



The İHH Riddle

Why It Doesn't Make Sense to List the Turkish Humanitarian Group as a Foreign Terrorist Organization

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The Senate's call to designate the Turkish Foundation for Human Rights and Freedoms and Humanitarian Relief as a foreign terrorist organization, or FTO, is counterproductive to U.S. efforts to recognize and respond to terrorist threats. Eighty-seven senators have signed a letter calling on the Obama administration to "consider whether the İHH should be put on the list of foreign terrorist organizations." The İHH is a humanitarian organization run out of Turkey and active in over 100 locations worldwide. It also organized the Gaza-bound flotilla involved in the raid in late May. The letter correctly points out that İHH has questionable links to the Hamas-run Union of Good, but it fails to specify how it wants to designate the İHH as a terrorist organization and could therefore damage our security and relationship with Turkey.

The Immigration and Nationality Act, as amended under the Antiterrorism and Effective Death Penalty Act of 1996, lays out an FTO designation that includes strict sanctions and is usually narrowly applied to violent organizations. The Departments of State, Justice, Treasury, and Homeland Security follow this designation, which is often collectively referred to as the "FTO list." But the Bush administration's Executive Order 13224 allows for a broader FTO definition with fewer consequences that is often applied to organizations that provide resources to violent organization as well as the violent organizations themselves.¹

İHH's political agenda might provide sufficient reason for the Obama administration to designate it as a terrorist organization under President Bush's Executive Order 13224 that "assist[s] in, sponsor[s], or provide[s] financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities designated under." But it is not in the United States' long-term interest to label İHH with the more formal FTO designation—an action

that would blur the distinctions between a nongovernmental organization with some members who seek to support Hamas and other militant groups that almost exclusively engage in armed struggle against the West, or between full-fledged terrorist organizations and those that provide them with support such as financing.

It is also important to recognize the role İHH plays in Turkish domestic politics. The organization is part of the broad and diverse coalition that has brought the governing Justice and Development Party to power. But this coalition is extremely broad, ranging from political Islamists with palpable hostility toward Israel, to centrist businessmen, to a new generation of progressive intellectuals without a political home. It is not in the United States' interest to lump these different constituencies together or suggest that the current government of an important U.S. ally is guilty by association, whatever its self-defeating rhetorical excesses.

The Immigration and Nationality Act defines terrorist activity as engaging or planning to engage in activities such as hijacking, assassination, and use of conventional or unconventional weapons, as well as recruiting personnel, soliciting funds, or providing material support for terrorist organizations.² And the label comes with consequences. It is illegal for anyone subject to U.S. law to provide “material support” to an FTO; members of the FTO cannot enter the United States and can be deported; and U.S. financial institutions must freeze all FTO accounts and report them to the Treasury Department. The secretary of state has the legal authority to designate groups as foreign terrorist organizations if they solely provide funding, recruitment, or other services to terrorists and do not themselves engage in violence. But the United States currently does not include any such groups on its official FTO list.

Including İHH on the FTO list without stronger evidence that it is directly involved as an organization in providing financial and possibly other types of support to violent terrorist groups such as Hamas or Al Qaeda only serves to lower the political and moral standards for such designations. The list is reserved almost exclusively for the “worst of the worst”—groups that actively commit or plan to commit terrorist violence. Lowering the threshold for inclusion erodes the “name and shame” function of the list itself. The fact that the State Department has the authority to designate nonviolent terrorist support groups as terrorist organizations but has not chosen to do so indicates that it recognizes the normative importance of maintaining stricter standards for membership on the FTO list than provided by the law.

It would be more appropriate for the Obama administration, if it chooses to take action, to label İHH as a terrorist organization under Executive Order 13224, which President Bush issued shortly after the September 11 attacks in 2001. E.O. 13224 duplicates the federal powers outlined in the Immigration and Nationality Act to a certain extent, but it also authorizes the Treasury Department to designate entities that “assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities designated under.”³ This label is therefore much broader than the State Department’s formal FTO designation process.

