture of growing acceptance of diverse populations. The American mainstream has historically incorporated religious minorities, as well as racial and ethnic minorities, into civil society through processes of introduction, recognition, negotiation, and establishment.¹ The definition of what it means to be an American has thus expanded over time to include Catholics, Mormons, Jews, Hindus, Buddhists, and Muslims, as well as European, Hispanic, and Asian immigrants.²

These diverse populations have been positive contributors to national civic life. Indeed, historical and sociopolitical shifts in the constitution of the American nonprofit sector, including faith-based organizations, volunteer institutions, and those that serve these entities, have also become more accommodating of races, ethnicities, religions, and genders beyond the white, male Protestant American paradigm.³

Like other faith and minority communities, Muslim Americans have been renegotiating their cultural and faith practices in a context where they are a minority. Many of them view their acts of giving, both in cash and in volunteer work, as acts of faith and citizenship in western contexts. These beliefs and practices have facilitated their position as more socially accepted and more economically and politically secure than that of their co-religionists in other many European countries.

However, especially over the last decade, Muslim

Americans' efforts to institutionalize and practice their religious rite and civic right of giving charity, especially zakat (alms-giving), has become politicized and challenged by various members of society and governmental policies. Their deeper and broader civic engagement has been met with a range of sentiments from cooperation and collaboration to suspicion of hypocrisy or terrorist leanings. Those Muslim Americans who highlight their religion in the public sphere are sometimes deemed to be "others who do not fit into the national community" as patriots and legitimate contributors to civil society.⁴ This "otherization" of Muslim Americans is sometimes exacerbated by broader geopolitical forces, policies, and interactions.

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The passage of both USA PATRIOT Acts, the closing of several Muslim charities, and the curbing of civil liberties beginning with the Bush administration and continuing through the Obama administration⁵ have caused contributions to Muslim American charities, especially those with an international scope, to decrease

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by up to 50 percent in the initial years.⁶ Despite President Obama's outreach to the Muslim world and his commitment to help Muslim Americans fulfill their zakat obligations in his June 2009 Cairo speech,⁷ he has not yet repealed the Bush-era legal provisions that restrict charitable donations.

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Since September 11, 2001, Muslim nonprofits, charities, and individuals have come under increasing scrutiny as the American government has bolstered its national security measures through laws, regulations, and guidelines on transparent and accountable giving. The result has been major shifts in the community's giving practices. These can be classified as two broad reactions⁸: (1) a particular group of Muslim leaders and community members, nonprofit leaders and scholars, and some government officials who indicate that these policies have led to the victimization and disenfranchisement of Muslim Americans and (2) another group of Muslim Americans who indicate that the post-9/11 context has enabled and enhanced the community's pre-9/11 outreach to other faith and civic communities through voluntary service and dialogue. For the second group, giving is not simply confined to donating money; rather, it also consists of giving one's non-monetary resources: time, knowledge, and skills. The differences between these two broad reactions lies in different interpretations of Islam, including what constitutes giving, to whom one can give, and how one can give. In addition, the mainstream American nonprofit sector has responded with concern and shifts in its own procedures in light of Washington's post-9/11 guidelines on charitable giving.

On the eve of the tenth anniversary of 9/11 and during Ramadan, in which many Muslims increase their almsgiving, the Institute for Social Policy and Understanding (ISPU) has commissioned a report on Muslim American giving practices to gauge the context, key issues, implications, and recommendations of how to move forward in ways that uphold national security, protect civil liberties, and provide an inclusive understanding of what it means to be an American. This report discusses the background and context of the community and its giving practices, the ramifications of a post-9/11 world on the monetary giving practices of the community and of the American nonprofit sector, and recommendations for various stakeholders (including governmental bodies, the nonprofit sector, academics, journalists, and community leaders). It is based on ethnographic inquiries, participant observation, and some 200 interviews with nonprofit and foundation leaders, government officials, policy analysts, scholars, and Muslim leaders in Houston, New York, Chicago, Los Angeles, and Washington, DC. This research was conducted from 2005-08, with follow-up research conducted in 2010-11 in the midst of a deepening Islamophobic environment and a shifting geopolitical landscape.

The need for dialogue, debate, and research on issues surrounding Muslim American giving practices is critical. Surrounding the range of desires among Muslim Americans to participate in American civic life is an ambiguous discourse on Islam in the public sphere. On the one hand, there have been many beautiful gestures of celebrating diversity such as former President Bush's emphasis on Islam's peaceful character, the importance of tolerance, and the patriotic commitment of Muslim American leaders to this country; an increase in interfaith gatherings where the faithful from one tradition read another's scriptures everywhere from Lansing to New York City and Houston; the Interfaith Youth Core's service-learning events on college campuses nationwide; and

President Obama's appointment of a Muslim woman, Farah Pandith, to the new State Department position of "Special Representative to Muslim Communities." On the other hand, there has been a failure to really listen to one another as exemplified by the mandatory registration of young men from particular countries with significant Muslim populations; the controversy over the Park51 Community Center; Pastor Terry Jones' "Qur'an Burning Day;" twenty-three state legislatures' fear of Sharia law; Rep. Peter King's (R-NY) Muslim radicalization hearings; and recent protests by xenophobic Americans of Muslim Americans and their children fundraising for domestic violence victims in Yoruba, CA. Indeed, while the mainstream's interest in learning about Islam at home and abroad since 9/11 has increased, a current of anti-Muslim sentiment continues to manifest itself in popular opinion and public policy.⁹

MUSLIM AMERICANS AND THE COSMOPOLITAN ETHIC OF GIVING

While there is some debate over the earliest points of arrival and the circumstances surrounding their arrival, Muslims have been in North America for over two centuries.¹⁰ After Christianity and Judaism, Islam is the third largest religion in the United States; it is expected to become the second largest by 2015.¹¹ Of the world's estimated 1.2 to 1.57 billion Muslims, approximately 6-8 million make their home in the United States.¹² Some 40 percent of Muslim Americans are born here, including children of immigrants, African-American, Hispanic, and Caucasian converts; approximately 60 percent are first-generation immigrants coming largely from the Levant, Africa, and Asia.

Muslims in America have their own distinctive religious and cultural practices that they balance with the country's established practices and traditions. One such tradition is that of charitable giving, which is both a foundation of American social and civic life and a fundamental tenet of Islam.

Philanthropy, charity, and voluntary service figure largely in the Qur'an,¹³ the Sunna (the accounts of Prophet Muhammad's words and deeds), the writings of Islamic scholars, popular and devotional literature, and the histories of Muslim communities. Muslims outline three traditions of monetary giving¹⁴: (1) *zakat* (as well as *khums* for Shi'a Muslims) or obligatory almsgiving,¹⁵ (2) additional *hibah* (gifts) and *sadaqa* (charity),¹⁶ and (3) *wasiyyah* (bequest through a will). Related to these traditions is *waqf* (a pious endowment established in perpetuity), which organizes and institutionalizes voluntary charities and philanthropic schemes. Historically, male and female rulers, political elites, and wealthy donors established *waqfs* to create a sustainable form of charitable giving, such as long-term support for schools, hospitals, mosques, and libraries.¹⁷

The Islamic pillar of alms-giving called *zakat* (which is especially at stake in the post-9/11 context) ritually purifies one's wealth: by giving a certain percentage to specific groups of people, one's wealth becomes "clean" and "legitimate" in God's eyes. For it to be valid, the donor has to be sure about the accepted quantity (*nasab*), timing (*hawl*), and intention (*niyya*).¹⁸ Islamic legal theories define "donors" and "recipients"; who can benefit from *zakat*; and who controls, collects, and distributes it.¹⁹ According to some Islamic legal scholars, if the donor makes a mistake the ritual may be inimical to the optimum fulfillment of the social aim.²⁰

Zakat is of paramount importance for practicing Muslims because it connects one spiritually to God and society and displays membership in the community. Every time it is mentioned in the Qur'an, it is associated with *salat* (prayer). In other words, Muslims are enjoined not simply to pray to God, but they are also enjoined to understand and serve God's creation (humanity, the environment, animals, etc.). Service to God's creation can be enacted monetarily, through charitable giving, and non-monetarily, through voluntary service. Indeed, the Qur'an explains that Muslims should share their wealth (money, time, knowledge, skills and other resources)

beyond their reasonable commitments in order to help those in need restore and sustain their God-given dignity and manage their own destinies.²¹ For Muslims, giving is therefore both a secular necessity and a sacred activity.²²

The ultimate purpose of balancing prayer and ethical action (through charitable acts and voluntary service), the spiritual and the material, is to improve the world and enable one's soul to return to its Divine origin. Therefore, for Muslims, active engagement with and service to the world bears spiritual meaning of the highest order and gravest importance.

As historical and contemporary accounts of charity and philanthropy in the Muslim world reveal, Muslim philanthropic institutions have differed dramatically in their aims, management styles, and interpretations of Islam over the last ten centuries. This is especially true of the last five decades.²³ The expressions of Muslim philanthropy in the United States reflect much of this diversity, while also speaking to issues of contemporary American life.

Since the 1970s and 1980s, a number of Muslim communities in this country have formed community groups largely along ethnic or national lines or on an ad hoc basis to fulfill their philanthropic duties. During this period, many gave *zakat* internationally where the need was greatest. As immigrants, they also tended to donate to their countries of origin, often by sending goods through friends and family. As more mosques and Muslim spaces of worship were founded in America, Muslims gave *zakat* to these institutions. By the 1990s, as the community's needs grew, many began giving domestically as well.²⁴ The 1990s also saw a growing move away from Muslim sources of funding and influence coming from outside America.²⁵

Over the last few decades, Muslim Americans have also founded social advocacy groups, charities, and social service agencies²⁶ to fulfill their philanthropic and social obligations. These organizations deal with domestic health and education needs, women's issues, and refugee assistance, as well as dispense humanitarian and rehabilitation needs internationally.²⁷ A number of

these organizations have joined together into umbrella groups that encompass the country's various ethnic and professional Muslim associations. Significantly, in addition to giving to mosques and Muslim charities, many Muslim Americans donate to UNICEF, the Red Cross, the Salvation Army, the American Cancer society, school bake sales, and other mainstream organizations.

Concomitant with these trends, Muslim Americans achieved more national visibility. As interaction between Muslims and Washington has grown, more Muslim Americans have entered into national political life, including for example Keith Ellison, Andre Carson, and Rashida Tlaib. As well, Muslim scholars whose views complemented general American views of the 9/11 attacks, called for introspection and self-criticism. Among these individuals, Shaykh Hamza Yusuf, Khaled Abou El Fadl, Ali Asani, Muqtedar Khan, and Shaykh Hissam Kabbani have been prominent.²⁸ They have emphasized Islamic traditions of humanistic and legal scholarship, American values, and domestic political issues.²⁹ As well, faith-based civil society groups such as the Islamic Society of North America, the Council on American-Islamic Relations, ASMA Society, and others represent faith groups to the government, though they do not receive governmental funding or have any formal status in the eyes of the government.

