

# Palestine: How “Our War on Terror” Continues to Crush Families and Destroy Charities

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*Nine months ago during the 51-day Israeli assault on Gaza, which killed 2,200 people, El Wafa rehabilitation hospital was bombed. Its helpless patients, mostly paralyzed or unconscious, were saved before it was flattened. Under fire the hospital staff carried them out in bed sheets and drove them to a maternity clinic in Gaza City. The same El Wafa team has already built up another unique hospital and chronic care facility in a building donated to them. So far it does not have the capacity and specialized equipment lost when El Wafa was destroyed, but other such centers are planned to meet the overwhelming medical needs of the disabled and wounded in the devastated towns of Khan Yunis and Rafah.*

Inspiring the 200-strong El Wafa team is the hospital executive director, Basman Elashi, a man of remarkable organizational skills and optimism who accomplished these feats despite the continuing blockade of Gaza. His story of bravery is also the story of a prosperous American/Palestinian family splintered and scattered by the US “war on terror.”

Three years ago Basman Elashi and his brother Bayan arrived at the Egyptian/Gaza border with no papers, passports or documents and in the custody of the FBI. They had been abruptly deported from the US. The Egyptian border officials protested at their lack of papers, but monitored by US officials they let them through, with the menacing words: “I will let you into Gaza. I will never let you out.” It was a brutal homecoming to the land Basman, now a grandfather, had left as a child.

Once in Gaza, Basman said he received “an unconditional welcome, lovely people....But I had never thought I would be back in Gaza....We never thought that one day we would be criminals. For 40 years we trusted the law in the US... I’m a son of the US.”

The Elashis lived the American dream for decades before they became targets of the war on terror. For nearly 40 years, the five Elashi brothers, their wives and their 23 children enjoyed the fruits of hard work and material success, first in California, then in Texas. It was the culmination of the ambitious journey their father had set them on when he took the boys out of Gaza to school in Egypt. Palestinians had no chance of university places in Egypt so they headed next for the UK and the US. Following college, then marriages to young Palestinian women from Jordan and Saudi Arabia, the brothers set up their own businesses in Los Angeles.

Basman explained to me in Skype conversations this spring that it was the realization of how far the brothers had come from the life of Gaza that made them start a development charity. “First we thought the Palestine issue had disappeared, a closed issue as far as the media was concerned. Then came the violent suppression of the first Intifada—kids,

students, in Gaza with stones against the military. We felt that living comfortably in the US we had everything... it was our responsibility to help people in such need back home.”

They left California after the Rodney King riots of 1992. “Our shop was among many burned down, we then had 19 children between us, the city public schools were bad—we left LA. We chose to settle in Dallas, Texas, partly because there was a good Islamic school there.” ‘

The brothers bought homes close to each other and to their common work. Together they built up a successful computer company, Infocom, and registered their charity as the Holy Land Foundation. HLF became the largest Muslim charity in the US, giving to many needy causes beyond its Palestinian roots, including Hurricane Katrina victims. They were a dynamic extended family, well known in the community, good employers, supporters of all kinds of human rights causes beyond the Palestinian issue and with numerous high-achieving children in school. Basman and Wafa’s daughter, Eman, who has a family of her own in the US, remembers her childhood as “amazing, beautiful, surrounded by family, all those cousins to play with always, and so much love and support.”

A week before Sept. 11 2001, a team of armoured US agents stormed into the headquarters of Infocom, the family business where all five brothers worked. They were on a hunt for links to the funding of the string of terrorism attacks on US targets in the 1990s, notably the devastating 1998 East African embassy bombings, and the suicide attack on the *USS Cole* in harbour in Aden 18 months later. “We had no clue anything was coming,” Basman said. “They believed this was the hub of terrorism in the whole world and there would be resistance...they were ready for war...they found just papers and computers.”

Infocom was closed down and its assets frozen. Nevertheless within days the brothers convinced a judge, based on what was taken from the office, that there was no reason the company could not continue to operate. They changed the name to Synaptix, opened a new bank account, and business went on. However three months later, in December 2001, three days after a visit to President Bush from Ariel Sharon, then the Prime Minister of Israel, the US Treasury Department designated the Holy Land Foundation a “specially designated global terrorist.” The next day, the FBI closed the charity down.

From this point on the brothers’ lives were defined by four trials: two involving Infocom, and two, the Holy Land Foundation. The American dream imploded for the Elashi family. The trials concluded with all five brothers sentenced to jail terms in connection with Infocom. Three were subsequently deported, while Ghassan, who was the chairman of HLF, received a 65-year sentence in connection with HLF.

