

Regulation of Islamic charities with special reference to Palestine

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Jonathan Benthall will review the tensions that arise in the regulation of charities between an overriding concern with counter-terrorism and the “humanitarian imperative”. The former position has recently come to dominate official policy in the USA, buttressed by a recent US Supreme Court majority decision (*Holder v. Humanitarian Law Project*), whereas the Charity Commission of England and Wales has tried to find solution that satisfy both priorities.

Even when a charity is clearly controlled by a Specially Designated Terrorist Group, the ethical issue is not entirely clearcut (for instance in the cases of emergency medical services or earthquake rescue missions). But in the case of the Palestinian zakat committees – which some US Islamic charity organizers have been sentenced to life imprisonment for helping to finance – the extent of their affiliation to Hamas is debatable. Recent research published by the Graduate Institute of International and Development Studies, Geneva, with funding from the Swiss Federal Department of Foreign Affairs (Political Division IV), suggests that until the split in the Palestinian Territories in 2007 and ensuing politicization of the zakat committees, they were on the whole functioning as effective community-based organizations, responding to the needs of the most vulnerable and with no political faction controlling their operations. Hence they were arguably a protection against extremism, rather than fomenters of extremism.

If attention is given to the “end use” of charitable funds – are they being disbursed on a needs basis, without “adverse distinction” ? – then preoccupation with the motives of the donors and with winning the ‘battle for hearts and minds’ should not be the only priority. Indiscriminate criminalization of such institutions and their external funding charities has the effect of chilling charitable giving, while also driving money underground outside the purview of financial regulators. As well as depriving beneficiaries of much needed assistance (the “humanitarian deficit”), such policies run the risk of creating a “humanitarian vacuum” that global international extremists may be ready to fill.