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Academics Protest Jailing of Muslim Student

Terrorism case is cast as fight for civil liberties

By ALLIE GRASGREEN

Jeanne Theoharis, an associate professor of political science at the City University of New York's Brooklyn College, remembers Syed Fahad Hashmi as an energetic student who took frequent advantage of his professors' office hours. He loved a vigorous discussion with his fellow students, sometimes lingering after class to finish a debate.

Mr. Hashmi also loved to engage in polemics outside the classroom at Brooklyn College, speaking out at campus meetings and rallies against U.S. policies.

Ms. Theoharis also recalls that her student took a keen interest in civil liberties. Mr. Hashmi wrote his final paper for her class on the contradictions between basic American freedoms and ideals and the U.S. government's treatment of citizens since the terrorist attacks of September 11, 2001.

His interest in civil liberties may be even keener today. Mr. Hashmi, a 28-year-old naturalized U.S. citizen born in Pakistan, is being held in solitary confinement at the Metropolitan Correctional Center in Manhattan, on multiple charges related to terrorism. And now his trial, supposed to begin at the end of last month, has been pushed back indefinitely.

Mr. Hashmi's ordeal has had a profound effect on Ms. Theoharis and another of his instructors, who have organized a "Free Fahad" campaign to gain his release. She and her colleague Corey Robin, an associate professor of political science at Brooklyn College who began the campaign, have gained the support of hundreds of academics, writers, and social-justice activists.

The professors have taken aim at the stringent conditions in which Mr. Hashmi is being held. In October 2007, Peter D. Keisler, the acting United States attorney general, ordered special administrative measures for Mr. Hashmi's detention. That decision placed him under 24-hour surveillance and compelled his segregation from other prisoners. His visits, correspondence, and other reading material are severely restricted.

Through court documents and interviews with lawyers, it appears that Mr. Hashmi's involvement in Al Muhajiroun, a controversial and now officially defunct extremist Islamic group based in Britain, is one reason for his arrest. Testimony against Mr. Hashmi by a government informant may also play a role in his continued detention.

The U.S. Attorney's Office in the Southern District of New York, where Mr. Hashmi unsuccessfully challenged the conditions of his jailing, declined to comment on the case to *The Chronicle*. At the time of Mr. Hashmi's extradition from Britain, in May 2007, Mark J. Mershon, an assistant director at the Federal Bureau of Investigation, told CNN that "if we are engaged in a war against terror — and we most certainly are — then Syed Hashmi aided the enemy by supplying military gear to Al Qaeda."

But faculty members also perceive a larger significance in the case: a possible chilling effect among students who are critical of U.S. policies.

"My hopes are obviously to ensure his First Amendment rights and due process, but I think it also provides a lens on the larger political climate," Ms. Theoharis said. "He is being prosecuted to send a message to other young people about the dangers of being political."

Going to Extremes

Mr. Hashmi, born in 1980, emigrated with his family from Pakistan to America when he was 3 years old. In 1991 he became a naturalized U.S. citizen.

He graduated from Brooklyn College in 2003 with a political-science degree, taking classes with Ms. Theoharis and Mr. Robin. He left the United States for Britain, where he studied international relations at London Metropolitan University and received a master-of-arts degree.

In June 2006, British police detained Mr. Hashmi at Heathrow Airport, acting on a warrant for his arrest issued by the U.S. government. After nearly a year in British custody, he was extradited in May 2007. He has been held at the jail in Manhattan since then.

The details in the indictment against Mr. Hashmi are murky. Among the four counts are allegations that he conspired with unnamed persons to provide "material support or resources" — including money and military gear — to co-conspirators who delivered the materials to Al Qaeda members in Pakistan. The materials were to be used by Al Qaeda against U.S. forces in Afghanistan, the indictment says.

According to his lawyers, much of the case against Mr. Hashmi rests on the testimony of one unnamed conspirator previously arrested in the Southern District of New York. Sean Maher, Mr. Hashmi's attorney, says that man is Junaid Babar, an American citizen who pleaded guilty in June 2004 to providing material support to Al Qaeda and assisting in a

British bomb plot. Mr. Babar has served as a witness in multiple terrorism cases in exchange for a reduced prison sentence.

Mr. Hashmi's membership in the group called Al Muhajiroun may also have played a role in his arrest. The radical Islamic group, founded in 1983 in Saudi Arabia, is known for its commitment to worldwide domination by Islam and an overthrow of Western culture. The group was banned in Saudi Arabia and later in Britain, and some of its members were implicated in a failed plot to create and detonate fertilizer bombs in Britain. The organization declared itself disbanded in 2004, but some believe it is still active as an underground group.

Mr. Babar, like Mr. Hashmi, was a member of Al Muhajiroun, and testified in the British trials on the fertilizer-bomb plot.