At the center of it all was the US government’s post-9/11 fixation on perceived Muslim enemies anywhere from Iraq to Dallas. The wide net cast to scoop them up would soon fill Guantanamo Bay prison with men from across the world held largely despite no evidence of terrorism connections. The search for Al Qaeda and its financiers was one obsession. The long-held wish by the US and Israel to destroy Hamas, the Gaza resistance movement designated as a foreign terrorist organization in January 1995, got a new impetus in this political climate. Muslim charities were easy targets. The prosperous Elashi brothers, who had a cousin married to a prominent Hamas leader, were in the US government’s crosshairs.

In 2002, the Bush administration indicted the five brothers on 33 counts for “dealing in terrorist funds” and for selling computer technology to Syria and Libya between 1997 and 2000. The two countries were then listed by the US as state sponsors of terrorism.

“We knew the law forbade us to work with Libya and when we got an order from a customer in Malta we sent a person to check him. We were deceived. We didn’t know of the Libyan connection until the indictment,” Basman explained. In the Syrian case Infocom received US approval for shipments of equipment, to various consulates in Damascus. “The one on the indictment was worth only \$3,000 and when I called the export department to ask if it needs a license they told me no because it was very small.... I didn’t document the phone call.”

The five Elashi brothers and Infocam were convicted in the first trial on the exports in 2004. In the second Infocom trial in 2005, Basman, Bayan and their brother Ghassan were also convicted of conspiracy with a specially designated terrorist (SDT), Mousa Abu Marzook, a Hamas official. Infocam had sent a dividend check to Marzook, the husband of their cousin, Nadia, who was herself an investor in Infocom. The Marzouks had left the US before Mousa Abu Marzook’s designation as an SDT in August 1995, eight months after Hamas was so designated. The dividend check was to cover Nadia Marzook’s family household expenses in Jordan. (She was not an SDT.)

Basman was sentenced to six and a half years and Bayan to seven in criminal custody; both had been in federal custody since December 2002 on alleged “immigration violations.” Two other brothers, Ihsan and Hazim, received respectively six and five-and-a-half years. One of them, Hazim, was ordered by the court to be deported after his sentence, and now lives in Lebanon. Ghassan was sentenced to seven years, but then as chairman of the HLF had to face two further trials in the Holy Land case. Basman, who was no longer formally involved with the foundation, was not charged in that case.

The HLF trials became the symbol of a US government war on Muslim charities. The government case was that HLF’s donations to Gaza were controlled by Hamas. The case was brought under the Patriot Act’s designation of “assistance” for “material support for terrorism.” The government used secret evidence at trial, and flew anonymous witnesses in from Israel. The prosecution introduced two of the key witnesses by pseudonyms, “Avi” and “Major Lior,” informing the court that they were an Israeli intelligence official and a member of the Israeli Defence Force. Since the defense counsel was not allowed to know who they really were, they could not be cross-examined on their competence or credibility. As Avi said in court, “you can not research me.”

In 2007 the first HLF trial ended in a mistrial and no guilty verdict. But the second trial achieved the convictions that the government had sought. It was almost inevitable after the prosecution’s “repeated, gratuitous invocation of violence,” as one of the defense lawyers put it, including the testimony given by National Security Council member Steven Simon who linked Hamas terrorism with 9/11 and the risk of future terrorism. None of the defendants were accused of violence or directly supporting terrorism; they were convicted of funding in Gaza *zakat* (alms-giving) committees, some of which were, the prosecution’s anonymous witness maintained, controlled by Hamas. The court was told by the defense that USAID, the UN, the Red Crescent and other non-governmental organizations funded the very same *zakat* committees, as did European funds. The committees were at that time [the only way](#) of getting charity funding to Gazans.

In 2008, the five HLF directors, including one member of the Elashi family, Ghassan, were convicted on charges of material support for terrorism. Ghassan Elashi, the chairman, and HLF chief executive, Shukri Abu Baker, received 65-year sentences. Nancy Hollander (counsel for Abu Baker) said after the sentence, “I was horrified by it, the thought that somebody gets 65 years for providing charity is really shameful and I believe this case will

go down in history, as have others...as a shameful day. Essentially these people were convicted because they were Palestinians."

Linda Moreno, another defense attorney for HLF, told me this month, "Many lawyers have defended a case they never should have lost, one that breaks their heart. This was mine. The government of Israel came after the most successful Islamic charity in the United States. HLF's success, in part, was their campaign of billboards and other media showing the devastation the occupation had in Palestine, especially on the children. Images of hungry children living in rubble that was once their home, destroyed by the IDF, contrasted with the ambulances, medicine, food and backpacks provided by the HLF, undermined the image of Israel. My client fed the wrong children. This is why he will die in jail."

