

Prosecuting Terrorism beyond 'Material Support'

by [Matthew Levitt \(/experts/matthew-levitt\)](/experts/matthew-levitt)

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ABOUT THE AUTHORS



[Matthew Levitt \(/experts/matthew-levitt\)](/experts/matthew-levitt)

Matthew Levitt is the Fromer-Wexler Fellow and director of the Reinhard Program on Counterterrorism and Intelligence at The Washington Institute.



Brief Analysis

On January 11, 2008, a Boston federal court convicted Emadeddin Muntasser, Samir Almonla, and Muhammad Mubayid of conspiring to defraud and conceal information from the U.S. government. Prosecutors proved the defendants fraudulently used the charity they ran -- Care International -- "to solicit and obtain tax deductible donations for the purpose of supporting and promoting the mujahedin (Muslim holy warriors) and jihad (violent armed conflict)." The defendants concealed from U.S. authorities the fact that Care was an outgrowth of and successor to the al-Kifah Refugee Center, and engaged in non-charitable activities such as the solicitation and expenditure of funds to support violent jihad.

Coming on the heels of partial convictions and hung juries in other recent "material support" cases, this recent case highlights the strategic utility of charging terrorists and their supporters for ordinary criminal activities that the government can easily prosecute. Such legal strategy, however, should not cloud the fact that this was a terrorism case at heart.

Part of the Afghan Services Bureau

The 9-11 Commission Report noted that al-Kifah was an "outpost" of Maktab al-Khidmat (MAK), the Afghan Services Bureau established by Sheikh Abdullah Azzam and Osama Bin Laden to support jihad in Afghanistan and around the world. According to the commission, "al-Kifah recruited American Muslims to fight in Afghanistan; some of them would participate in terrorist actions in the United States in the early 1990s and in al-Qaeda operations elsewhere, including the 1998 attacks on U.S. embassies in East Africa." A flyer distributed by al-Kifah corroborates this description: "al-Kifah Refugee Center is an organization founded by Sheikh Abdullah Azzam to serve the cause of jihad."

Shared leadership and activities helped demonstrate that Care was an outgrowth of al-Kifah. Even Suheil Laher, a past president of Care, conceded to the FBI that the officers of al-Kifah Boston carried over and became officers of Care. Indeed, Muntasser not only founded and incorporated Care in Massachusetts, but according to an al-Kifah flyer, he also served as director of the Boston branch of al-Kifah Refugee Center. In the early 1990s, al-Kifah's bi-monthly newsletter, al-Hussam (The Sword), announced it was a "newsletter of the al-Kifah Refugee Center-USA" in English with an Arabic subtitle reading "Maktab al-Kidmat," or MAK. As early as June 1993, however, Care assumed publication of al-Hussam, with a nearly identical header that read "al-Hussam; Newsletter published by Maktab al-

Kidmat, Boston USA; Care International."

The timing of the name change is particularly significant as it came on the heels of press reports linking al-Kifah to the 1993 World Trade Center bombing. Two days after the second of these articles appeared, on April 13, 1993, Muntasser incorporated the new organization under the name Care International, Inc. Care filed its articles of incorporation using the same Boston address used by al-Kifah in earlier editions of al-Hussam. Just a month prior to its incorporation under its new name, al-Kifah ran an article in its March 5, 1993 issue of al-Hussam encouraging readers to engage in jihad and become martyrs. That issue included another article entitled "Boston Offers More Martyrs," which proudly announced the death of an individual from Boston who fought in Afghanistan.

Economic Jihad

Like other radical Islamist organizations, Care took advantage of the otherwise laudable Islamic tradition of charity and good works not only to teach its particular version of Islam but also to actively support terrorist operations. The organization couched its solicitations in the context of the Muslim obligation to donate alms (zakat), instructing donors that they were under religious obligation to make sure at least some of the alms went to finance jihad. In response, the organization received checks from donors with directions to support various jihad causes, including comments on the memo line of checks such as "Bosnia mujahedin," "for jihad only," and "Chechen Muslim Fighters."

Indeed, while terrorist fundraisers frequently frame their fundraising pitch in terms of their groups' humanitarian activities, Care specifically called for funding violent jihad. Employing the concept of "economic jihad" (jihad bil-mal), a tool that features prominently in the fundraising techniques of radical Islamist groups, Care successfully raised approximately \$1.7 million from 1993 to 2003. The concept is simple in practice: radical leaders tell their followers they have a religious duty to engage in jihad, either by physically fighting or by supporting those who do. Proponents of this logic ground their position in the Quran, surah 9 (al-Tawbah) Verse 41: "Fight with your possessions and your souls in the way of Allah."

Highlighting the concept of economic jihad, a speaker on one of Care's audiotapes explicitly calls on his listeners "to commit jihad with their wealth as well as their souls." The lecturer went on to state that "weapons training is open to all and that all should take advantage of this opportunity to receive training." In its other literature, Care argued that supporting jihadists was insufficient and could not supplant the obligation to personally fight in jihad. An al-Hussam article argued "jihad with money, without jihad of the soul, is not beneficial to the person even if they spend all the money on earth. It is useless if they do not take part in wars." Al-Hussam quoted Azzam calling on readers to join jihad, noting "the individual obligatory nature of jihad remains in effect until the lands are purified from the pollution of the disbelievers."

Support for the Global Jihadist Movement

A clear sign of Care's relationship to global jihadist groups is found in the group's edition of Azzam's publication, "Join the Caravan." The publication encourages readers to participate in the Afghan jihad and provides telephone numbers in Afghanistan to facilitate such travel. Care financial statements also reveal that from August 1993 to June 1995, Muntasser wired close to \$167,000 in the name of Care or al-Kifah to the Human Service Office (another name for MAK) in Bosnia. Care publications and websites regularly provided updates on the fighting in various parts of the world where al-Qaeda movements operate, such as Chechnya, Afghanistan, Bosnia, and Algeria. News updates included glowing references to prominent terrorists and their attacks, including Chechnya's Shamel Basiev and Ibn Al-Khattab, and Gulbuddin Hekmatyar, the Libyan Islamic Fighting Group, among others.

Conclusion

Despite all of the above evidence tying Care to terrorism, the organization -- like Al Capone -- was ultimately held accountable for mundane charges on which the government could secure criminal convictions. In fact, the judge

barred the word "terrorism" throughout the trial in an effort to keep the jury focused on the specific charges at hand. But the ultimate effect of the tax law conviction was to expose and hold accountable a fundraising network that raised significant amounts of money for al-Qaeda and its affiliated groups. Detractors may say the lack of a specific terrorism charge proves this was not a terrorism case, but the evidence belies such claims. Sometimes the best strategy for a terrorism prosecution is to focus on the underlying and mundane criminal activity.

Matthew Levitt is a senior fellow and director of the Stein Program on Counterterrorism and Intelligence at The Washington Institute. A former deputy assistant secretary for intelligence and analysis at the Treasury Department, he is author of [Hamas: Politics, Charity, and Terrorism in the Service of Jihad](http://www.washingtoninstitute.org/templateC04.php?CID=265) (<http://www.washingtoninstitute.org/templateC04.php?CID=265>) (Yale University Press, 2006). Dr. Levitt served as an expert witness in the federal court case United States vs. Muntasser. ❖

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