1. **Background**

Lynne Stewart, “a left-wing radical at heart and a veteran soldier of the city’s defense bar,”[[1]](#footnote-1) served as one of the defense counsel for Sheik Omar Abdel Rahman in his 1994 trial. Rahman, known as the “Blind Sheikh,”[[2]](#footnote-2) is the spiritual leader of the Al Gama’a al-Islamiyya Egyptian terrorist group,[[3]](#footnote-3) also known as the Islamic Group (“IG”) in addition to being a high-ranking member of globally active *jihad* organizations.[[4]](#footnote-4) He was convicted in October 1995 of the terrorism-related crimes, among them seditious conspiracy to wage a war of urban terrorism against the United States, which included the 1993 bombing of the World Trade Center and “a failed plot to bomb a number of New York City landmarks, including the United Nations, the FBI building in Lower Manhattan and the Lincoln and Holland tunnels.”[[5]](#footnote-5) He was also convicted of solicitation of the murder of Egyptian President Hosni Mubarak while he was visiting New York City, solicitation of an attack on American military installations, conspiracy to murder President Mubarak, and conspiracy to bomb the World Trade Center, which succeeded.[[6]](#footnote-6) Following the imposition of his life sentence, the Attorney General authorized the Bureau of Prisons to place Rahman under Special Administrative Measures (“SAMs”), which limited the Sheikh’s ability to communicate with other terrorists or the media, in order to protect “persons against the risk of death of serious bodily injury”[[7]](#footnote-7) that might result should he have enjoyed unhindered communications with his terrorist comrades in Egypt.

The SAMs[[8]](#footnote-8) were designed to prevent Rahman from directing violence from his prison cell.[[9]](#footnote-9) The regulations “prohibited Rahman from having contact with…others that could foreseeably result in his communicating information (sending or receiving) that could circumvent the SAM intent of significantly limiting Rahman’s ability to communicate (send or receive) terrorist information.”[[10]](#footnote-10) Rahman was limited to telephoning only his wife or his attorneys and the SAMs prevented the contents of such calls from being “divulged in any manner to any third party.”[[11]](#footnote-11) The measures forbid Rahman from “talking with, or otherwise communicating with, any representative of the news media,” including “through his attorney, staff or otherwise.”[[12]](#footnote-12) Rahman was allowed to communicate with his legal counsel with fewer restrictions than with other people, as long as his attorneys did not divulge any information to third parties.[[13]](#footnote-13) Former U.S. Attorney General Ramsey Clark, Abdeen Jabara, Lawrence Shilling and Lynne Stewart all served on Rahman’s legal team and were thus subject to the SAMs.

Before her visits to Rahman in prison, Stewart was required to execute SAM affirmation statements. Stewart signed at least three such statements[[14]](#footnote-14) under penalty of perjury, stating in each affirmation that “she had read the [most recent] version of the SAMs; that she understood the restrictions contained in that document and agreed to abide by its terms; that she would not leave any translator or interpreter alone with inmate Abdel Rahman; and that she would only be accompanied by translators for the purpose of communicating with inmate Abdel Rahman concerning legal matters.”[[15]](#footnote-15) Stewart also affirmed that she would not “use her meetings, correspondence or phone calls with Rahman to pass messages between third parties (including, but not limited to, the media) and Rahman.”[[16]](#footnote-16)

In 1997, the Islamic Group declared a unilateral cease-fire with the secular Egyptian government, temporarily abating the group’s violent efforts to overthrow the Mubarak-headed government.[[17]](#footnote-17) Despite the cease-fire, a group associated with the IG killed over sixty tourists, guides and guards at a tourist site in Luxor, Egypt, mutilating their bodies. A military leader of IG, Rifa’i Taha Musa (“Taha”), claimed responsibility for the attack on behalf of the IG and demanded Rahman’s release from prison.[[18]](#footnote-18) After no response to their request for the release of IG militants from Egyptian prison and other concessions from the Egyptian government, Taha and other IG members contacted Ahmed Abdel Sattar, who served as a paralegal in Rahman’s trial,[[19]](#footnote-19) to inquire from Rahman whether the group should continue to uphold the cease-fire. Several IG members wrote messages to Rahman, which they sent to Sattar, who then delivered the messages to Stewart and Mohammed Yousry, a New York University graduate student who served as one of Rahman’s translators during his trial. Stewart then “surreptitiously” concealed the messages among her legal documents and brought them to Rahman during her May 2000 visit.[[20]](#footnote-20)