The trials and a litany of appeals ever since have resonated internationally. In the London Review of Books, British barrister Francis Fitzgibbon ends an article on the HLF trials with the words: "In late 2001, the Bush administration wanted the world to think it was in charge of events. According to David Aufhauser, a senior Treasury Department lawyer, there was great political pressure on the department to name those who'd funded al-Qaida's terrorism: 'We just listed as many of the usual suspects as we could and said, Let's go freeze some of their assets.' The HLF, he wrote, was a co-operative organisation that sent large amounts of money to Palestinians and must have '[looked like low-hanging fruit](#).'"

In 2009 the American Civil Liberties Union [reported](#) on the results of the HLF trials, and concluded that they caused "a pervasive fear among Muslim charitable donors."

At the time of the ACLU report, Ghassan Elashi, the former chairman of the largest Muslim charity in the US, was serving his 65-year sentence in one of the most restricted of US jails. Basman spent nearly eight years in US prison or immigration detention, four of them in solitary. "The first two weeks in prison was the hardest time in my life. But then I relaxed, reading the Koran, and spent all my time reading."

"I was eight years among criminals, rapists, etc. I taught them English, maths, history, for \$70 a month. I graduated a lot of people. Even the warden asked me, Why are you in jail? Why? Maybe because I'm Palestinian? Maybe because I'm from Gaza? Maybe because I'm an activist?"

In 2009, Basman was suddenly released from prison and flew back to Texas and his mother and son. "I got a call in prison, Go, we don't want to see you here...I was motionless, in shock." His first craving as a free man was for his mother's scrambled eggs. By the time he was released, his wife and youngest child had been forced to leave the US on "voluntary departure" and were in Saudi Arabia. Basman spent the next three years living with his mother. "My mother is my strength and in those years I did everything for her and with her." But he was in limbo and he knew he did not control his own future or his family's. "I spoke to many immigration lawyers, they all told me I would never ever get the right to stay in the US because of my link to the HLF." He never imagined Gaza might be his destination.

Basman's brother, Bayan, serving his seven-year sentence from the Infocom trial, was subsequently ordered to be removed from the US, but remained in detention while the government claimed it was trying to find a country where he could be sent. After a *habeas corpus* petition he was released from prison in 2010 under condition of indefinite monitoring. He was required to check in with the police in Dallas weekly, which he did for two years.

Bayan and Basman and their families did everything possible to obtain travel documents to leave the US after their sentences, trying desperately to find a country that would admit them. Bayan initially sought to go to Finland, which did not accept him. Before he was finally removed to Gaza, Bayan had applied to 40 countries for admission, and was refused by all of them.

The brothers had been trying for years to obtain citizenship in the US. In the years before his arrest, Basman almost managed to get US nationality on three occasions, but each time he was stymied. "It was just chance—the first time the visa was waiting for me in Saudi Arabia, but then came the invasion of Kuwait and the Saudis would not let me in, as a Palestinian. Then I could have had it through my mother, but three months before my interview I was arrested."

He had always maintained legal status through his employment, but his visa depended on maintaining his job. "As soon as we were arrested we were illegal." Basman still feels tied to America. "Part of my body is American, I'm grateful they gave me my education, I still love America, people are decent. Just a few people decided to do bad things."

The words of one US immigration officer in Dallas in the early years of their troubles still stick in Basman's mind: "I want to separate out all these wives and break this whole Elashi network." All the wives heard her and were stunned. The same official told Basman's wife Wafa, and her sister-in-law Fayrouz, that they could stay in the US if they divorced their husbands. Both refused. (Fayrouz and her husband Hazim now live in Lebanon.) The officer's wish has come true; the family is now scattered across several continents, with the prospect that many of them will never see each other again.

While Basman was in prison, his wife Wafa, a Palestinian from a Gaza family born and brought up in Saudi Arabia, now stateless, was also jailed by US immigration. Basman's daughter Eman and her husband used to drive five hours each way to visit her mother every weekend. In August 2007, Wafa accepted voluntary departure to Dubai. She spent three months there before moving on briefly to Syria. Finally one of her brothers, a nationalized Saudi, achieved permission from the king to bring Wafa and her younger daughter to Saudi Arabia, where she had lived as a child.

Far away in Gaza, Basman talks of how much he loves his wife and how her pain and anger are hard for him to bear. "She can't come to me and I can't come to her. She is very, very upset and I'm unable to help her, except sending her the little money I make here in Gaza. Our two other children are in Chicago and Texas... they broke a family."

Eman is haunted by the effects of the separation. "It's been very, very hard on my mother, and my little sister; she never really saw my parents together and never had that secure big family life that was snatched away from us."

Eman lives a busy professional life in Chicago, with her two small children and Jordanian husband. It is far from the idyllic Texas childhood she remembers, surrounded by 22 cousins and eight aunts and uncles, every day until she was 17. When the disaster hit she became her father's great support. "She lived the jail years with me, in contact every day, sending me money I needed for things like phone calls. I could always count on her....she is a good person," said Basman.

