

February 29, 2008

Hon. John Conyers, Chair
Judiciary Committee
United States House of Representatives
2426 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Conyers,

The undersigned organizations are very concerned about the impact counterterrorism programs have had on charities, foundations and the people we serve. We are writing to ask you to use the oversight function of the House of Representatives Judiciary Committee to examine these negative impacts and explore remedies that promote both charitable works and national security.

The lack of transparency, oversight and due process in current law chills nonprofit operations and inhibits humanitarian aid and conflict resolution programs from reaching vulnerable populations. Although international philanthropy and programs have been hardest hit, the entire charitable sector has been negatively impacted.

Under the current legal regime the federal government can shut down charities and freeze their assets in a process that lacks clear standards or basic due process, and is open to mistake and abuse from extensive use of secret evidence. Affected charities have no means of defending themselves or obtaining independent review.

A Nov. 21, 2007 editorial called "A Freeze on Fairness", in the *Washington Post* said "the process is so heavily weighted toward the government that it is almost meaningless... the extraordinary flexibility afforded the government must be offset by a process that gives groups labeled 'specially designated global terrorists' a fair and meaningful chance to rebut the allegations."

We believe Congressional examination of the situation will demonstrate that the time has come to correct this situation. The judicial branch took an important step in this direction in the December 2007 ruling of the United States Court of Appeals for the Ninth Circuit decision in *Humanitarian Law Project v. Mukasey*. The court held that the definitions of expert advice or assistance in material support provisions prohibiting training and service are unconstitutionally vague.¹ However, this decision only applies to the parties in the litigation and leaves many remaining problems with the system unaddressed.

This is not a terrorism issue, but a human rights issue. Implementation of U.S. laws in the context of charitable and aid programs raise serious questions of international law violations. This situation should not be allowed to continue without scrutiny from Congress.

¹ *Humanitarian Law Project v. Mukasey*, December 2007 No. 05-56753

We ask that the Judiciary Committee examine the closure of U.S. charities, the impact on charitable donations and programs, the status of frozen charitable funds, and the appropriateness of the standards and procedures currently used by the federal government. We can supply the committee with the names of experts, charity representatives and other witnesses who can provide extensive background on these issues. We can be contacted through Kay Guinane of OMB Watch (202-234-8494) or Vanessa Dick of Grantmakers Without Borders (240-988-2683).

Yours truly,

African Methodist Episcopal Church Service and Development Agency (AME-SADA)
Air Serv International
American-Arab Anti-Discrimination Committee
American-Arab Anti-Discrimination Committee of Michigan
The American Civil Liberties Union
CARE USA
Council on American Islamic Relations
Council on American Islamic Relations of Michigan
Friends of Charity Association
Global Fund for Women
Grantmakers Without Borders
Kinder USA
LIFE for Relief and Development
Muslim Public Affairs Council
National Council of Nonprofit Associations
OMB Watch
Third Sector New England
Veterans for Peace
Voices for Creative Nonviolence
World Learning

Cc: Hon. Jerrold Nadler, Chair
Constitution, Civil Rights and Civil Liberties Subcommittee
Judiciary Committee
United States House of Representatives
2334 Rayburn House Office Building
Washington, D.C. 20515