On May 19 and 20, 2000, Stewart and Yousry met with Rahman in prison.[[21]](#footnote-21) Yousry read the messages to Rahman and Rahman dictated Yousry responses to some of them. Yousry and Stewart “smuggled” the responses past the prison guards and sent them to Sattar, who delivered the messages to Al Gama’a operatives.[[22]](#footnote-22) Among other things, the messages indicated that Rahman “was willing to reconsider the effectiveness of the cease-fire.”[[23]](#footnote-23) IG members were doubtful whether the message came from Rahman himself or whether Sattar fabricated them. To authenticate the messages, Sattar and Yousry asked Ramsey Clark to issue a press release to an Arabic newspaper that would confirm Rahman opposed Al Gama’a’s proposed formation of a political party in Egypt. Clark agreed, and told a reporter that, “the Sheikh has said he believes that the formation of a new political party […] is not correct and should not be done.”[[24]](#footnote-24) Clark also supervised a 1999 meeting between Yousry and Rahman in which Yousry read Rahman messages from his IG comrades and newspaper clippings after which Rahman dictated a response message to Yousry encouraging violence.[[25]](#footnote-25) Similarly, Abdeen Jabara, another member of Rahman’s 1995 legal team, supervised a prison visit in which Yousry read a message from Taha to Rahman, asking again for Rahman’s support to end the cease-fire. Jabara, however, would not permit Rahman to dictate a letter to Yousry in response and further refused to issue any public press statements regarding Rahman’s position on the matter.[[26]](#footnote-26)

In contrast, Stewart met with Sattar who gave her letters from Taha asking Rahman to “take a more forceful position” on the end of the cease-fire and “to dictate some points we can announce in a press conference with Lynne [Stewart].”[[27]](#footnote-27) The following day, Stewart and Yousry brought Taha’s letter to Rahman in prison. This prison visit was being videotaped pursuant to the government’s authorization under the Foreign Intelligence Surveillance Act (“FISA”)[[28]](#footnote-28). During this meeting, Stewart supervised as Yousry read messages to the Sheikh, and both Stewart and Yousry “took overt steps to ensure that the nature of their communication with Abdel Rahman would be concealed from the prison guards.”[[29]](#footnote-29) Yousry told Stewart to “look at me and talk a little bit because they [the guards] are watching us closely.”[[30]](#footnote-30) Yousry read Taha’s message to Rahman while Stewart “uttered a meaningless series of phrases to Yousry so that it would appear to an observer as though she was taking part in a three-way conversation.”[[31]](#footnote-31) Stewart made comments like “heart attack” and “chocolate”[[32]](#footnote-32) to make it seem as if she was involved in the conversation. At one point, Yousry explained to Rahman, “Lynne just says anything, [laughing], Sir.”[[33]](#footnote-33)

The following day, Stewart and Yousry met again with Rahman, who dictated to Yousry a response message asking Taha to “escalate the language” of criticism of the cease-fire.[[34]](#footnote-34) Meanwhile, Stewart engaged in what she later called “covering noises” to shroud the subject matter of the meeting from nearby prison guards.[[35]](#footnote-35) She would direct Yousry to “talk back to me now, because otherwise it doesn’t make any sense…so say something in English.”[[36]](#footnote-36) Yousry then explained to Rahman, “We are now acting, […] so they [i.e., the guards] don’t understand what is going on.”[[37]](#footnote-37) Referring to her acting skills, Stewart joked, “I can get an academy award for it.”[[38]](#footnote-38) Stewart and Yousry delivered Rahman’s messages from prison visit to Sattar, who passed them along to Taha.[[39]](#footnote-39)

