

Palestinian scholar held in Florida penitentiary

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On November 24 federal INS agents arrested Dr. Mazen Al-Najjar, a former adjunct professor at the University of South Florida, on a deportation order based on overstaying his student visa. The 43-year-old Palestinian immigrant had been released last December after spending three-and-half years in jail on the basis of supposed “secret evidence” linking him to terrorist organizations.

Dr. Al-Najjar’s problems began in 1996 when the government charged that the World and Islam Studies Enterprise (WISE), which he was instrumental in establishing at USF, was a front for the Palestinian Islamic Jihad. Married and the father of three, Dr. Al-Najjar was held for more than 1,300 days on the basis of evidence that the government refused to furnish him or anyone else.

On May 31, 2000 United States District Judge Joan Lenard ruled the government could not hold Dr. Al-Najjar on secret evidence without violating the right to defend oneself. In October 2000, Immigration Judge Kevin McHugh ruled there was not sufficient evidence to prove that Dr. Al-Najjar raised money for terrorist organizations or engaged in any unlawful activities.” He said the evidence showed WISE was a “reputable and scholarly research center and the [Islamic Concern Project] ICP was highly regarded.”

Al-Najjar was finally freed on \$8,000 bail in December 2000. The government appealed the order forcing it to disclose the “secret evidence” to the Eleventh Circuit Court of Appeals.

On November 13 an appeals court affirmed the final deportation order against Al-Najjar. The Eleventh Circuit subsequently dismissed the government’s appeal as moot, because the “secret evidence” was no longer required to justify the detention of Dr. Al-Najjar.

The Justice Department issued a press release the day of his most recent arrest, which claimed, “The Eleventh Circuit Court’s recent affirmation of the final order of removal provided INS with the authority to take Al Najjar into custody and proceed with removing him from the United States. His current detention is not based on classified evidence. The INS regularly detains individuals who have a final order of deportation while it prepares for their removal from the United States if they are a flight risk, a threat to the community or a threat to national security. Al Najjar is being detained under this standard.” The statement went on to list the same allegations thrown out by the court in October 2000.

The Justice Department was given new powers under the Patriot

Act, legislation passed by the US Congress following the September 11 attack on the World Trade Center. The “anti-terror” legislation contains draconian measures that erode basic civil liberties. One provision of the legislation expands the time any immigrant labeled a “terrorist suspect” by authorities can be held in detention without being charged to seven days from the previous two days.

Under the Patriot Act, which was signed by President Bush on October 26, if an immigrant is taken into custody for deportation and the attorney general declares the individual a threat to national security, the detention can be repeatedly extended for six-month periods. That same day via executive decree, and with no public notice or Congressional consultation, Attorney General John Ashcroft gained the authority to keep detainees behind bars even after a federal immigration judge has ordered the individual released for lack of evidence.

The government is using its new powers to clear away any individuals or organizations it deems obstacles to its reactionary domestic and foreign policies. Just last week the Bush administration froze the assets of the Holy Land Fund, the largest Muslim charity in the US. Bush leveled politically charged allegations against the organization, which funds schools and other social services in the Middle East. Included in Bush’s “proof” of the charity’s support for terrorism was the assertion that some of the recipients of donated funds are the widows and relatives of suicide bombers, and that suicide bombers once attended schools funded by the charity.

The insistence that Al-Najjar’s association with groups the authorities designated as terrorist makes him a security threat is a flagrant case of “guilt by association.” This kind of charge has now been codified in the Patriot Act in order to open the way for excluding or deporting people from the US for ideological reasons, flouting the right to freedom of speech and expression.

The now defunct WISE was founded on the University of South Florida campus by Al-Najjar’s brother-in-law, USF engineering Professor Sami Al-Arian. The government investigated Al-Arian and WISE, but no charges were ever filed. The university’s own investigation, conducted by Tampa lawyer and former American Bar Association president William Reese Smith Jr., also found no wrongdoing.

In a letter this fall to the University of South Florida student newspaper *The Oracle*, Al-Arian explained the educational mission behind WISE. It was set up, he said, to respond to

Professor Samuel Huntington of Harvard University, whose major thesis is that there is a clash of civilizations primarily between Islam and the Western World.

