



HOW THE MATERIAL SUPPORT OF TERRORISM STATUTES AFFECT RELIEF IN GAZA

People seeking to donate are **encouraged to seek out legal advice** before sending money to individuals or a charity in Gaza. Anyone with questions concerning financial transfers to relatives, individuals, or charities in Gaza **can contact Muslim Legal Fund of America** for individualized legal advice. You can contact Muslim Legal Fund of America for advice at (972) 914-2507 or fill out an online application for assistance at <https://mlfa.org/apply-for-help/>

18 U.S.C. Section 2339B criminalizes knowingly providing material support to a foreign terrorist organization. Material support is not limited to providing support to terrorist activities—it criminalizes **any form of support**, such as providing humanitarian aid like food, clothing, and water, to a designated foreign terrorist organization. Whether or not a designated foreign terrorist organization is validly designated cannot be challenged as the federal courts have held that a court cannot consider the validity of designation in determining whether a violation has occurred. The material support statute extends to the support of third-party organizations.

The material support statute complicates relief in Gaza because **Hamas is a designated foreign terrorist organization** by the U.S. State Department. Gaza is under the military and political control of Hamas. Thus, almost all commercial activity in Gaza is directed and controlled by Hamas. Any organization operating in Gaza does so either under the control of Hamas or is licensed by Hamas. The only way for a charitable organization to operate in Gaza is by virtue of a license provided by the U.S. Treasury Department. These licenses allow humanitarian aid under closely supervised conditions. Since Hamas's designation, a handful of U.S.-based charitable organizations have obtained a license to conduct limited humanitarian aid in Gaza. U.S. persons wishing to provide charitable aid in Gaza **should do so utilizing a charity possessing a license from the Treasury Department to provide aid in Gaza, such as Islamic Relief**. Providing aid through unlicensed U.S. charities or foreign charities is not advised because their aid may be considered material support of a foreign terrorist organization.

Providing direct aid to individuals or relatives in Gaza is not per se prohibited; however, **it is not without risk**. First, providing aid to any person in Gaza who is a member of Hamas or conducting combatant activities under the direction and control of Hamas can be considered material support. Second, even if the individual is not affiliated with Hamas, providing direct aid is difficult because major financial institutions have limited to no presence in Gaza and most cash transactions require a transfer to either the West Bank or to a financial institution in Israel followed by a local transfer into Gaza because the borders are closed currently.

Apart from the significant regulatory risks associated with an attempt to transfer to individuals in Gaza, there is also a **significant risk of fraud**. The common workaround for financial transfers is to transfer to PayPal or similar methods that transfer directly to the account. The issue with this is that there is usually no way for one to verify the identity of the account holder and their physical location. As such, under these circumstances, fraud has been repeatedly present in past humanitarian crises, and it is foreseeable and likely that similar fraud will occur here.