After 9/11, a new, younger generation of civic leaders brought up in the United States has emerged.³⁰ This emerging class has joined in calls for adhering to the Constitution and civil rights.³¹ In this vein, many Muslim organizations have declared themselves American, democratic, and supportive of civil liberties.³² In addition, more Muslim American voices are speaking out against militant Islamic ideologies and in favor of exemplifying humanistic interpretations and practices of Islam.³³ Despite the ongoing presence of intra-Muslim divisions, the community has become increasingly comfortable with its own internal diversity.³⁴ All of these shifts have had positive implications for collaboration among Muslim Americans and increased conversation between this

community and segments of American government and civil society. The implications of these moves are promising for the challenges faced by Muslim Americans in their giving practices.

However, since the 1990s some IRS officials believed that various charities were being founded to avoid taxes. Since this body regulates the nonprofit sector, including charities, its concerns may well have shaped Washington's post-9/11 response to Muslim American charities. This is the subject of the next section.³⁵

POST-9/11 AMERICAN POLICIES ON CHARITABLE GIVING

The need to balance national security with civil liberty is a delicate issue. In certain historical circumstances, when national security has been at stake, Washington has turned a critical eye toward its own citizens and permanent residents. The targeting of Japanese Americans and the creation of internment camps within national borders, as well as the targeting of potential communist sympathizers during the McCarthy era of guilt by association, are two prominent examples that perhaps foreshadowed the post-9/11 experiences of some Muslim Americans. The interpretation and application of First Amendment principles means that the federal government cannot tell Muslim organizations which preachers to use or how to spend their money; however, the government can govern Muslim charities by designating them as terrorist organizations, freezing their assets, and criminally prosecuting both them and the individuals associated with them.³⁶ The government has sought to safeguard national security by curbing alleged linkages between (Muslim) charities and terrorists through the Antiterrorism and Effective Death Penalty Act, the International Emergency Economic Powers Act, the USA PATRIOT Acts, Executive Order 13224, the Anti-Terrorist Financing Guidelines, and other legal measures.

Under the Anti-Terrorism and Effective Death Penalty Act (AEDPA), Washington can designate an organization as a Foreign Terrorist Organization (FTO). An entity can challenge its designation as an FTO within thirty days of its designation, but only in the U.S. Court of Appeals for the District of Columbia. They cannot provide any evidence to support the challenge or review/rebut the evidence presented. Washington, on the other hand, can defend the designation by using secret evidence that cannot be reviewed, since the alleged activities undermine American foreign policy.³⁷

Similarly, under the International Emergency Economic Powers Act (IEEPA), the government can designate an organization or individual as a Specially Designated Terrorist or a Specially Designated Global Terrorist (SDGT). An individual or group may appeal their designation with the Office of Foreign Assets Control. Failing that, the designated organization may appeal in a federal district court, but judicial review is based solely on records created by the Department of Treasury.³⁸

Congress enacted the 2001 PATRIOT Act, which it reauthorized in 2005. Among other things, the Act increases existing criminal penalties for knowingly or intentionally providing material support or resources to terrorist entities. According to Richard Newcomb, former director of the Office of Foreign Assets Control (OFAC), the USA PATRIOT Act of 2001 enhanced OFAC's authority to:

[B]lock assets of suspect entities prior to a formal designation in “aid of an investigation...” This new PATRIOT Act authority has greatly enhanced our ability to make and defend designations by making it absolutely clear that OFAC may use classified information in making designations without turning the material over to an entity or individual that challenges its designation.³⁹

The power of the above designations is evident in the testimony of Stuart Levey, the former Under Secretary for Terrorism and Financial Crimes at Treasury: “All the

judicial challenges to our designations have failed.”⁴⁰ In such cases, the government's investigations of the charities in question have continued. While some Muslim American leaders believe that judges should be (and are) cautious in cases related to national security issues, they are concerned about the fairness of the process, since judges see mainly the government's viewpoint.⁴¹ Some view Levey's 2005 statement as indicating that the law favors government attorneys and officials.⁴²

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However, since Levey's statements, three federal courts have held unconstitutional some aspects of the processes used by the government to “designate” or list entities as supporters of terrorism.⁴³ For example, in *Kindhearts for Charitable Humanitarian Development v. Geithner* (2009), the court found that blocking assets violated the organization's Fourth Amendment rights and statutory rights under the Administrative Procedures Act.⁴⁴ In *Al-Haramain v. U.S. Dept. of Treasury* (2008), the court found that Treasury violated the organization's due process rights by not providing notice between the time it froze the organization's assets “pending investigation” in February 2004, and the time it designated the organization as an SDGT in September 2004.⁴⁵ In *People's Mojahedin Org. of Iran v. U.S* (2010), the court held that instances in which the government uses unclassified information to designate an entity as a FTO, it must provide that information in advance and give the entity an opportunity to rebut its proposed designation.⁴⁶

The International Emergency Economic Powers Act (IEEPA), revised in 2007 and updated in 2011, authorizes the U.S. Treasury Department to block the assets of

entities suspected of providing material support for terrorism.⁴⁷ The statute also allows the government to act on the basis of classified evidence without notice, hearing, or judicial review.⁴⁸ This represents a transformation of IEEPA from its original form, which was originally formulated as a 1977 amendment to the 1917 Trading with the Enemy Act to enable Washington to place embargos on foreign countries. In 1995, under President Clinton, this statute was refashioned so that Washington could place an embargo on political groups and individuals designated as a “specially designated terrorist.”⁴⁹ Similarly, using his authority under IEEPA, President Bush issued Executive Order 13224 in 2001, which named twenty-seven “specially designated global terrorists,” authorized the Secretary of Treasury and the Secretary of State to designate more organizations or individuals as SDGTs, and prohibited individuals from associating with or providing material support to individuals who have been labeled SDGTs.⁵⁰

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The Supreme Court’s decision in *Holder v. Humanitarian Law Project* (2010) U.S. LEXIS 5252, upholds the constitutionality of the “material support” of terrorism provisions.⁵¹ Even if an organization has a religious affiliation, the religion clauses do not bar Washington from criminalizing those organizations’ knowing provision of financial support to SDGTs.⁵² The ruling also affirms that an individual’s intent (e.g., of their donation) to assist with lawful humanitarian aid is not relevant.⁵³

In 2002, the Treasury Department issued U.S. Department of The Treasury Anti-Terrorist Financing

Guidelines: Voluntary Best Practices For U.S.-Based Charities (hereinafter: Guidelines).⁵⁴ While voluntary, they suggest strict due diligence procedures urging nonprofits to check donors and donees against government watch lists; however, no “safe-haven” for organizations that do so is guaranteed. The Guidelines state in a footnoted paragraph in the Table of Contents: “[c]ompliance with these guidelines shall not be construed to preclude any criminal or civil sanctions by the Department of the Treasury or the Department of Justice.”⁵⁵ A number of organizations in the American nonprofit sector deemed the Guidelines “onerous” and requested that they be withdrawn or revised.⁵⁶ In 2005 and again in 2006, the Guidelines were revised based on recommendations from the American nonprofit sector.⁵⁷

The Guidelines are meant to be employed by the entire American nonprofit sector, and they have been, but the impetus for their development began with Muslim Americans asking the government how to continue to give zakat after the closure of several community charities after 9/11. Juan Zarate, former deputy assistant to President George W. Bush and former deputy national security advisor for combating terrorism, announced at a convention held by the Muslim Public Affairs Council⁵⁸ in Los Angeles in 2002: this document is “a response to you, the Muslim community, who are seeking guidance on how to deal with the ‘problem’ of charities and terrorist financing” (emphasis added).⁵⁹ He explained, “Here are the Guidelines [on charitable giving]; they’re voluntary, and provide no guarantee, but this is what we’ve done. Now it’s up to you to take the next step” (emphasis added).⁶⁰

Immigration law is also important in the government’s anti-terrorist legal toolkit, for it can be used to deport anyone for having ever supported in any way any group of two or more people that has used or threatened to use a weapon. It is irrelevant whether the group has been designated as a terrorist organization or why or how one supported that group. According to Georgetown University Professor David Cole, “The government

claims that the law is also retroactive, so it's no defense to say, 'When I supported the African National Congress' anti-apartheid work, there was no law against it.'"⁶¹

ANALYSIS: RAMIFICATIONS OF POST-9/11 POLICIES ON CHARITABLE GIVING

Muslim American Reactions

The fact that there has been a shifting relationship between the federal government and Muslim American charitable and nonprofit organizations after 9/11 is not new. Relationships between faith-based charitable organizations, Washington, and the American public historically have varied by organization and political context.⁶² What is new is the current nature of the shift, the level of surveillance and governance of charitable organizations, and the effects thereof on organizations' work and on the giving practices of some citizens.

Various Muslim American leaders argue that post-9/11 governmental policies on charitable giving disproportionately target Muslims on the basis of their religion.⁶³ They note that the federal government has applied the SDGT label only to Muslim American organizations.⁶⁴ According to one such leader, "Churches [in America] don't face the same problem. Other faith groups supporting dubious causes abroad are not under investigation. We [Muslim Americans] are being targeted."⁶⁵ As Laila al-Maryati, president of KinderUSA, explains:

Not a single *non-Muslim* nonprofit organization has ever received such a designation [of SDGT] and had its assets frozen and operations terminated as a result. None of the cases mentioned have had any relation to Al Qaeda or to the terrorist acts of 9/11. This is very important, because I believe that the whole focus on Muslim charities has to do more with what is politically expedient than with promoting national security.⁶⁶

To be sure, since 9/11 the Department of Treasury has seized the assets of nine American-based charities: seven are Muslim and two are Tamil. In most cases, the government has not levied criminal charges against them.⁶⁷ Citing Executive Order 13224, Washington has also blocked the assets of twenty-seven organizations and individuals, as well as those acting "for or on behalf of" them.⁶⁸

Through the exercise of IEEPA, the government closed the three largest Muslim American charities shortly after 9/11: the Holy Land Foundation for Relief and Development (HLF), the Global Relief Foundation (GRF), and the Benevolence International Foundation (BIF).⁶⁹ HLF was convicted after a previous trial resulted in a hung jury on most counts. Significantly, however, it had no legal representation at the re-trial.⁷⁰ The 9/11 Commission Report's *Staff Monograph on Terrorist Financing* demonstrates that the government has not clearly shown how money was used to finance terrorist acts in the cases against GRF and BIF, and thus no criminal convictions have emerged to confirm allegations of these organizations financing terrorism or participating in terrorist acts.⁷¹

The Treasury Department has designated six Muslim charities as SDGTs: the Al Haramain Islamic Foundation-USA (Oregon), the Benevolence International Foundation (Illinois), the Global Relief Foundation (Illinois), the Holy Land Foundation for Relief and Development (Texas), the Islamic American Relief Agency-USA (Missouri), and the Goodwill Charitable Organization (Michigan).⁷² All have been shut down as a result.⁷³ The Office of Foreign Assets Control (OFAC) issued a blocking order to close a seventh Muslim charity⁷⁴; however, it has not been designated as an SDGT.⁷⁵