On June 13, 2000, Stewart spoke to a Cairo-based Reuters reporter, explaining that “Rahman is withdrawing his support for the ceasefire that currently exists.”[[40]](#footnote-40) Middle Eastern press outlets carried the story the following day, many of them noting that “for the cease-fire to hold, Abdel Rahman’s support was essential.”[[41]](#footnote-41) On June 20, 2000, Stewart reiterated Rahman’s message when she faxed a telecopy to the same reporter stating, “Everything said in the previous statement is correct” and quoted Rahman saying, “I do withdraw my support to the [cease-fire] initiative.”[[42]](#footnote-42) “Following Stewart’s statements on Abdel Rahman’s behalf, several members of the al-Gama’a began preparations to engage anew in acts of violence.”[[43]](#footnote-43) On July 13 and 14, 2001, Stewart again met with Rahman and brought messages to and from Rahman to Taha.[[44]](#footnote-44)

In April 2002, Stewart, Yousry and Sattar were charged with conspiring to defraud the United States by violating SAMs placed on Rahman, providing and concealing material support to a terrorist organization, and conspiracy to provide and conceal such support. Stewart alone was charged with making false statements. Sattar was charged with conspiring with Taha and Rahman to murder and with soliciting people to commit crimes of violence—murder and conspiracy to commit murder.[[45]](#footnote-45) The video and audiotapes exhibiting Stewart’s evasive actions during her visits to Rahman, in which she made statements unrelated to the conversation’s illicit substance in order to trick the prison guards into believing she was discussing legal matters, and Stewart’s press statements on behalf of Rahman were the crux of the prosecution’s case against her. The jury convicted the three defendants on all counts in February of 2005. On October 2006, Judge Koeltl of the southern District Court of New York sentenced Stewart to 28 months in prison. Stewart and her co-defendants appealed their sentences, challenging the validity of their convictions. The government cross-appealed, asserting that Stewart’s lenient sentence was substantively unreasonable. In November 2009, the Second Circuit vacated the sentence and remanded the case to Judge Koeltl for re-sentencing, instructing him to consider Stewart’s perjury, obstruction of justice, abuse of trust and false statements to the government. Following this remand, in July 2010, Judge Koeltl re-sentenced Stewart to 120 months, specifically citing her perjury and lack of remorse. Stewart appealed the sentence to the Second Circuit, arguing that the District Court’s consideration of her post-sentencing statements violated her First Amendment freedom of speech right and that the court erred in applying the obstruction of justice and abuse of trust enhancements. The Second Circuit affirmed the 120-month sentence, noting that a court is permitted to consider a defendant’s lack of remorse in sentencing and that the heavier sentence still fell 20 years short of the Sentencing Guidelines minimum. Stewart is currently serving her 10 year sentence in the Carswell Federal Prison in Fort Worth, Texas.

1. **Stewart’s Motivation: Was She a “Movement” Lawyer Fighting Capitalism’s Injustices, or a Zealous Advocate who Sought to Support Basic Constitutional Rights?**

Before her case was remanded for re-sentencing, Stewart depicted herself as a revolutionary figure, constantly fighting to overthrow the capitalist demon and liberate the working class. Throughout her career, she imagined herself a courageous warrior against the injustices perpetuated by government—as an attorney, she chose her clients based on her sympathy for their radical agendas. Yet, after the Second Circuit remanded her lenient 28-month sentence back to Judge Koeltl for reconsideration in light of her perjury at trial and lack of remorse after her conviction, Stewart’s defense team painted her in a vastly different light. She was not a radical figure but a zealous advocate; no longer a socialist urging for change, she was an attorney charged with a professional duty to advocate for her client, regardless of her personal distaste for his politics.