Al-Arian rejected Huntington's thesis and set up WISE in order to promote dialog among academics. According to Al-Arian, the institute organized roundtable discussions and symposiums, which brought Muslim thinkers to the US to address Western academics. It published a journal of 20 volumes in Arabic along with the proceedings of the roundtable discussions. Al-Arian wrote in his letter: "Western experts and scholars of Islam and the Middle East who interacted with WISE have praised its work and publications."

Professor Al-Arian was placed on indefinite leave by the USF administration after he appeared on the right-wing FOX News program *The O'Reilly Factor* in September of this year, following the attack on the World Trade Center. Al-Arian wanted to discuss the work he and his wife Nahla, who is Al-Najjar's sister, had undertaken to get the use of secret evidence banned in the US.

During the Fox News program, the host reintroduced the unproven allegations against WISE and asserted as good coin other allegations by the Federal Bureau of Investigation that had been thrown out in court. According to Al-Arian, O'Reilly was incensed that someone who was part of WISE nearly a decade ago tried to set up an interview between ABC News and Osama bin Laden. He said another alleged terrorist brought up by O'Reilly, a Mr. Tariq Hamdi, actually has a security clearance from the FBI. One alleged terrorist O'Reilly accused Al-Arian of associating with was his brother-in-law Al-Najjar.

Following the TV appearance the university received angry phone calls, including death threats. The university claimed Al-Arian's suspension was for his own protection.

Since Mazen Al-Najjar has lived in the US for 20 years, any claim he is a flight risk is highly dubious. He entered the country in 1981 on a student visa, but went on to teach at USF. He is the father of three US-born daughters aged six to thirteen. His wife works in Florida as a pharmacist.

More importantly, he has no country to which he could flee. He was previously denied a visa to the United Arab Emirates, the country where he was last a citizen. According to one of his lawyers, David Cole, because Al-Najjar is a stateless Palestinian he is in the legal limbo that besets stateless people. In his current situation, he is again under threat of indefinite detention.

Also according to Cole, when Al-Najjar was in jail the first time he applied for and received a visa that would have allowed the family to go to Guyana in South America. However, the US government then met with officials in Guyana to convince them to reject his entry. In early November, before his current incarceration began, Al-Najjar told *The Oracle*: "The real intention was not to detain or deport me. It was to punish me and make me a case for the communities and other activists."

An editorial denouncing the arrest was printed in the USF student paper in late November. It stated: "The government has been treating Muslims and Arabs unfairly as though in a horrible Orwellian manner since Sept. 11." The statement called for the government to publicly prove Al-Najjar a terrorist or provide a national visa for him, concluding: "On the other hand, at the rate

the United States is revoking rights and targeting certain groups of people, Al-Najjar and his family may be better treated in another country."

Al-Najjar's first incarceration was a catalyst for proposed legislation in the US House of Representatives which would have banned the use of secret evidence in the US judicial system. US Congressmen David Bonior, a Michigan Democrat, and Bob Barr, a Republican, introduced the legislation, and it had passed the House Judiciary Committee last year. Prior to September 11, most other similar cases had been resolved with the release of about 20 other immigrants held on secret evidence.

Al-Najjar's current plight is one of hundreds of recent arrests in the US that have been cited by Amnesty International. In a letter to Attorney General Ashcroft last month they referred to 1,100 detainees who were in custody at that time, mostly non-US citizens. The letter warned: "Under international law, even in states of emergencies, certain basic rights may not be suspended, including the right of every person not to be subjected to arbitrary detention, torture or other cruel, inhuman or degrading treatment or discrimination on the grounds of race, colour, sex, language, religion or social origin."

Al-Najjar is being held in maximum security and in solitary confinement on 23-hour lockdown. From December 1997 when he was first arrested, until he was released in late 2000, he had been incarcerated in a minimum-security local jail. Following his re-arrest in late November of this year he was taken to the Coleman Federal Correctional Complex near Bushnell, about 70 miles north of Tampa.

Upon his incarceration, he was banned from seeing his family for 30 days. His Florida attorney is the only visitor he has been able to see since he was arrested. Martin Schwartz said it was highly unusual for a foreigner ordered deported for a student visa overstay, a minor immigration violation, to end up in a maximum-security federal penitentiary.

Attorney Cole has said he believes the US Attorney General does not have unfettered power to hold his client as the court had ruled. The lawyers want to challenge his current detention and appeal his final deportation order to the US Supreme Court.



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