Peter Bergen, a national-security analyst for CNN and an adjunct professor of South Asian studies at the Johns Hopkins University's Paul H. Nitze School of Advanced International Studies, said it was difficult to gauge the real danger posed by Mr. Hashmi's relation to Al Muhajiroun because the extent of his involvement in the group remains unknown.

"Attending a meeting is a completely legal activity," Mr. Bergen said. "The point is that a number of people who attended these meetings went on to commit major acts of terrorism."

The charges against Mr. Hashmi — as well as alleged threats against U.S. soldiers that he made upon his arrest — led Mr. Keisler to order the special and severe administrative measures. The prisoner is kept in 23-hour lockdown and under 24-hour electronic surveillance. He may not participate in group prayer, communicate with other prisoners or the news media, or listen to or watch any news programs. He may be visited by only one family member every two weeks, and those visits may not exceed 90 minutes or involve physical contact.

In the fall of 2007, Mr. Hashmi's defense challenged the special administrative measures and other issues on Sixth Amendment grounds, but a U.S. district-court judge in New York rejected the arguments. Mr. Maher, Mr. Hashmi's attorney, said in an interview that the measures were usually imposed upon prisoners with a demonstrated ability to communicate with conspirators inside and outside prisons. He said the chances of the government lifting the measures were "nil to none."

Chris Zambelis works as a political analyst on Middle East issues for Helios Global, a Washington-based risk-analysis firm. Mr. Zambelis wrote about Mr. Hashmi's arrest in 2006 for *Global Terrorism Analysis*, a newsletter published by the Jamestown Foundation, and he says "there's no doubt" the government's actions against Mr. Hashmi, including the special administrative measures, are completely warranted if the allegations involving Al Qaeda are true. But, he reiterated, that's a big "if."

"If you want to give the government the benefit of the doubt on this, if there is something substantive that they've found that they want to pursue, obviously they are right in holding onto him," Mr. Zambelis said. "At the same time, there are a lot of mistakes and a lot of people get brought in and roped into these plots, and it turns out they had nothing to do with them."

Criminalizing Politics?

Ms. Theoharis and others who call for Mr. Hashmi's release say that his arrest was politically motivated. They point out that he has no prior criminal history (Mr. Bergen, the CNN analyst, deemed that point irrelevant) and they say that because the government informant upon whom much of the case against Mr. Hashmi is built has served as a witness in multiple cases in exchange for a reduced prison sentence, the validity of that testimony is diminished.

Mr. Robin sees his former student's ordeal as a concrete example of topics they discussed in class together, such as the effect of the Patriot Act and how the political climate has changed following the September 11 attacks.

"The classroom is supposed to be a kind of sacred space where students can express their beliefs, and faculty are obligated to push them," Mr. Robin said. "It's chilling to me to think that that whole process, which is the essence of what it means to be an educated person, could suddenly become an item of scrutiny in a court of law."

Mr. Hashmi's case has struck a chord among academics and public intellectuals. A "Statement of Concern" in support of the incarcerated student has been signed by more than 500 people, including prominent academics such as Henry Louis Gates Jr., director of the W.E.B. Du Bois Institute for African and African American Research at Harvard University; Siva Vaidhyanathan, an associate professor of media studies and law at the University of Virginia; and Cary Nelson, a professor of English at the University of Illinois at Urbana-Champaign and president of the American Association of University Professors.

"What it seems like people are fundamentally agreeing with is the idea that civil liberties and civil rights are fundamental to who we are as a nation," said Ms. Theoharis, "and national security does not require, or is not aided by, or is not imperiled by the abridgment of civil rights. Why everyone is signing is because these rights are what we stand for as a country, no matter what."

The statement was delivered in mid-July to various government officials, including Michael J. Garcia, U.S. attorney in the Southern District of New York; U.S. Attorney General Michael Mukasey; New York City Council members; and state senators. Ms. Theoharis said the first time she sent the statement out to potential signatories, they wrote back within minutes, outraged by the extreme and "un-American" detainment measures.

"The conditions of the confinement seemed incredible to me, outrageous to me," said Michael Ratner, a legal scholar and president of the Center for Constitutional Rights, a nonprofit organization in New York City. Considering current federal practices, the confinement didn't strike him as odd, "but it didn't seem legal, either."

Mr. Hashmi's trial was scheduled to begin at the end of July. But the trial date has been pushed back indefinitely because new discovery information being turned over to the defense.

Apart from Mr. Hashmi's personal predicament, the case's potential to create a chilling effect on college campuses is troublesome to those in academe who want him freed.

"It's particularly significant in a moment when we are seeing the criminalization of Muslim students," Ms. Theoharis said. "I think that he is a devout and practicing Muslim who is very political. If he can be treated like this, it sends a message to other young people, particularly other Muslim young people, that you know you are not protected. I think it is crucial in terms of students thinking they can be who they want to be and espouse the politics that they want to espouse. That's why we're sort of organizing around this case. I fear very much that this is about sending a message."

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