The legal consequences of an E.O. 13224 designation are primarily financial in nature. It blocks FTO members’ U.S. property interests and financial transactions; prevents those subject to U.S. law from contributing funds, goods, or services to the organizations; and prohibits transactions with the purpose of evading the order’s restrictions. These financial restrictions are an expansion of those that apply to the formal FTO list. The State Department holds that designations under E.O. 13224 also deter donations to identified organizations and encourage “designated entities to get out of the terrorism business.”⁴

There is no precedent to suggest that the Obama administration should place İHH on the formal FTO list, but it is possible that İHH is engaged in activities that could fall under the jurisdiction of E.O. 13224. İHH’s connections with the Hamas-sponsored Union of Good organization are of particular concern since the Treasury Department has already labeled the Union of Good as a terrorist organization under E.O. 13224, as well as other groups that are a part of the Union of Good.⁵ It would not be unusual or unreasonable for İHH to receive that same designation if clear evidence indicates that it is financing or providing other substantial support to Hamas-sponsored organizations such as the Union of Good.

There are signs that İHH’s political activities and motives go far beyond its self-proclaimed humanitarian mission. And there is reason to doubt its statement that the organization remains “unaffiliated with politics” and simply voices the “problem of the wronged.” Available public evidence shows İHH as a politicized humanitarian association, and a number of its activists sympathize with violent Islamists. These activities, especially financial activities, clearly deserve the attention of authorities in all the countries where İHH operates.

İHH occupies an ambiguous area, exhibiting traits that could be used to show the group is, or is not, a foreign terrorist organization depending on the perspec-

tive. But the Senate letter urging President Obama to designate IHH as a foreign terrorist organization muddies the debate by conflating the options available to U.S. policymakers.

These 87 senators neglect to differentiate between the two options for designating a group as a foreign terrorist organization—putting it on the official FTO list or declaring it as a terrorist organization under E.O. 13224. IHH’s motives and actions are troubling and require further investigation and explanation, but it does not belong on the State Department’s official foreign terrorist organization list alongside groups such as Al Qaeda, Hamas, and Hezbollah. The United States government has other, more measured tools to keep IHH in check and stop the group from providing financial or other support to Hamas if evidence indicates that it is.

The FTO list is a blunt instrument reserved for the “worst of the worst” of the world’s terrorist organizations, and placing a nonviolent organization on that list damages the credibility and value of FTO designations, no matter how troubling the group’s associations. Yet enough questions remain about IHH’s associations with terrorist organizations that a thorough investigation is needed to determine whether other measures, such as Executive Order 13224, should apply.

Endnotes

1 U.S. Treasury Department, “Treasury Designates the Union of Good,” Press Release, November 12, 2008, available at <http://www.ustreas.gov/press/releases/hp1267.htm>.

2 8 USC 1182(a)(3)(B). Title 8, Section 1189 of the U.S. Code authorizes the Secretary of State to designate foreign terrorist organizations if she finds that a) the organization in question is foreign, b) the organization engages in terrorist activity as defined by U.S. law, and c) the organization’s terrorist activity threatens the security of the United States nationals or the national security of the United States. As noted, Title 8, Section 1182(a)(3)(B) defines “terrorist activity,” while Title 22, Section 2656f (d)(2) defines terrorism as “premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents.” While legally at the discretion of the Secretary of State, the Office of the Coordinator for Counterterrorism within the State Department has de facto responsibility for deciding which groups are or are not designated as FTOs. S/CT appears to focus on the capability and intent of groups to carry out terrorist attacks as the main criteria of its designation process, which is a more narrow interpretation of designation powers than actually allowed by the law.

3 U.S. State Department, “Executive Order 13224,” September 23, 2001, press release, available at <http://www.state.gov/s/ct/rls/other/des/122570.htm>.

4 Ibid.

5 U.S. Treasury Department, “Treasury Designates the Union of Good,” Press Release, November 12, 2008, available at <http://www.ustreas.gov/press/releases/hp1267.htm>.