The federal government has surveilled and raided six additional Muslim American charities, but has not designated them as SDGTs.⁷⁶ These include KinderUSA (Texas), Life for Relief and Development (Michigan), Al-Mabarrat (Michigan), Child Foundation (Oregon), Help the Needy (New York), and Care International

(Massachusetts).⁷⁷ While their assets have not been seized pursuant to a blocking order, their public image and donations have suffered.⁷⁸ Help the Needy and Care International have already closed their doors.⁷⁹

Ironically, board members of KinderUSA, a Muslim American humanitarian relief organization founded after 9/11 to fill gaps left by closed community charities, argue that they worked with government officials to follow precisely Treasury's Guidelines.⁸⁰ Regardless of their efforts, in November 2004 the organization was investigated by a U.S. Attorney's Office grand jury for possible terrorist ties.⁸¹ While it cooperated with grand jury requests and no charges were filed, media reports about possible terrorist ties caused donations to drop from \$1.6 million (2004) to \$250,000 (2005). According to Executive Director Dalell D. Mohamed, "We lost a lot of donors. Now some people who used to donate to us will come and apologize to me and say 'you have to understand.' They are just afraid, period."⁸²

In June 2011, the IRS announced that 275,000 organizations had lost their tax-exempt status for failing to file the required annual returns.⁸³ According to IRS Publication 78, over 200 Muslim charities are included.⁸⁴ Muslim Americans are being encouraged to check this document before donating so that their contributions will be tax-deductible.⁸⁵ Importantly, the announcement came shortly before August 1, 2011, the first day of Ramadan, during which almsgiving is central.

The effects of these shifts are chilling. According to nonprofit leader Khadija,⁸⁶ the government's closure of Muslim charities has led to "near hysteria" among American Muslims about where to give zakat. She claims that some Muslims have come to fear the government itself:

How could a state that is supposed to protect its citizens target them and their private charitable institutions? [Giving charitably is] our right as Americans, it's our duty as Muslims ... therefore it's a matter of religious freedom. The [American] government must

make it possible for us to give without fear. American Muslims are running out of options to give their zakat. For us it is a national and international problem ... American mosques and Muslim charities working abroad both have to police what they do with their funds (emphasis in original).⁸⁷

RECONFIGURING RELIGIOUS RITES

Several scholars, social advocates, and nonprofit practitioners have suggested that the post-9/11 terrorism financing policies on charitable giving are adversely affecting Muslim Americans' "protected constitutional liberties and violating their fundamental human rights to freedom of religion, freedom of association, and freedom from discrimination."⁸⁸ According to Aslam Abdullah, editor of *The Minaret*, a monthly magazine on Islam in the United States, by 2003, donations to Muslim American charities had fallen by 20 percent due to the Bush administration's crack down on Islamic nonprofit groups accused of providing support to terrorists. Earlier estimates placed the drop at 50 percent.⁸⁹ While systematic data is unavailable, a number of nonprofit leaders and scholars have argued that other government actions have had a further "chilling effect" on giving—especially international giving—among Muslims and non-Muslims alike.⁹⁰

While the concept and practice of zakat have historically been malleable, recasting it in a post-9/11 American world has not been an easy or straightforward process with a single set of responses. According to more than 100 Muslim nonprofit leaders, imams, and community members nationwide interviewed by the author, the basic questions of "What does it mean to give? And, to whom?" are the subject of debate within much of the community as it manages its unique internal diversity while carving a space for itself in American society after 9/11.⁹¹

For many Muslims, Washington's regulation of charitable giving has elicited changes in what constitutes

a charitable donation, to whom and where it is given, how it is given (informally between individuals or formally via institutions), and from whom it is received. In turn, these changes affect how some Muslim leaders and individuals relate to the government and to the American nonprofit sector. For example, Islamic cultural categories such as zakat and other charitable giving practices are being reshaped and revalued by Muslims out of fear of the government's power. As well, Muslim ideas and practices of giving that were not originally connected to American notions of giving, such as to civil rights groups, now are.

With the reallocation of funds domestically and the possibility of international giving dwindling, some leaders say that their community's ability to give and to receive charitable monies as they did before 9/11 has been challenged. A number of Muslim organizations stopped taking donations from foreign entities after 9/11 for fear of being closed.⁹² According to some interviewees, individuals have also stopped giving to international causes.⁹³ In part, the effect of this shift means that reduced humanitarian relief efforts abroad, in war-torn or disaster-hit areas, may have contributed to "acts of anti-American violence."⁹⁴

Ironically, the post-9/11 policies on charitable giving designed to trace cash flows sometimes have the opposite effect: more donations are going "underground." The Qur'an's emphasis on anonymous giving is meant to curb the donors' conceit and arrogance and to uphold the recipients' dignity. After 9/11, some Muslims began to emphasize anonymous giving as a matter of political expedience: to protect themselves from potential interrogation or legal action. "Zakat is in hiding now", says Salma H. of Dearborn Heights, MI.⁹⁵ Some donors now send cash to Muslim charities, mosques, and organizations. Others donate cash and in-kind items through informal networks of relatives and friends to needy Muslims both here and abroad because they fear that the government might freeze the organization's assets and use their charitable dollars

for unintended purposes. Some believe that there is a religious injunction against giving to institutions, and so they give to individuals⁹⁶; others divide their donations among several organizations or mosques⁹⁷ or have set up their own foundations.⁹⁸

In contrast, some have purposely included their names with their donations to show their desire to remain loyal American citizens. Several Muslim American leaders suggest that other Muslims have begun giving only to secular charities out of fear that Muslim organizations will be put on "government lists" that may one day be labeled an SDGT.⁹⁹ For example, Ahmad Chebbani, former president of the American Arab Chamber of Commerce, used to donate \$50,000 annually to Muslim organizations; he now gives to secular organizations to avoid questions from the government.¹⁰⁰ Some Muslims also fear being interviewed by law enforcement officials due to potential immigration consequences; they feel unable to donate to whom they wish.¹⁰¹

A number of Muslims have cited the lack of a government-approved "white list" of "safe" organizations to which one can donate as a major limitation in fulfilling their religious obligations and civic responsibility to give charity without fear.¹⁰² Khadija explains further: "Donors have great fear about their own vulnerability. They could be targeted if they give to an organization that's later accused of something ... so far Treasury hasn't gone after donors, but the Patriot Act could get them retroactively."

After 9/11, several local and national Muslim groups involved in civil liberties issues and advocacy sought to convince Muslims that, in addition to mosques, they are legitimate recipients of zakat.¹⁰³ The recipient has thus been reconstituted from the needy, orphans, travelers, and so on, as cited in Qur'an 9:60, 2:215, 2:273, and elsewhere, to the Muslim American community under siege. The result is tangible: many mosques and Muslim organizations have re-channeled their funds away from social services and toward social advocacy, legal fees, and outreach programs in response to hate crimes and government initiatives.¹⁰⁴

This shift has impacted needy Muslim Americans. Major non-Muslim American foundations have offered grants and other support to fill in these gaps, such as in education and social services. This significant shift in funding sources for formerly community-financed Muslim organizations has opened avenues to forging new relationships between a relatively marginalized faith community and the American nonprofit sector.¹⁰⁵ But despite funding from private foundations, low-income or at-risk Muslim families (some 15% of the Muslim American population) remain underserved.¹⁰⁶ The reasons are varied: the dearth of mosques and Islamic centers with appropriate human resources and programs, the shortage of independent Muslim social service organizations, the scarcity of secular social service agencies that are culturally sensitive and linguistically capable, and the post-9/11 reluctance of many low-income Muslims to use government services due to fear and paranoia.¹⁰⁷

Other community members are happy to receive aid from secular or non-Muslim foundations. However, they have noted that such “quick fixes” offer their communities no long-term, sustainable solutions. The difference is between a hand-out and a hand-up, the former articulated in practice by foundations, the latter an ethic of Islam cited by interviewees, Sunni, Twelver Shi’a, Shi’a Isma’ili, and Sunni and Shi’a Sufi alike. Some Muslims worry that if they receive aid but cannot set the terms by which it is received or used, then they cannot fulfill their religious obligation of helping the (Muslim) American community become self-sustaining and independent rather than dependent on foundational support and community aid.

Who constitutes the donor has also changed due to shifting contexts, practices, traditions, and transnational connections. Many Muslim Americans juggle multiple identities, including national, religious, and ethnic or racial identities, which affect their giving. Their American identity is colored by mainstream practices of giving, such as writing small checks to organizations or to

people who solicit funds in the mail. Their Muslim identity affects how they calculate *zakat*, whether they give to individuals or institutions, to Muslims or non-Muslims. Some individuals feel that everything they do is connected to their Muslim identity: whether they give to the local mosque or to the local homeless shelter, they said they do so out of religious motivation.¹⁰⁸ There are differences, however, even among those who identify primarily as Muslims. For instance, one Sunni imam explained that Muslim Americans need to be exemplars for the global community by giving to non-Muslims as well as to Muslims.¹⁰⁹ Others, however, feel that the Qur’an is clear: one gives *zakat only* to needy Muslims.

For some Muslim Americans, their ethnic identity shapes cultural ideas of giving that link them to a specific nation or kinship network. In an attempt to foster acceptance of such diversity and to address local needs, some American mosques encourage Muslims of different ethnicities and races to come together in their giving practices.¹¹⁰ Others say that while they are Muslim, they associate with and donate primarily to their ethnic, kinship, or civic networks regardless of the faith persuasions of those in their networks.

Significantly, some Muslim organizations claim that they have not faced great fundraising challenges after 9/11. The reason, their leaders suggest, is that their organizations have long-adopted the best practices and due diligence procedures used in the American nonprofit sector. Zakra,¹¹¹ the founder of an organization that addresses education issues in remote Pakistani areas, states that the organization’s net donations have steadily increased over the last five years.¹¹² She posits that 9/11 has not impacted its donor base because its transparency and accountability procedures are well known in the Pakistani-American community.¹¹³ However, she also admitted that monies from private foundations, a major source of the organization’s funding, became more difficult to procure after 9/11 because foundations have become stricter in their grant-making procedures.¹¹⁴

AMERICAN NONPROFIT SECTOR REACTIONS

Although the Guidelines were issued specifically in response to the Muslim American community, mainstream American nonprofits, especially those working internationally, follow them in order to reduce the real threat of criminal liability, the penalty of frozen assets, the possibility of state audits, and the epithet of ‘uncooperative’ in national security issues. Anthropologist Terry Odendahl has suggested that “compliance with new regulations has come to mean a tacit agreement among grant makers and their grantees to ignore the inane and untenable. I’ve been referring to voluntary measures, but related developments are not always meaningfully voluntary. In the past three years, the Guidelines have cemented into de facto law.”¹¹⁵

While foundations claim that their funding priorities and procedures did not change after 9/11, virtually all of them check terrorist watch lists regularly and now require grantees to certify that they do not, either willingly or knowingly, permit any portion of the grant to go to terrorism or violence.¹¹⁶ Indeed, checking nonprofit board members, employees, vendors, and grantees against multiple terrorist lists is the new norm, Odendahl explains. Such procedural shifts are vital to an organization’s longevity: the new policies mean that grantmakers, despite their best intentions, would face legal action if they are declared to have knowingly or intentionally provided material support or resources to terrorist entities. Grantmakers also face civil liability should grants go to the wrong individuals. Nonprofit organizations are legally liable despite their charitable or humanitarian work. Yet this is a “futile” attempt, according to Odendahl, since the Justice Department confirms that the state’s main watch list is incomplete and inaccurate.¹¹⁷

Some American nonprofit leaders have called the U.S. Department of Treasury’s Anti-Terrorist Financing Guidelines “onerous” and “impossible to follow.”