It seems Stewart silenced her “inbred skepticism of government”[[46]](#footnote-46) as a trial strategy to prevent the harsh re-sentencing that almost quadrupled her original 28-month term. Once Judge Koeltl resentenced her to 10 years, Stewart resurrected her radical discourse, returning to proclaim herself a revolutionary martyr for “the movement.” A cynical observer might blame September 11, 2001 attacks with retrospectively changing the public perception of Stewart’s righteous revolutionary behavior. Stewart’s persona as a militant socialist advocate was no longer sympathetic—support for Muslim fundamentalists exercising their free speech came to be seen as terrorist facilitation. Stewart’s defense team attempted to refashion her image to comport with society’s changed attitude: she became a dispassionate zealous professional who cared for her client as a human being, far removed from his fundamentalist beliefs.

* 1. **Stewart portrayed herself as a radical revolutionary supporting the violent overthrow of the status quo.**

At her initial trial, the prosecution argued that Stewart was motivated to violate the SAMs because of her deep sympathy with Rahman’s violent revolutionary objectives.[[47]](#footnote-47) Stewart’s background confirmed her radical leanings. Having represented defendants from “violent splinter groups that were all that remained of the revolutionary dreams of the 60’s”[[48]](#footnote-48) including the Black Liberation Army, the Ohio 7, the Black Panther Party, the May 19th Communist organization and the Weather Underground,[[49]](#footnote-49) Stewart was already known for defending clients whose criminal acts inspired her radical left wing politics.[[50]](#footnote-50) [[51]](#footnote-51) Stewart identified herself as a militant “movement lawyer”—not content with merely advocating for her client’s legal rights, she also sponsored their political principles.[[52]](#footnote-52)

Stewart revealed her lust for revolution against economic and racial exploitation in her choice of defendants. She relished in her portrayal as a revolutionary, and would encourage reporters to note that she “embraces her clients, seeing in their cases the stuff of radical liberation.”[[53]](#footnote-53) She was honored to represent “revolutionaries in a society that she herself sees as desperately needing ‘radical surgery.’”[[54]](#footnote-54)

Stewart believed deeply that violence was necessary to eradicate the gender-based, class-based and race-based injustices of America’s capitalist regime.[[55]](#footnote-55) She notoriously bragged, “I am not a pacifist. […] There is death in history…. Mao, Fidel and Ho Chi Minh understood this.”[[56]](#footnote-56) Comparing herself to famous revolutionaries, Stewart imagined herself as similarly heralding the necessary bloodshed that would ultimately mend society’s prejudices. Stewart did not shy away from violence, positing instead that death can often bring positive change. She recognized that “blood has irrigated revolutionary struggles from China to South Africa.”[[57]](#footnote-57)

Not only did Stewart embrace her client’s radical ideologies, Stewart often used her clients’ politics as a trial strategy. “Lynne envelops a jury in this idealistic vision.”[[58]](#footnote-58) She was known to allege that her clients were being framed for their race, politics or religious teachings, and would use the trial as an opportunity to “elucidate the elements of U.S. politics and society that radical groups felt compelled to attack.”[[59]](#footnote-59) Stewart famously won an acquittal for her client Larry David by casting him as a “noble black outlaw taking on corrupt cops.”[[60]](#footnote-60) When she defended Rahman, Stewart and her co-counsel similarly tried to “prove that the defendants were ensnared in a politically motivated effort by the United States to persecute Islamic radicals who did nothing more than vehemently oppose American policies in the Middle East.”[[61]](#footnote-61) Thus, hints of Stewart’s sympathy with Islamic fundamentalism were public in 1994, when she represented Rahman at trial.