There was a moment of hope to reunite the family when Eman's brother turned 21 and



applied for Wafa to join him in the US. But at Wafa's interview at the US consulate in Saudi, she was asked if she was still married to Basman, and when she said yes she was told she would have to demonstrate a hardship case. "She couldn't lie—material hardship was not the issue, living as our family was the issue. They refused her visa."

Now Eman manages biannual visits to meet her mother and sister in Jordan, all staying with her mother in law. But the 10-day annual leave from her job makes it a fleeting pleasure. "Deep down in my heart the hardest part is that we don't share daily life."

Bayan's wife, Lima, is in Jordan. She is receiving cancer treatment, which she could not obtain if she were living with her husband in Gaza. Her son is in the US, but her four daughters have chosen to live with her in Jordan, two of them with their husbands.

Basman and Bayan live together in Gaza these days. "We are an electronic family," says Basman, describing contact kept alive by Skype and group messages. "But 13 years, it is drying our relations." His youngest daughter's messages rend his heart. "She says her siblings are lucky; they know what it means to have a father's hug."

Since the Israeli destruction of Al Wafa, Basman has been working non-stop on the rebuilding and equipping of the new hospital. "I'm very happy to be working 24 hours. If I stop and think about my family in the US—two grown children and my mother, and my little girl in Saudi Arabia—I would be devastated."

He is immersed in Gaza society and deeply appreciative of its human quality. "People's word and trust is what matters here, everyone is a human being, not a number." But the Israeli blockade puts up obstacles that are difficult even for someone as resourceful as Basman. He was invited for a 45-day European tour to give evidence to the UN investigation into the 2014 war, and to speak to the European Parliament, the Italian Parliament and many others, in the immediate aftermath and when the need for medical assistance to all hospitals was acute. But even these powerful international bodies could not get him out of Gaza to testify to what he had witnessed. He ended up doing his talks on Skype.

The two Elashi brothers are stateless. They cannot even get residency in Gaza, as they are not permitted an Israeli ID because they left Gaza as children before the 1967 war. Bayan has a Palestinian passport, but it is not valid for travel without extra documentation, which is denied him.

Over the last three years, a team led by US law professor Susan Akram, with the assistance of law students, has worked *pro bono* to get the UN and various governments to intervene to reunite these families. Akram submitted dossiers and letters on their cases to the Commissioner-General of UNRWA and UNRWA's top lawyer; to UNHCR at headquarters in Geneva and in Jordan; to the head of the ICRC and the Red Cross delegation in Palestine/Israel; to the US consular officers in charge of refugee affairs in East Jerusalem; to the Minister in charge of Palestinian Affairs within the Egyptian Ministry of Foreign Affairs (trying to get them Egyptian travel documents and entry into Egypt); and to the Jordanian government through UNRWA.

"The various UN organizations have clear responsibility to promote a durable solution and reunite the families," Akram said this month. The possibility of legal action in the US to secure their return has proved impossible. Half a dozen large law firms in the US have been approached to take up their cases, as well as the American-Arab Anti-Discrimination

Committee (ADC) and a number of public interest law firms, but none will touch it, and one prominent law firm, after agreeing to take it, backed off, saying it was “too controversial” and their lawyers didn’t want to work on it.

At their old home area in Texas, Basman’s elderly mother, Fadwa Al-Afrangi, still believes she will see her sons “inshallah.” She smiles as she knits a blue and white baby blanket. Sweaters, scarves and foot warmers pile up in gift bags for occasions yet to be known. Here in Dallas she is at the center of a devout family that endures in happy companionship despite everything that has happened to them in the last 13 years. When Fadwa’s five sons went to prison, the community gathered around her. Today, her daughter Maha Elashi, Basman’s sister, has moved south from Boston to be with her mother, leaving her husband alone. Next door, and in and out of both houses, is her daughter-in-law Majida, wife of the imprisoned Ghassan, and a high school teacher with four children.

Fadwa talks of the border from Egypt to Gaza being opened one day, and then she will be able to go and spend time with her sons Basman and Bayan. One of Majida’s daughters, Asma, also dreams of going to Gaza. Asma is a speech pathologist, and like her father Ghassan, the philanthropist who once headed HLF and is now serving a 65-year sentence, she wants to use her skills to make a contribution to the people in the place where her family’s extraordinary history began.

Sitting alone with Skype on his screen in the silence of his Gaza hospital at night, Basman too says he believes there will ultimately be justice and that his family’s dream of being reunited will be realized. “Where next? I am extremely happy here in Gaza. My only issue is that I’m in a concentration camp. Having a passport would let me unite with my family, if not, I won’t see anyone in my family in all the rest of my life.”

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