They say that the “broad, sweeping language” of the Guidelines presumes that foundations and organizations of various sizes can implement them equally.¹¹⁸ As Nancy Billica explains, the new laws have especially hurt smaller organizations that lack the resources to meet administrative requirements and organizations engaging in global philanthropy because their funding schemes are subject to heightened security measures and may be blocked.¹¹⁹ Similarly, one board member of a small secular foundation claimed that following the Guidelines could cause increased intrusiveness, requirements, regulations, information collection, and burdens among nonprofits and foundations without actually curbing terrorism.¹²⁰

The vulnerable positions of international grantees have also been exacerbated by the American political process. Some foundation program officers believe that the certification process essentially damages confidence and trust in their work with the very groups that are addressing the root causes of terrorism.¹²¹ The Guidelines erroneously assume that (potential) grantees in the “developing world” can provide American foundations the detailed information required by the American state.¹²² Many such groups have been de-funded, or fear that they will be, for refusing certification. But they have not gone on the record to state as much, as they are concerned that once identified they might lose more grant money.¹²³ Odendahl explains that the United States Agency for International Development (USAID) states that grantees are now viewed as “extensions of the U.S. government,”¹²⁴ including those that lack access to basic health and educational services, lack political power, represent minority groups, face environments of social conflict, and so on.¹²⁵

A number of Muslim leaders and mainstream nonprofit leaders and scholars have argued that Washington’s actions have had a “chilling effect” on giving—especially international giving—in the American nonprofit sector generally.¹²⁶ While the laws may starve terrorists financially, they also have the potential to reduce

legitimate contributions to global philanthropy¹²⁷ and affect giving in general.

Some American nonprofits have actively collaborated with Muslim American organizations to challenge the Guidelines. Importantly, in 2004, the Council on Foundations founded the Treasury Guidelines Working Group—comprised of more than seventy U.S. charities, foundations, religious organizations, corporations, umbrella associations, watchdog groups and advisors, including Muslim American organizations—to interface with the Department of Treasury. The Working Group developed the Principles of International Charity to guide the anti-terrorism efforts of charities, as an alternative to the U.S. Treasury Department’s Voluntary Guidelines. They presented the Principles to Treasury in March 2005.¹²⁸

In February 2006, the Group provided comments to Treasury on the revised 2005 Guidelines,¹²⁹ and in December 2006 and in April 2010, they requested Treasury to withdraw the revised Guidelines.¹³⁰ In response, Treasury has expanded the Guidelines because:

charities continue to be abused and exploited by terrorist organizations, particularly those charities operating in high risk regions around the world. The Guidelines serve as a key tool for assisting charities in responding to the real and ongoing threat of terrorist abuse of the sector.¹³¹

As a result of Treasury’s response, the Working Group decided to disband in 2010, citing an impasse in its conversations with Treasury over the previous seven years.¹³² Group members state that they remain committed to implementing due diligence practices and avoiding the illegal use of funds, including support to terrorists.¹³³

Other American nonprofits and foundations have long been disengaging from the political process they helped create as a matter of self-preservation. As a result of the various effects the new policies on charitable giving have had on the American nonprofit sector, Odendahl argues,

“the very nature of so-called nonprofit enterprises might be changing ... nonprofits are now becoming so risk averse that they’re weighing the risks rather than the benefits of the work that they might be doing ... there might be a targeting of nonprofits on political grounds” (emphasis added).¹³⁴

Some nonprofit studies scholars have called the governments post-9/11 policies on giving a “legal and structural arsenal” connected to the state’s “war on al Qaeda” among those inside America.¹³⁵ Similar to the ways in which some Muslim American leaders have framed the effects of post-9/11 policies, a number of American nonprofit leaders and philanthropy scholars feel the government is “uncivil” in its new, strict regulations on giving. They have suggested that Washington has resumed practices characteristic of the McCarthy era, in which American citizens were targeted as “communists” or “communist sympathizers” in the early 1950s. In popular usage among Americans, “McCarthyism” has come to signify any government activity that aims to suppress unfavorable political or social views by curbing or revoking civil rights in the name of maintaining national security. David Cole, professor of law and nonprofit studies, has argued:

[I]n many respects, we have resumed the practices of an earlier period in our history, namely the McCarthy era: first by resurrecting the principle of guilt by association; second by employing broad based administrative measures as well as criminal measures to implement guilt by association more extensively throughout the culture; and third, by employing public/private partnerships, in essence, to ensure the broadest possible effect of the enterprise ... I’m referring in the current period to the Voluntary Guidelines that Treasury issued.

Cole and others also note that Washington has not labeled the Irish Republican Army as a terrorist group, thus allowing donations to this organization to continue.¹³⁶

WORKING TOWARD NEW RELATIONSHIPS

In light of the effects of post-9/11 policies, Muslim American community leaders are addressing the challenges in various ways. Some have opted to work with the federal government to help their community apply the new regulations, others have decided to work with leaders of secular American nonprofits to collectively challenge the government's policies, and still others are collaborating with others to guide Muslims on how best to follow the law, as described below.

The first approach is exemplified by Muhammad,¹³⁷ head of an American-based Muslim nonprofit, who believes that change can only come through collaboration with the government.¹³⁸ He and other Muslim leaders worked with the Treasury Department to develop the National Council of American Muslim Nonprofits (NCAMN), an organization to oversee the transparency and accountability of Muslim nonprofits. The purpose of this umbrella group: to allow domestic Muslim charities and nonprofits to “speak with one voice” to Washington and other nonprofit groups, thus serving as a liaison between leading Muslim charities and federal administrative and law enforcement authorities. Muhammad expressed hope that the Treasury's guidance would enable Muslims to act in accordance with American law and the best practices of global philanthropy; fulfill their religious obligations without fear; and that, by extension, Muslim Americans could improve their country's image abroad through their charitable work. Some Muslim leaders expressed their reservations about any collaboration between Washington and American-based Muslim organizations, arguing that Washington will not guarantee that NCAMN-approved organizations will be deemed legitimate and will not be targeted by law enforcement agencies.¹³⁹ Muhammad's efforts were short-lived: NCAMN, formally launched in 2005, was disbanded in 2007 after the Treasury Department froze the assets of one NCAMN committee member

organization (KindHearts for Charitable Humanitarian Development) and raided another committee member organization (LIFE for Relief and Development).¹⁴⁰

Laila al-Maryati, founder of KinderUSA, exemplifies the second approach. She collaborates with mainstream nonprofits to lobby the state for changes in the regulations and to address the limitations posed by the Guidelines on international giving in the American nonprofit sector.¹⁴¹ She explains her choice stating, “We should not partner with the government because we will be seen by the Muslim world as being in collusion with the U.S. government. That would impede our work in the field.”¹⁴² She has worked with the Council on Foundations and its Treasury Guidelines Working Group to address the limitations posed by the Guidelines on international giving by all groups (not just Muslim ones) in the American nonprofit sector. She played an important role in the development of the “Principles of International Charity,” to be used in lieu of the Guidelines.¹⁴³

Similar to al-Maryati's efforts, other major Muslim groups have also been working collaboratively with other American nonprofits from across the sector, as found in the important work of The Charity and Security Network (CSN).¹⁴⁴ CSN with its partners has proposed policy reforms that remove obstacles to aid and development, create clear and fair standards, outline fair avenues for organizations to defend themselves if designated, and provide procedures for the release of frozen charitable funds.¹⁴⁵

The third approach is exemplified by Muslim Advocates, a 501(c)(3) that advocates and educates its constituents, especially Muslim Americans, on how to ensure their civic participation and protect their civil liberties. The organization works with governmental, legal, nonprofit, and community sectors to offer tools on ways to end the profiling of individuals and organizations and how to strengthen charities and charitable donations. This includes advocating transparency and the effective use of resources to ensure compliance with state and federal regulations. In August 2008, it launched an accreditation

program to offer legal guidance and technical assistance to Muslim charities on charity management and compliance with federal laws. Charities successfully completing the program receive accreditation by the Better Business Bureau Wise Giving Alliance (BBB-WGA).¹⁴⁶ Muslim Advocates also organized a nationwide call-in to urge Obama to actualize his pledge to make charitable giving by Muslims easier in the wake of post-9/11 policies.¹⁴⁷ In August of 2010, joined by forty-two national and local Muslim, Arab, Sikh, and South Asian charities and civic organizations, Muslim Advocates led the charities' call to reform federal laws and policies on charitable giving.¹⁴⁸

RECOMMENDATIONS

In light of an evident Islamophobic context and strict policies on charitable giving, many Muslim Americans feel that the American government and society view them as a faith-based community that is not an equal part of the national citizenry.¹⁴⁹ By regulating all charitable institutions, Washington incorporates the Muslim community into the national community. But because most of the targeted, investigated, and designated charities are Muslim, many Muslims feel exceptionalized because of their faith.¹⁵⁰

Yet as Malick Ghachem argues, the “criminalization of Islamic philanthropy is not necessarily the product of a deep-seated hostility to Islam and Islamic values. The legal culture of American religious liberty is a deeply complicated and even convoluted one that sometimes operates at cross-purposes with itself.”¹⁵¹ Despite the internal challenges posed by American legal culture, there are opportunities within that culture and within the American national spirit of freedom, justice, and equality for all that provide hope. Some concrete measures that governmental bodies, the nonprofit sector, academics, journalists, and Muslim American community leaders can take to enable all Americans to give charitably in ways that protect civil liberties, promote humanitarian aid, and uphold national security, are outlined below.