Prior to, during and after the Shiek’s trial,—but before her own re-sentencing—Stewart openly accepted Rahman’s radical views, declaring to the media, “My own political sense tells me that the only hope for change in Egypt is the fundamentalist movement.”[[62]](#footnote-62) Stewart believed America’s Middle Eastern policy provoked “so-called terrorists” to use their right of self defense against U.S. imperialism.[[63]](#footnote-63) Known as one of the “left-leaning legal ranks whose members not only represent self-styled revolutionaries but also sympathize with their causes,”[[64]](#footnote-64) Stewart proudly told newspapers that Rahman was “just the sort that the radical-left bar ought to defend.”[[65]](#footnote-65)

Yet, before she defended him, other “movement lawyers” warned Stewart that Rahman wasn’t “her kind of client.”[[66]](#footnote-66) Rahman was a religious fascist who vehemently opposed Stewart’s core beliefs: gender equality, atheism and revolutionary Marxism.[[67]](#footnote-67) Still, the Sheikh’s familiar story compelled Stewart—like her other defendants, he was a man who resisted imperialism,[[68]](#footnote-68) was subsequently hunted by the government and accused of criminal activity “though he seemed to have left no fingerprints.”[[69]](#footnote-69) Reporter George Packer describes Stewart’s acceptance of Rahman as a political activist (instead of a terrorist) as one misguided effort in a series of attempts to defend revolutionaries:

“When [the 60’s Weather Underground, Ohio 7 and Black Liberation Army] cases ended, when the armed revolutionaries were all in jail or dead, “movement” lawyers like Stewart no longer had a movement. They took on even more dubious clients: drug dealers, cop killers, mobsters, mentally ill assassins. It was hard to see exactly what was left-wing about Colin Ferguson, the Long Island Rail Road shooter (except his skin color), or Sammy the Bull (Salvatore Gravano), the mob informant who was Stewart’s client until her indictment (except the government was out to get him). The idea of a genuine program for social change no longer animated their careers. The legal left now represented thugs trying to beat the system.”[[70]](#footnote-70)

Stewart wanted so badly to find revolutionary legacies to the Marxist and Black Power groups that she manufactured one in Rahman. Stewart explained her intrigue with Islamic fundamentalism, “It was a truly worldwide movement. It was serious; it was real”—just as real as Malcolm X and other 60’s militants she so badly wanted to resurrect.[[71]](#footnote-71) She mistakenly believed she was the “human link” between the disappearing American left and young Arab Islamists.[[72]](#footnote-72)

Ultimately, Stewart was convinced to defend the Sheikh when her radical friend (and co-counsel) Ramsey Clark told her that if she refused to defend Rahman “the Arab world would feel betrayed by their friends on the American left.”[[73]](#footnote-73) Stewart describes the evolution of her fondness for Rahman, eventually coming to see him as a “fighter for national liberation on behalf of a people oppressed by a dictatorship and American imperialism.”[[74]](#footnote-74) Her trial strategy was to convince the mainly black jury that Rahman was a “familiar figure” who “advocates for the suffering of his people” in a way that is not acceptable to the American government.[[75]](#footnote-75) Stewart became so convinced of her client’s righteous cause that she wept when the jury announced its guilty verdict.[[76]](#footnote-76)

Even her own status as a defendant did not initially curtail her controversial political discourse. Consistently strident in her revolutionary beliefs, Stewart embarked on a nationwide media tour after her indictment to publicize her cause in a “high-profile” manner.[[77]](#footnote-77) During the media tour, Stewart was described by supporters as “someone who relishes a righteous fight”[[78]](#footnote-78) against the government. On her media tour, Stewart riled up a New York crowd, brazenly announcing that the trial vindicated her lifelong struggle, “How could I be happier? I feel like I’ve waited my whole life for this fight! I say this to John Ashcroft: Bring it on!”[[79]](#footnote-79) Stewart saw her indictment as her moment to challenge the oppressive government tactics[[80]](#footnote-80) used in the name of fighting terrorism.[[81]](#footnote-81) She declared her “role is to play the poster girl fighting Ashcroft” and his “fundamentalism.”[[82]](#footnote-82) Uncowed even during her trial testimony, Stewart described herself as a “self-proclaimed radical who has advocated [for a] violent revolution of the people that overthrows institutions.”[[83]](#footnote-83) Stewart’s supporters also saw her case as representative of the trampling of liberty and other democratic rights that demanded revolutionary violence. “We believe the American people are affronted by the loss of many rights which many of us still remember fighting to secure,” a *Justice for Lynne Stewart* pamphlet read. Stewart’s trial narrative was that she took up a cause, radical Islam, “committed herself deeply to it, and suddenly found that she ha[d] become the defendant.”[[84]](#footnote-84)