Governmental Bodies

Based on discussions with the charitable sector and on comments from a range of charitable entities, the Treasury Department released revised Guidelines¹⁵² more than once, and invited public comment. It also released a FAQ on the revised Guidelines¹⁵³; however, the explanations therein do not sufficiently exonerate donors who unknowingly make contributions to charities that are later designated or investigated by the government as per the Guidelines' provisions.¹⁵⁴ While these are steps in the right direction, more work needs to be done to protect innocent donors and organizations while still safeguarding national security. Specific recommendations to the White House, Congress, the Department of State, the Department of Treasury, and the Department of Justice on amending or repealing legal policies and regulations on charitable giving (e.g., IEEPA, Executive Order 13224, the Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-based Charities, and racial profiling practices), as well as how the amended policies and practices should be implemented, have been extensively articulated in several venues.¹⁵⁵ These recommendations include, for example¹⁵⁶:

A) A CALL TO THE WHITE HOUSE TO:

- Provide greater transparency in the application of Executive Order 13224 by creating tools to evaluate the validity of designations, strengthen procedures to prevent overbroad designations, remove designations lacking validity, and exempt those entities with lawful humanitarian missions;
- Call on the Secretary of State to use her authority under 18 USC § 2339B(j) to waive the material-support prohibition of aid that is provided for lawful humanitarian purposes;
- Limit the freezing of assets of organizations pending investigation, set time limits on frozen funds, and create a means to release them to beneficiaries that match donor intent and the organization's lawful mission¹⁵⁷;
- Issue an executive order prohibiting racial profiling

by federal officials and investigators;

- Order the cessation of public raids of charities under investigation, interviews of donors without suspicion, and surveillance of charities and organizations without evidence of unlawful behavior; and

- Leverage the White House Office of Faith-Based and Neighborhood Partnerships and the Office of Social Innovation and Civic Participation to work with faith-based and nonprofit leaders to enable charitable giving without fear and to strengthen the American nonprofit sector.

B) A CALL TO CONGRESS TO:

- Revise IEEPA and the overbroad or unclear means by which an individual or entity can be classified as a “specially designated global terrorist”;

- Allow entities to address concerns before designation or seizure of assets;

- Provide adequate notice to designated entities and allow them to present evidence to challenge their designation and seizure of their assets;

- Restrict the use of secret evidence;

- Pass the End Racial Profiling Act; and

- Narrow the material support law so that charities can access civilians in need of aid in areas controlled by terrorist groups.

C) A CALL TO THE DEPARTMENT OF STATE TO:

- Implement the State Department Guiding Principles on Non-Governmental Organizations in the United States and work with the American nonprofit sector to recommend reforms to enable humanitarian aid while protecting national security;

- Work with the Secretary of State to use her authority under 18 USC § 2339B(j) to waive the material-support prohibition of aid that is provided for lawful humanitarian purposes; and

- Create fair procedures to remove innocent individuals and entities from watch lists.

D) A CALL TO THE DEPARTMENT OF TREASURY TO:

- Limit the freezing of assets of organizations pending investigation, set time limits on frozen funds, and create a means to release them to beneficiaries that match donor intent and the organization’s lawful mission ;

- Ensure designated entities to have counsel to challenge their designation and seizure of their assets; and

- Work with nonprofit sector leaders to further revise or withdraw the Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-based Charities.

E) A CALL TO THE DEPARTMENT OF JUSTICE TO:

- Prohibit holding donors retroactively accountable for good-faith donations made to charitable organizations that were legal at that time, through investigation, interrogation, or other means;

- Implement an educational campaign to reassure Muslim donors of the aforementioned policy; and

- Allow defendants charged with material support to challenge the designation.

The U.S. Department of Justice should apply pretrial diversion policies, such as non-prosecution agreements (NPAs) and deferred prosecution agreements (DPAs), which are normally applied to corporations suspected of fraud, to the charitable sector.¹⁵⁸ Doing so would enable extensive communication and exchange of documents between defense attorneys and federal investigators outside the public realm.¹⁵⁹ This means that the unintended damages brought by a public indictment or investigation can be avoided, and that if one or more individuals in the corporation or organization under investigation is at fault for illegal activities, then only that/those individual(s) would be further investigated without shutting down or freezing the entity’s assets.¹⁶⁰ Applying federal investigation procedures used for corporations to the charitable sector is not prohibited by the First Amendment.¹⁶¹

In line with the views of Marcus Owens, former director of the IRS tax-exempt organizations division, it is also recommended that the IRS use a more interactive, dialogic, and cooperative regulatory approach to the

charitable sector.¹⁶² The IRS issues warning letters to churches allegedly engaging in partisan politics. This enables tax-exempt churches to dialogue with the IRS, make amends to issues under investigation, and conform their practices to federal regulations rather than face criminal prosecution or sanction.¹⁶³ Applying this process to Muslim and tax-exempt entities like mosques, charitable organizations, and the like that are suspected of wrongdoing can help mitigate the effects of current laws on Muslim American charitable giving.¹⁶⁴

Lastly, it is recommended that Farah Pandith, Special Representative to Muslim Communities, and her office's work on Muslim Engagement in America leverage existing opportunities and initiatives to:

Synergize with the security side of other departments to align messaging to the Muslim community;

Create similar networks of emerging Muslim leaders (as it has done abroad), engaging those in academia, media, interfaith work, civic and non-profit work, transnational groups, and government on issues of common interest to contribute actively to national programs, policies, and partnerships as well as global civil society endeavours in culture and the arts, social development, economic enhancement, environmental issues, and other fields;

Connect these emerging leaders with their counterparts abroad through conferences, knowledge exchanges, and potential institutional partnerships, as well as student and family exchanges so that creative synergies, expressions of pluralism, and global civil society linkages can be fostered; and

Facilitate international visits of policymakers and their assistants to Muslim countries for extended periods of time so they may better understand ground-level issues to develop relevant programs and policies based on first-hand knowledge and understanding of these populations.

The White House Office of Faith-based and Neighborhood Partnerships¹⁶⁵ can perhaps facilitate such activities. In so doing, the Muslim Engagement team, working under Special Representative Pandith's guidance, can help develop an American citizenry

that is strong in its identity and more cosmopolitan in knowledge of and engagement with its diversity, namely, that of Muslims in the United States and abroad.

The American Non-Profit Sector and Key Stakeholders

To improve understandings and functioning of Muslim philanthropy in particular and of the American nonprofit sector in general, the following issues can be addressed through convenings of stakeholders from the policy, nonprofit, Muslim, and academic communities. The practical outcomes can be determined by participating members, as overseen by ISPU and partner organizations.

A) BALANCING GOVERNMENT AND CULTURAL PERSPECTIVES ON PHILANTHROPY

Discussion questions:

1. In what ways might regulations governing philanthropic activity in the United States reflect culturally "American" assumptions about philanthropy and charitable giving?

2. In what ways do the government's policies regulating the nonprofit sector account for other cultural perspectives on philanthropy? For instance, are the policies developed with sufficient background information about the nature of Islamic charitable work, including the evolution and contemporary expressions as well as the diversity of Muslim philanthropy?

3. Are these policies affecting the ability of Muslims to integrate into American society and the ability of Washington to be viewed positively in Muslim societies? Are the policies affecting Muslim philanthropic organizations that are working to counter the activities of radicals in Muslim societies, nationally and transnationally?

B) BALANCING LIBERTY AND SECURITY

Discussion questions:

1. How do different stakeholders (e.g., government

officials, mainstream and Muslim nonprofit leaders, grantmakers) reconcile balancing national security with maintaining civil liberties, including religious freedom?

2. How does civil society help address the root causes of terror, thereby contributing to security? How does a nationally secure environment enable civil society organizations to deliver their services safely and effectively?

3. What does each stakeholder need to teach to and learn from other stakeholders with respect to the liberty-security balance?

C) GOVERNMENT POLICIES AND NONPROFIT PRACTICES

Discussion questions:

1. With respect to relevant government policies, such as the USA PATRIOT Act, IEEPA, Executive Order 13224, and the Treasury Department's Anti-Terrorist Financing Guidelines, how are the issues facing Muslim nonprofits similar or dissimilar to those faced by other groups? Can we generalize about a single "American experience" to post-9/11 charitable giving policies? Can we generalize about a single "Muslim experience"?

2. Other than anti-terrorism efforts, do American foreign policy interests affect what charitable organizations or causes to which Americans can donate?

3. Do all stakeholders have appropriate roles in policymaking?

D) ANTI-TERRORISM AND GLOBAL PHILANTHROPY: POLICIES AND PERCEPTIONS

Discussion questions:

1. How does the "war on al Qaeda" affect the flow of capital and people from governmental and private sectors in the United States to Muslim-majority countries and vice versa?

2. What role can Muslim American nonprofits and charities play in building relations between Muslim-majority countries and the United States?

3. Is there a desire to build and institutionalize indigenous

nonprofit sectors in Muslim societies? What role can Muslim American nonprofits and charities play in this process?

E) MUSLIM AND MAINSTREAM NONPROFITS: DIALOGUE AND PARTNERSHIP

Discussion questions:

1. What kinds of partnerships, projects, and knowledge exchanges can be fostered among Muslim and other faith-based organizations, mainstream social service organizations, community and neighborhood programs, and volunteer groups to address the community's growing social service needs?

2. What can mainstream nonprofit organizations and Muslim organizations learn from each other regarding the ethics of giving, building human resources and institutional capacity, accessing funds from private foundations, and following best practices/due diligence to become more transparent and accountable?

3. How can Muslim organizations expand the culturally and linguistically competent services offered in mainstream social service organizations?

Academics

To better understand giving among Muslim Americans, it is important to be familiar with its underlying beliefs, how it is talked about, and how it is practiced in multiple forms (especially with respect to conceptions of pluralism, democracy, and civic engagement) across different interpretive traditions of Islam (e.g. Sunni, Twelver Shi'a, Shi'a Isma'ili, Sufi, etc.). Islamic interpretations, articulations, traditions and practices of giving are as diverse as Muslims are. By researching these issues, academics can help widen the knowledge base about the philanthropic practices among Muslims in the United States and the different ways in which policies on giving impact their respective practices.

The following research questions can guide a study of the ground realities of Muslim philanthropy in this country, given that comprehensive data on charitable activities and social services of Muslim groups is lacking on a national level.

MAPPING THE DIVERSITY OF MUSLIM PHILANTHROPY IN THE UNITED STATES

Research questions to examine Muslim American giving practices in pre- and post-9/11 contexts:

1. Who gives to whom?
2. How do individuals choose to whom they give? To what extent do they see this as a domestic or an international obligation? Are there generational, ethnic, and/or gendered nuances in giving patterns?
3. How much of giving is formal vs. informal? What kinds of non-monetary giving do communities engage in? How are different types of giving (informal vs. formal, monetary vs. non-monetary) differently impacted by a post-9/11 and Islamophobic context?
4. What is the impact of funding source (domestic vs. foreign) on the objectives, functions, and services offered by Muslim nonprofits? Did a shift in the balance of internal and external funding occur after 9/11?
5. How are mechanisms of giving and receiving charitable dollars institutionalized in an American setting?
6. How do government regulations and media reporting on Muslim charities affect Muslim Americans' charitable giving and their ability to integrate into American society?
7. What can Muslim charitable institutions learn from and teach to the American nonprofit sector about culturally shaped meanings and practices of giving and Islamic ethics of giving? Alternatively, can historically rooted institutional forms of giving be recast in a secular democratic context?
8. How can Muslims and their peaceful transnational networks help foster tolerance, understanding, and open dialogue as Americans and as Muslims in the United States and in Muslim-majority countries through their giving practices? How can they work with Washington to improve the country's image abroad through the faith and good works of its Muslim American citizens?

Journalists

American journalists who wish to draw on the knowledge of academics who research related issues

for a living¹⁶⁶ are advised to read Diane Moore's "Overcoming Challenges to Reporting on Islam and Muslim Communities in Context: Tips and Resources for Journalists"¹⁶⁷ as well as the "Glossary of Terms Related to Islam and Muslim Communities in Inter-Regional Settings,"¹⁶⁸ both of which were produced under the auspices of the Center for Middle Eastern Studies at Harvard University. Journalists may also consider writing stories on a range of related topics, such as:

- How Muslims' practices and modes of engagement with other Americans have changed in the ten years after 9/11;
- How the Islamophobic context may have impacted their feelings of fear and anxiety and impacted the charitable giving;
- In-depth profiles on Muslim giving from different interpretive traditions (e.g., Sunni, Shi'a, Isma'ili, Bohra, Sunni Sufi, Shi'a Sufi, etc.), including other forms of giving like volunteering, civic engagement, and civil and military service;
- How diverse groups of Muslims negotiate a hierarchy of identities to simultaneously exercise their legal status as citizens and to remain contributing members of a transnational faith community through their giving practices;
- Effects of current policies and climate on school-age Muslim children and their identity, engagement with peers (bullying), and ability to practice their faith freely; and
- Different views within the American nonprofit sector on charitable giving policies.

Muslim American Community Leaders

Muslim American community leaders from a variety of Muslim traditions have an opportunity to create and share knowledge about the diversity of interpretations and expressions of Islam within the Muslim American community, as well as between the community and government, society, the broader Muslim world,

and global civil society. This requires drawing upon religious leaders, scholars (Muslim and non-Muslim), civic leaders, professionals, community members, and others to create and disseminate knowledge. In this way, interested parties may learn more about Islam as a humanistic, peaceful, and pluralist faith, the ethics and values of which, when enacted, continue to contribute to the betterment of society nationally and globally.

A) CREATE KNOWLEDGE BANKS

- Convey to key stakeholders what constitutes Islamic approaches to civil society and citizenship through cosmopolitan ethics, as expressed by diverse interpretations of Islam. What does it mean to give? Why is it important? How is giving linked to broader conceptions of pluralism, ethics, peace, and civil society?
- Create accessible resources for government officials, educators, media, and non-profits on the diverse expressions of Islam, Islam in America, authority in Islam, Prophet Muhammad, the Qur'an, Islamic ethics in daily life, human rights, Islam in literature and the arts, and so forth; and
- Educate local (non-Muslim) communities about courses on Islam at area colleges and universities and provide reading lists to interested parties who cannot attend.

B) ENHANCE KNOWLEDGE SHARING NETWORKS

- Continue to engage in panel discussions and dialogues at town hall meetings, schools, places of worship, civic sites, professional associations, workplaces, and social media;
- Foster learning among those who are no longer in formal education spheres through reading circles, knowledge shares, webinars, podcasts, and social media; and
- Enhance relationships with local, state, and federal government officials; artists and academics; media and nonprofits; think tanks and Muslims of diverse traditions so they will be comfortable with talking and relating to

Muslims of various backgrounds.

C) LIVE ISLAMIC ETHICS THROUGH SERVICE

- Respond as a community, young and old, to President Obama's call to serve the nation through civic engagement (rooted in Qur'anic principles) to leave the world a better place. Voluntary service can be easily enacted on a regular basis, as well as on September 11th, which is Patriot Day and the National Day of Service and Remembrance;
- Break bread with neighbors of diverse backgrounds and seek to learn from one another; and
- Volunteer in interfaith activities and encourage your children to do the same by taking advantage of the Department of Education's interfaith service "challenge" for public schools and college campuses.

CONCLUSION

As of 2010, Treasury has frozen some \$17 million in terrorist assets in the U.S., and some \$424 million globally.¹⁶⁹ These monies, if unfrozen, could be used to immunize children, provide food and shelter to the displaced, support rehabilitation of disaster-affected areas, such as those hit by Hurricane Irene or the floods in Pakistan, and help those suffering in areas of conflict, such as Iraq, Afghanistan, and countries of the Arab Spring. In an age of economic decline and increased social connectivity, both national and global natural and man-made challenges cannot be addressed by governments alone. In fact, they increasingly need the support of and partnership with expanded networks of civic engagement and institutions of civil society. The United States' participation in global civil society through the diverse populations that make up its social fabric has the potential to address such challenges in effective, efficient, and culturally sensitive ways. This does not mean that working for the common good entails imposing the most powerful group's beliefs and desires on a given society, but rather

that a pluralistic conception of the public good can enable a legitimate public space for diverse human experience. Muslim Americans, with their propensity for giving back to society and with their transnational connections to communities and countries with which Washington seeks to enhance its relations, are a vitally important group with whom the federal government should enhance its partnerships. In forging such partnerships, Washington must ensure that its policies and regulations that safeguard national security also accommodate the desire of American citizens to exercise their civil right and religious duty to give charitably without fear or challenge, as well as the desire of nonprofit organizations not to act as agents of the government who must (self-)police donors and donees at home and abroad.

In the process, policymakers, state officials, Muslim leaders, and the American public have to remember that there is no single way of being American, or Muslim, or Muslim American. The multiple efforts of various Muslim American leaders to redress challenges faced by the community represent just one part of this diversity. Al-Maryati's work with mainstream nonprofits, Muhammad's work with the Treasury Department, Zakra's transnational outreach work, and Khadija's and Muslim Advocates' civil liberties advocacy reflect how these leaders negotiate differently their cultural, religious, and civic identities, as well as Islamic traditions and practices, in a changed context. Perhaps, as a beginning point, these and other American leaders can agree on the common ground of striving to improve the lot of their community and their country: the United States. Perhaps by bridging all their efforts, new policies can be formed to accommodate cultural nuances in what it means to give: policies that do not simply safeguard national security, but that also accommodate national diversity—both of the American citizenry and of those citizens' multiple ways of giving back to the world.

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Performing Pluralism: Volunteerism Among Isma’ilis in Houston, TX,” 2003, <http://www.pluralism.org/research/profiles/display.php?profile=72666>; Z. Jamal, “‘Work no Words.’”

4 P. Mandaville, “When Meaning Travels: Muslim Translocality and the Politics of Authenticity,” in *Meaning and International Relations*. ed. P. Madaville and A. Williams (London and New York: Routledge, 2003).

5 This includes the special registration of men from Muslim and Arab countries, as well as the USA PATRIOT Act, which effectively challenges the First and Fourth Amendment rights of American citizens.

6 See “A Nation Challenged: Contributions Drop in Gifts to Muslim Charities Is Attributed to U.S. Scrutiny,” *New York Times*, December 13, 2001.

7 See President Barack Obama, “Remarks on a New Beginning,” June 4, 2009, <http://www.whitehouse.gov/the-press-office/remarks-president-cairo-university-6-04-09>.

8 It is beyond the scope of this report to delve into the second reaction of Muslim Americans to increase their civic engagement and dialogue after 9/11. For further analysis of civic engagement and voluntarism among Muslim Americans, see Jamal 2003 and Jamal 2008.

9 Much of this paragraph has been reproduced from Z. Jamal, “To Be a Good Muslim is to Be a Good Citizen,” *Huffington Post*, (April 16, 2011), http://www.huffingtonpost.com/dr-zahra-n-jamal/to-be-a-good-muslim-is-to_b_848173.html (Last accessed August 26, 2011).

10 J. Smith, *Islam in America* (New York: Columbia University Press, 1999).

11 G. Webb, “Expressions of Islam in America,” in *America’s Alternative Religions: SUNY Series in Religious Studies*, ed. T. Miller (Albany: State University of New York Press, 1995).

12 In the absence of an official universally recognized administrative body in the Muslim American community, and with the prohibition of collecting religious

affiliation in government records since 1957, the number Muslims in the country remains a point of debate.

13 Just as Jewish and Christian philanthropy is rooted in Rabbinic and Biblical prescriptions to care for the poor, widowed, sick, indigent, and needy travelers (e.g., Leviticus 19:9-10, Leviticus 23:22, Deuteronomy 24:19), similar prescriptions are made in the Qur'an (e.g., Qur'an 59:8, 2:178, 9:60).

14 Y. Mirza, "Principles and Techniques of Endowment Building," http://www.isna.net/library/papers/masjid/endowment_files/frame.htm; S. Athar, "Islamic Philanthropy: For the Love of Allah." *Islamic Horizons*, October 1997, <http://www.islamfortoday.com/athar21.htm>.

15 *Zakat* obligates Muslims to donate 2.5 percent of their wealth to the poor, the indigent, the traveler, the orphaned, the widower, and other specific categories of people. Shi'a Muslims also give *khums* (20 percent of the incremental increase in their annual wealth). Some Sunnis and Shi'as also offer additional *hibah* (gifts) and *sadaqa* (charity).

16 *Sadaqa* does not distinguish between who gives and who receives in the community. Its Jewish counterpart, *zedakah* (justice, righteousness, charity) seeks to bind the Jewish community. According to the Talmud, its goal is to alleviate poverty and help develop a binding Jewish communal consciousness.

17 Historically, Muslim minorities in western contexts and non-Muslim minorities in Muslim contexts have both sought to negotiate their identities through civic engagement. For example, non-Muslim minorities living in the Ottoman Empire were allowed to receive *waqf* and establish civic institutions that were not directly related to their faith (i.e., building churches or producing religious texts). However, these endowments were acceptable if the Ottomans saw them as serving the public good (E. Isin, *Benevolence and Difference*, 39). See also K. Aga Khan's speech delivered at the plenary session at the Conference on Indigenous Philanthropy, held in Islamabad (2000).

18 N. Calder, "Zakat in Islamic Shari'ah Jurisprudence, from the Tenth to the Sixteenth Century

A.D.," *Bulletin of the School of Oriental and African Studies* (University of London) 43, no. 3 (1981): 468-80.

19 Ibid.

20 Ibid.

21 See for example, Qur'an 17:70, 49:13, 2:256, 24:27, 7:135, 51:19, 59:8, 2:177, 9:60, and 3:159.

22 Islam, unlike Judaism and Christianity, does not consider work to be a punishment, for there is no concept of (work as redemption for) Original Sin. In addition, one cannot imitate God for God transcends all creation. See T. Sonn, "Chapter 2," *Comparing Religious Traditions*, ed. J. Neusner and B. Chilton (Belmont, CA: Wadsworth, 2001).