Stewart’s opposition to government repression of the poor and disadvantaged also influenced her supporters’ views of the government’s motivation for indicting her. A chorus of the vocal New York City defense bar concluded that Stewart’s indictment was politically motivated,[[85]](#footnote-85) reflecting Stewart’s husband, Ralph Poytner’s, sentiment that “this prosecution doesn’t have a damn thing to do with terrorism. It has to do with politics and putting [agitators like] Lynne Stewart away.”[[86]](#footnote-86) Juan Gonzalez, a left-wing reporter, remarked, “After decades of representing all kind of clients that the government obviously didn’t want you to represent… certainly, there are more than a few prosecutors in New York and across the country saying, ‘Finally, we are able to silence Lynne Stewart.’”[[87]](#footnote-87) Stewart and her supporters believed that the government framed her as a terrorist because she vigorously defended the rights of “so-called terrorist” revolutionaries.[[88]](#footnote-88) Stewart maintained that the U.S. government prosecuted her because they “perceived her as a threat.”[[89]](#footnote-89) Yet, even after she was indicted, Stewart would not budge from her beliefs. “You make choices. You live your life in a certain way and you know there could be consequences, especially when you’ve been fighting the government as long as I have.”[[90]](#footnote-90) Tropes that depicted Stewart as a martyr for Islamic radicalism permeated her trial defense and out-of-courtroom rhetoric.

Supporters heralded Stewart’s representation of the Sheikh as part of the struggle to liberate the “working-class and poor people across the country and around the world.”[[91]](#footnote-91) Supporters explained that Stewart’s harsh 120-month re-sentencing was “a reaction to her ideological identification with her client.”[[92]](#footnote-92) Stewart’s supporters depicted her as fighting to destroy “the ideological cover that the U.S. ruling classes used”[[93]](#footnote-93) in her “decades of struggle and perseverance” as an attorney and later as the American government’s “political prisoner.”[[94]](#footnote-94)

Stewart’s supporters portrayed her not only as a revolutionary, but as a martyr for her leftist causes. Jeff Mackler, the West Coast Director of the Lynne Stewart Defense Committee, summed up Stewart’s sentencing saying, “a brilliant and dedicated fighter [was] sacrificed on the altar of an intolerant class-biased system of repression and war.”[[95]](#footnote-95) Instead of distancing herself from her radical clients, Stewart embraced her own fundamentalism, exclaiming, “I might think I hadn’t been doing my utmost if they [i.e., the government] didn’t believe I was dangerous enough to be locked up!”[[96]](#footnote-96)

Yet, with all her revolutionary beliefs, Stewart maintained that her politics were “as American as apple pie and baseball”[[97]](#footnote-97) because her struggle represented justice, equality, freedom of speech, the right to counsel and other Constitutional ideals.[[98]](#footnote-98) Indeed, Stewart’s team alleged that she believed that violating the SAMs was her Constitutional duty as Rahman’s attorney. Clark, who also violated SAMs in releasing Rahman’s statements to the press, explained that involving the media was part of fully advocating for the client. “We did what we had to do to represent our clients. And if you don’t do that, then you don’t have truth before the jury or before the public and you don’t have the Constitutional right to the assistance of counsel.”[[99]](#footnote-99) In this vein, not only were the SAMs interfering with Rahman’s right to a zealous defense, but Stewart’s prosecution also threatened the legitimacy of the criminal justice system, which depended on the government tolerating a vigorous defense on behalf of the charged.