23 J. Benthall, *The Charitable Crescent: Politics of Aid in the Muslim World* (London: I.B. Tauris, 2003); Bonner et al. 2003; Mine Ener, *Managing Egypt's Poor and the Politics of Benevolence, 1800-1952* (Princeton, NJ: Princeton University Press, 2003); R. D. McChesney, *Waqf in Central Asia: Four Hundred Years in the History of a Muslim Shrine, 1480-1889* (Princeton, NJ: Princeton University Press, 1991); A. A. Sabra, *Poverty and Charity in Medieval Islam: Mamluk Egypt, 1250-1517* (Cambridge: Cambridge University Press, 2000); and A. Singer, *Constructing Ottoman Beneficence: An Imperial Soup Kitchen in Jerusalem*. Albany: State University of New York Press, 2002).

24 L. al-Maryati (2005a), personal communication, Washington, DC, July 11, 2005; L.

al-Maryati (2005b) remarks made at the "Safeguarding Charity in the War on Terror" Seminar, Georgetown University, Washington, DC: 2005 ; K. Leonard, "American Muslim Politics: Discourses and Practices," *Ethnicities* 3 (2003): 147.

25 Ibid.

26 Nimer 2002.

27 Ibid.

28 Leonard, "American Muslim Politics," 147.

29 K. Leonard, "American Muslims, before and

after September 11, 2001,” *Economic and Political Weekly* 37, no. 24 (June 2002): 15-21.

30 Ibid.

31 Ibid.

32 Ibid.

33 Ibid.

34 Ibid.

35 J. Shaw-Hamilton, “Recognizing the Umma in Humanitarianism: International Regulation of Islamic Charities,” in *Understanding Islamic Charities*, ed. J. B. Alterman and K. von Hippel (Washington D.C.: Center for Strategic and International Studies, 2007).

36 Washington, unlike London with its establishmentarian approach, cannot advise charities on which leaders and advisors to remove and other such nuanced and focused efforts to enforce national security. See M. W. Ghachem, “Of ‘Scalpels’ and ‘Sledgehammers’: Comparing British and American Approaches to Muslim Charities Since 9/11,” *UCLA Journal of Near Eastern and Islamic Law* 9 (2010).

37 For more details on the ways and means of challenging a designation under each statute, see A Comparison of Due Process Rights in Terrorist Designation Processes to the Charity and Security Network’s Model, http://www.charityandsecurity.org/system/files/comparison_chart.pdf (Last accessed August 25, 2011).

38 Ibid.

39 Oversight of the Department of the Treasury: Hearing Before the House Fin. Servs. Subcomm. on Oversight & Investigations, 108th Cong. 42-46 (2004) (testimony of R. Richard Newcomb, Director, Office of Foreign Assets Control, U.S. Department of the Treasury), <http://financialservices.house.gov/hearings.asp?formmode=detail&hearing=311>.

40 S. A. Levey, Under Secretary of Terrorism and Financial Intelligence, testimony before the the House Financial Services Committee on Oversight and Investigation quoted in al-Maryati (2005b) remarks made at the “Safeguarding Charity in the War on Terror”

Seminar, Georgetown University, Washington, DC: 2005.

41 Z. Jamal, “‘Work no Words.’”

42 Ibid.

43 See “A Comparison of Due Process Rights.”

44 See *Kindhearts for Charitable Humanitarian Development v. Geithner*, 647 F.Supp. 2d 857 (N.D. Ohio 2009) in “A Comparison of Due Process Rights.”

45 See *Al-Haramain v. U.S. Dept. of Treasury*, 585 F.Supp. 2d 1233 (D. Or. 2008) in “A Comparison of Due Process Rights.”

46 See *People’s Mojahedin Org. of Iran v. U.S.*, 613 F.3d 220, 225 (D.C. Cir. 2010) in “A Comparison of Due Process Rights.”

47 International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, tit. II, 91 Stat. 1625 (1977), 50 U.S.C.A. §§1701-1707 (2007), amended by Pub. L. No. 107-56, § 106 (2001).

48 50 U.S.C. §1702(c), cited in Ghachem, “Of ‘Scalpels’ and ‘Sledgehammers,’” 40.

49 Through Executive Order 12947, President Bill Clinton extended IEEPA’s authorization beyond foreign countries in 1995 (see Executive Order No. 12947, 60 Fed. Reg. 5,079 [Jan. 23, 1995]).

50 The Treasury Department designates SDGTs in fulfillment of Executive Order 13224 and the president’s authority through the International Economic Emergency Powers Act (IEEPA). The secretary of state designates “foreign terrorist organizations” (FTOs) in fulfillment of the Anti-Terrorism and Effective Death Penalty Act (AEDPA). Due to alleged ties between American-based Muslim charities and those based overseas, these two categories of designation overlap in the case of Muslim American organizations invested by the federal government since 9/11 (see Ghachem 2010).

51 18 U.S.C. §§2339(A & B); Ghachem “Of ‘Scalpels’ and ‘Sledgehammers.’”

52 Ibid.

53 See “Supreme Court Ruling Further Confuses American Muslim Donors,” http://www.muslimadvocates.org/press_room/supreme_court_ruling_further_c.html

(Last accessed August 4, 2011).

54 See U.S. Treasury Department, *Anti-Terrorist Financing Guidelines: Voluntary Best Practices For U.S.-Based Charities* (undated), available at http://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/guidelines_charities.pdf (Last accessed August 4, 2011).

55 *Ibid.*, p. 1.

56 T. Odendahl remarks made at the “Safeguarding Charity in the War on Terror” Seminar, Georgetown University, Washington, DC: 2005.

57 See U.S. Treasury Department, *Anti-Terrorist Financing Guidelines*.

58 The Muslim Public Affairs Council (MPAC), a Muslim American organization, self-avowedly works to enable Muslims to navigate the American public square as active citizens. After 9/11, it asked Washington how the American community could continue its charitable giving practices in light of the U.S. government’s closure of three Muslim American charitable organizations.

59 *Ibid.*, 15.

60 Panel Discussion: “Safeguarding Charity in the War on Terror” Seminar, June 14, 2005, Georgetown University, Washington, DC. http://cpnl.georgetown.edu/doc_pool/Charity061405.pdf, 16 (Last accessed August 4, 2011).

61 D. Cole remarks made at the “Safeguarding Charity in the War on Terror” Seminar, Georgetown University, Washington, DC: 2005.

62 Some private Christian organizations have had somewhat strained relations with Washington, while others have had more positive relationships due to their public funding (Allahyari 2000: 214). These same organizations have come under various levels of public scrutiny in different political contexts, as seen by one Catholic organization’s “fall from grace” in the public sphere in an anti-welfare political culture. See R. Allahyari, *Visions of Charity: Volunteer Workers and Moral Community* (Berkeley and Los Angeles: University of California Press, 2000), 225, 236.

63 American Civil Liberties Union, “Blocking Faith, Freezing Charity: Chilling Muslim Charitable Giving in the ‘War on Terrorism Financing’” ACLU Report (2009): 17-20 (recommendations to the President and federal agencies), 21-22 (recommendations to Congress, call for end racial profiling at administrative and statutory levels).

64 *Ibid.*

65 *Ibid.*

66 L. al-Maryati. 2005a. “Personal Communication.” Washington, DC; L. al-Maryati. 2005b. “Safeguarding Charity in the War on Terror.” Washington, DC.

67 *Ibid.*

68 American Civil Liberties Union, “Blocking Faith,” 17-20, 21-22.

69 *Ibid.*

70 See N. MacFarquhar, “As Muslim Group Goes on Trial, Other Charities Watch Warily,” *New York Times*, July 17, 2007; G. C. Kovach, “Five Convicted in Terrorism Financing Trial,” *New York Times*, November 25, 2008; M. Ghachem, “Of ‘Scalpels’ and ‘Sledgehammers;’” “Heavy Sentences Handed out in Holy Land Trial Send Chilling Message to U.S. NGOs,” at http://www.charityandsecurity.org/news/Heavy_Sentences_Holy_Land_Trial_Chilling_Message_NGOs (Last accessed August 26, 2011).

71 See “Weak case seen in failed trial of charity” in *The Los Angeles Times*, November 4, 2007, regarding the mistrial in the “nation’s biggest terrorism finance case” by Washington against the Holy Land Foundation for Relief and Development; “Few convictions on terror since 9/11: Most arrested not linked to extremists” in *The Washington Post*, June 12, 2005 regarding the outcome of the sentencing hearing of Benevolence International Foundation’s director, Enaam Arnout; J. Luecke “Islamic Group Faces Charges” in *Columbia Daily Tribune*, March 8, 2007 regarding the indictments against the Islamic-American Relief Agency USA.

72 American Civil Liberties Union, “Blocking Faith,” 17-20, 21-22.

- 73 Ibid.
- 74 Namely, KindHearts for Charitable Humanitarian Development (Ohio).
- 75 American Civil Liberties Union, “Blocking Faith,” 17-20, 21-22.
- 76 Ibid.
- 77 Ibid.
- 78 Ibid.
- 79 See “Former Officers of a Muslim Charity, Care International, Inc., Convicted”; “Blocking Faith, Freezing Charity: Chilling Muslim Charitable Giving in the ‘War on Terrorism Financing’” ACLU Report, 2009, 17-20 (recommendations to the President and federal agencies), 21-22 (recommendations to Congress, call for end racial profiling). http://www.justice.gov/opa/pr/2008/January/08_nsd_021.html (Last accessed August 3, 2011).
- 80 KinderUSA Board Members. 2005 “Personal Communication.” Washington, DC.
- 81 Ibid.
- 82 The ACLU, 64 quoted in “Negative Impacts of Post 9/11 Counterterrorism Measures on Charities, Donors and the People they Serve”, http://www.charityandsecurity.org/background/The_Impact_of_Counterterrorism_Measures_on_Charities_and_Donors_After_9/11 (Last accessed on August 3, 2011).
- 83 See “IRS Identifies Organizations that Have Lost Tax-Exempt Status; Announces Special Steps to Help Revoked Organizations,” <http://www.irs.gov/newsroom/article/0,,id=240239,00.html> (Last accessed August 3, 2011).
- 84 “Publication 78, Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986, lists those organizations eligible to receive tax-deductible charitable contributions. An online search portal is available at <http://www.irs.gov/charities/article/0,,id=96136,00.html> (Last accessed on August 3, 2011).
- 85 See http://www.muslimadvocates.org/documents/safe_donating.html (Last accessed August 3, 2011).
- 86 Khadija is a pseudonym used at the request of the interviewee.
- 87 Jamal, ““Work no Words.””
- 88 American Civil Liberties Union, “Blocking Faith,” 89-115.
- 89 According to the *New York Times*, in December 2001, donations to Muslim charities were down by 50 percent during Ramadan due to close government scrutiny of such organizations. See “A Nation Challenged: Contributions Drop in Gifts to Muslim Charities Is Attributed to U.S. Scrutiny,” December 13, 2001.
- 90 Al-Maryati, personal communication; al-Maryati, “Safeguarding Charity”; American Civil Liberties Union, “Blocking Faith,” 17-20, 21-22.
- 91 There is no systematic data on the pervasiveness of the giving problems articulated below, such as how much, where, how, and why Muslims were giving pre-9/11 versus post-9/11 and to what extent changes in giving patterns can wholly be located in the post-9/11 policies of the American state.
- 92 Al-Maryati, personal communication; al-Maryati, “Safeguarding Charity.”
- 93 Leonard, “American Muslim Politics,” 147; Al-Maryati, personal communication; al-Maryati, “Safeguarding Charity.”
- 94 American Civil Liberties Union, “Blocking Faith,” 17-20, 21-22.
- 95 Ibid.
- 96 A. Najam, personal communication, Cambridge, MA, July 11, 2005.
- 97 Ibid.
- 98 Ibid.
- 99 American Civil Liberties Union, “Blocking Faith,” 17-20, 21-22.
- 100 A.S. Ghazali, “Islam & Muslims in the Post-9/11 America: A source book,” http://www.amperspective.com/Islam_and_Muslims_in_Post_9-11_America.pdf (Last accessed August 26, 2011).
- 101 See also L. Goodstein, “Muslims Hesitating on

Gifts as U.S. Scrutinizes Charities,” *New York Times*, April 17, 2003; N. MacFarquhar, “Fears of Inquiry Dampen Giving by U.S. Muslims,” *New York Times*, October 30, 2006.; “Blocking Faith,” 17-20, 21-22.

102 Jamal, “*Work no Words.*”

103 A. Ahmed. 2005. “Personal Communication.” Washington, DC.

104 L. Cainkar, *Strategies for What Matters Most: Low-Income Muslim Communities* (Baltimore: Annie E. Casey Foundation, 2004); L Cainkar, “The Impact of 9/11 on Muslims and Arabs in the United States,” in *The Maze of Fear: Security & Migration after September 11th*, ed. John Tirman (New York: The New York Press, 2004).

105 Cainkar, *Strategies for What Matters Most.*

106 Ibid.

107 Ibid.

108 This departs significantly from the American literature on giving, philanthropy, and voluntarism. While studies argue that religious individuals are more likely to volunteer and contribute to charity, they assume that “religious volunteering” occurs only in sacred spaces, such as churches and synagogues. See, for example, R. D. Putnam, “Bowling Alone: America’s Declining Social Capital: An Interview with Robert Putnam,” *Journal of Democracy* 6, no. 1 (1995). Such studies often overlook the fact that some Muslims consider their giving to secular organizations to be motivated by religious principles and ethics.

109 Jamal, “*Work no Words.*”

110 S. Howell, “(Re)Bounding Islamic Charitable Giving in the Terror Decade,” Paper delivered at “Critical Perspectives on the Criminalization of Islamic Philanthropy in the War on Terror” Conference, UCLA Law School, Los Angeles, April 16, 2010.

111 Zakra is a pseudonym used at the request of the interviewee.

112 Ibid.

113 Ibid.

114 Ibid.

115 T. Odendahl, remarks made at the “Safeguarding

Charity in the War on Terror” Seminar, Georgetown University, Washington, DC: 2005.

116 Ibid.

117 Ibid.

118 B. Baron, “Deterring Donors: Anti-Terrorist Financing Rules and American Philanthropy,” *The International Journal of Not-for-Profit Law* 6 (2004).

119 N. Billica, remarks made at the “Safeguarding Charity in the War on Terror” Seminar, Georgetown University, Washington, DC: 2005.

120 Respondent, Ibid.

121 Ibid.

122 I. Wilhelm, “New Membership Group Will Set Standards for Islamic Charities,” *The Chronicle of Philanthropy*, (March 31, 2005); Baron, “Deterring Donors,” 6.

123 Odendahl, “Safeguarding Charity.”

124 Ibid.

125 Interestingly, USAID and the Department for International Development (DFID), over the past two decades, increasingly allowed faith-based organizations (FBOs) to participate and contribute to their projects, culminating in a 2004 USAID ruling on “participation by religious orders in USAID programs.” Under the new ruling, USAID cannot discriminate against organizations that combine humanitarian activities with religious ones (e.g., worship, religious education, or conversion). USAID-funded buildings used for social service delivery can also be used (but not at the same time) for religious activities. Secularists in the West consider this to be state-supported religious activity and are concerned by the rise of Evangelical Christian, but not Muslim, international development projects that emphasize conversion.

See G. Clarke, “Agents of Transformation? Donors, Faith-Based Organizations and International Development” In *Third World Quarterly*, p. 77-96, (2007).

126 Jamal, “*Work no Words.*”

127 Ibid.

128 See http://www.usig.org/PDFs/Principles_Final.

pdf (Last accessed August 25, 2011).

129 See http://www.usig.org/PDFs/Comments_to_Treasury.pdf (Last accessed August 25, 2011).

130 See <http://www.usig.org/legal/TreasuryGuidelinesLetter.asp> (Last accessed August 25, 2011);

Charity and Security Network, “Nonprofit Groups End Talks With Treasury about Ineffectual Guidelines,” <http://www.charityandsecurity.org/system/files/TGWGWDdrawletter.pdf> (Last accessed August 26, 2011).

131 Charity and Security Network, “Nonprofit Groups End Talks.”

132 Ibid.

133 Ibid.

134 Odendahl, “Safeguarding Charity.”

135 N. Crimm, “High Alert: The Government’s War on the Financing of Terrorism and its Implications for Donors, Domestic Charitable Organizations, and Global Philanthropy,” *William and Mary Law Review* 45, no. 134 (2004).

136 See e.g. D. Cole, “The New McCarthyism: Repeating History in the War on Terrorism,” in *Harvard Civil Rights-Civil Liberties Law Review*, 38, no. 1, (Winter 2003).

137 Muhammad is a pseudonym used at the request of the interviewee.

138 Jamal, “‘Work no Words.’”

139 Ibid.

140 Smith and Filipiak in Ghachem, “Of ‘Scalpels’ and ‘Sledgehammers,’” 30.

141 In the face of these corrective efforts, some Muslim donors and nonprofit leaders have noted that the Guidelines have helped Muslim organizations improve their transparency and accountability strategies. The government announced in November 2005 that checking donors, donees, and others against government terrorist lists went from being mandatory to being suggested.

142 Jamal, “‘Work no Words.’”

143 See “Response to Comments Submitted on the U.S. Department of the Treasury Anti-Terrorist

Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities” (undated), <http://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/response.pdf> (Last accessed August 4, 2011); Jamal, “‘Work no Words.’”

144 See <http://www.charityandsecurity.org/> (Last accessed August 26, 2011).

145 Charity and Security Network, “Power Point of Proposed Policy Reforms,”

<http://www.charityandsecurity.org/system/files/Reform%20Proposals%20Charities%20%283%29.pdf> (Last accessed August 26, 2011).

146 See “First American Muslim Charities Accredited through Groundbreaking National Program,” http://www.muslimadvocates.org/bbb/v2first_american_muslim_charit.html (Last accessed August 4, 2011).

147 See the Muslim Advocates, http://www.muslimadvocates.org/latest/charity_update/american_muslims_ask_president.html (Last accessed August 3, 2011).

148 See “More than 40 Muslim, Arab, Sikh, South Asian Charities to Pres. Obama: Help Local Communities & Counter Extremists’ Aid by Reforming Federal Charity Laws,” http://www.muslimadvocates.org/press_room/more_than_40_muslim_arab_sikh.html (Last accessed August 4, 2011).

149 For a discussion of differentiated citizenship, which entails dissimilar treatment to members of different social groups and the moral costs thereof, see Eric J. Mitnick, “Differentiated Citizenship and Contextualized Morality,” *Ethical Theory and Moral Practice* 7, no. 2 (2004): 163-77.

150 Jamal, “‘Work no Words’”; American Civil Liberties Union, “Blocking Faith,” 17-20, 21-22.

151 Ghachem, “Of ‘Scalpels’ and ‘Sledgehammers.’”

152 U.S. Treasury Department, Anti-Terrorist Financing Guidelines: Voluntary Best Practices For U.S.-Based Charities (undated), http://www.treasury.gov/press-center/press-releases/Documents/0929_finalrevised.pdf (Last accessed August 26, 2011).

153 See <http://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/Treasury%20Charity%20FAQs%206-4-2010%20FINAL.pdf> (Last accessed August 5, 2011).

154 See Charities' Letter to President Obama, <http://www.muslimadvocates.org/documents/Obama%20Charity%20Letter%20II%20FINAL.pdf> (Last accessed August 4, 2011).

155 Ibid.; American Civil Liberties Union, "Blocking Faith," 17-20, 21-22; Charity and Security Network, "Power Point of Proposed Policy Reforms"; Charity and Security Network, "Principles and Procedures for Release of Frozen Funds for Charitable Purposes Proposed to Dept. of the Treasury" (2008), at http://www.charityandsecurity.org/Solution/Procedures_Release_Funds_Charity (Last accessed August 26, 2011); N. Chung, *Liberty and Security: Recommendations for the Next Administration and Congress*, The Constitution Project, (London: Steptoe & Johnson, 2009). Chung's work includes recommendations from more than twenty leading organizations and more than seventy five individuals on issues of human rights, civil liberties, and national security. Her publication includes discussions of charities and foundations, surveillance, trials of alleged "enemy combatants," and discrimination in immigration and charities policy.

156 Ibid.

157 Relatedly, the Charity and Security Network, the Council on Foundations, Grantmakers Without Borders, Muslim Advocates, Muslim Public Affairs Council, and OMB Watch collectively released "Principles and Procedures for Release of Frozen Funds for Charitable Purposes Proposed to Dept. of the Treasury" on Jan. 15, 2008. See http://www.charityandsecurity.org/Solution/Procedures_Release_Funds_Charity (Last accessed August 26, 2011). See also Charity and Security Network, "Power Point of Proposed Policy Reforms."

158 Ghachem, "Of 'Scalpels' and 'Sledgehammers.'"

159 Ibid.

160 Ibid.

161 Ibid.

162 M. S. Owens, "Charity Oversight: An Alternative Approach,"

http://www.hks.harvard.edu/hauser/PDF_XLS/workingpapers/workingpaper_33.4.pdf (Last accessed August 5, 2011).

163 Ibid.

164 Ghachem, "Of 'Scalpels' and 'Sledgehammers.'"

165 See <http://www.whitehouse.gov/administration/eop/ofbnp> (Last accessed August 5, 2011).

166 See <http://cmes.hmdc.harvard.edu/IslamMCresources> (Last accessed August 5, 2011).

167 See http://cmes.hmdc.harvard.edu/files/Diane%20Moore%20piece_FINAL_2_0.pdf (Last accessed August 5, 2011).

168 See http://cmes.hmdc.harvard.edu/files/glossary_FINAL_2_1.pdf (Last accessed August 5, 2011).

169 See "Terrorist Asset Report - 2010," <http://www.treasury.gov/resource-center/sanctions/Documents/tar2010.pdf> (Last accessed August 26, 2011).

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