Stewart’s co-counsel, Ramsey Clark, too heralded Stewart’s struggle as intensely patriotic, declaring, Lynne “loves this country too. And what she did was best for it. And she’s right. And history will vindicate her.”[[100]](#footnote-100) She was similarly described by her daughter as “mirror[ing] a true American patriot, struggling and fighting for fairness and equality whenever necessary, especially for those causes not yet popular of socially acceptable.”[[101]](#footnote-101) Stewart fancied herself as the embodiment of the American vision of equality, “someone who has fought for ‘Liberty and Justice for all’ at her own expense.”[[102]](#footnote-102) This justice-loving narrative conflicted deeply with the prosecution’s counternarrative that depicted Stewart as a willing aide to America’s hateful terrorist enemies who aimed to devastate the government. Yet, through it all, Stewart maintained a public, unflagging support for radical Islam as a just, American-flavored revolution.

**b. Stewart defined legal advocacy as encompassing more than courtroom arguments at her re-sentencing hearing.**

At trial, Stewart testified that she believed “the SAMs could not interfere with the attorney-client representation, with adequate and zealous representation.”[[103]](#footnote-103) She believed that she had “a certain leeway” as a lawyer.[[104]](#footnote-104) Acting as an attorney meant more than merely representing her client before the judge and jury. Attorneys were charged with a duty to defend more than their client’s formal legal rights—they were required to protect a client’s bargaining power—even after conviction—to secure for the client the most favorable outcome possible. Stewart explained that her post-trial legal strategy was “keep [Rahman’s] name alive so that we could eventually try to negotiate a return for him even if it meant jail in Egypt.”[[105]](#footnote-105) Stewart’s press release was explained as an “attempt to have her client transferred to Egyptian custody because of his health concerns.”[[106]](#footnote-106) Thus, it was in the service of fully representing her client that Stewart spoke with a Reuters reporter about Rahman’s withdrawal of support for the cease-fire. In another interview, Stewart reiterated that in issuing the press statements, she was merely advocating zealously—trying “to keep [Rahman] alive on the world scene so that we could negotiate something, something that would be good for this country and also for him.”[[107]](#footnote-107) Thus, the defense argued that the case against Stewart was “an attempt to chill the exercise of vigorous advocacies,”[[108]](#footnote-108)—advocacies that necessarily included press attention outside of the immediate bounds of the courtroom.

Stewart’s defense lawyer, Michael Tigar explained that Stewart’s “indictment represents a wide-ranging attack on all aspects of the professional legal services that Lynne Stewart provided during the course of representing Sheikh Abdel Rahman.”[[109]](#footnote-109) Violating the SAMs that restricted Stewart from communicating Rahman’s ideas to the press was her legal duty as his attorney. In an interview, Tigar boldly explained, “the defense of Lynne Stewart has always been a defense of the right to defend, the right to counsel.”[[110]](#footnote-110) Stewart’s defense depicted a broad right to counsel as including representation even outside the strict confines of the trial process.

* + 1. **Stewart postured that a lawyer has a duty to go beyond mere legal advocacy, and must care for the client’s mental health.**

The defense painted an image of a defense attorney who believed her role as counsel was not limited to legal advocacy, but involved emotional guardianship—caring for her client as a family member. Stewart was someone whose “boundaries of family, friendship and work are blurred.” [[111]](#footnote-111) A trope in Stewart’s re-sentencing brief was that she felt it was her duty to serve as a “source of hope” for her incarcerated and isolated clients.[[112]](#footnote-112)

During the re-sentencing process, Stewart’s supporters explained that she, “long demonstrated an affective or emotional solidarity with her unpopular clients.”[[113]](#footnote-113) Yet, this solidarity did not result from Stewart’s identification with her client’s causes. Quite the contrary, the defense contended that Stewart’s “deep-seated emotional solidarity with the client” was her method of “establish[ing] client rapport.”[[114]](#footnote-114) The defense posited that Stewart did not sympathize with her client’s violent agenda—she merely believed that counsel must find a way to gain a client’s trust, refusing to view Rahman through the public’s lens of “widespread vilification and disdain.”[[115]](#footnote-115)

Stewart’s psychiatrist stressed that “her action in bringing in letters from his family and information about the outside world was intended to benefit the Sheikh’s mental health, to calm his anxieties about his family, and to keep his intellect alive, give him hope, and combat his depression”[[116]](#footnote-116)—not to facilitate acts of terror. Allowing messages to be exchanged between Rahman and IG members did not reflect her personal support for his fundamentalist cause, it only revealed Stewart’s broad notion of advocacy that included emotional care. The defense asserted, “Salvaging [the Sheikh] from the torture of his solitary confinement was part of the [legal] work [Stewart] had sworn to do.”[[117]](#footnote-117)

Zealous representation included even reading newspaper articles and letters from IG comrades. Co-counsel Jabara noted,

In his isolation, we had to read newspaper articles and letters from his followers in order to maintain communication with him. I believed that to adequately represent Rahman, our visits to the prison required discussion of a wide range of matters, including trivia.[[118]](#footnote-118)

In this sense, Stewart and her colleagues believed that defending the accused was about more than vigorously advocating for their client’s legal rights, but also about sustaining their client’s mental health. Caring for Rahman’s well-being was part of Stewart’s “professional obligation as an attorney seeking fairness and justice for her clients.”[[119]](#footnote-119)

Indeed, the SAMs isolated Stewart’s client. Rahman was not permitted visitors other than his blood relatives, who remained in Egypt, unable to get visas to visit the United States. Over ten years in prison, Rahman had only one visit from his wife. His phone calls were limited to one a month to his wife and one a week to his attorneys.[[120]](#footnote-120) John Walker Lindh, an American citizen captured by U.S. troops on an Afghanistan battlefield, describes his experience with the SAMs as similarly lonely. “The basic feeling you get is that it’s like dealing with the disappeared. These people are complete black holes.”[[121]](#footnote-121) Thus, the defense contended that Stewart tended Rahman’s emotional seclusion when she violated the SAMs. The defense maintained, “Lynne was motivated by her commitment to help a sightless, acutely and chronically ill client who, imprisoned for life, was being held incommunicado in solitary confinement.”[[122]](#footnote-122)

Stewart’s focus on Rahman’s mental health could be traced to a previous client who had committed suicide in prison. Stewart indicated, “keeping hope alive in her clients was always ‘a major deal’ in her philosophy as a lawyer, but that [her former client’s] suicide had resulted in her becoming even more focused on that aspect of her work.”[[123]](#footnote-123) Stewart felt it her duty to serve as the Sheikh’s sole emotional outlet.[[124]](#footnote-124) Indeed, Stewart is *still* suing to improve the conditions of Rahman’s imprisonment, alleging that he has inadequate medical care for his diabetes and heart disease, routine flooding in his prison cell, lack of an Arabic speaking prison staff and delayed responses to his calls for help from the guards are legally unacceptable.

The government countered that Stewart’s prosecution did not interfere with the lawyer’s duty to zealously represent their clients because “Rahman’s appeals had been exhausted”[[125]](#footnote-125) by the time that Stewart read him the messages. Rahman’s appeals and his opportunity to petition for habeas corpus relief (collaterally attacking his conviction) were exhausted or expired when Stewart funneled her client messages in prison. “When she was indicted, Stewart was not performing the function of a lawyer defending a terrorist,”[[126]](#footnote-126) the government asserted. Prosecutors claimed that Stewart’s “role as a lawyer was irrelevant to the charges,” insisting, “this case does not involve federal imposition of rules of conduct for lawyers, but federal enforcement of generally-applicable anti-terrorism laws.”[[127]](#footnote-127)

**d. The September 11, 2001 attacks retrospectively changed the public’s perception of Stewart’s behavior. Due to unfortunate timing, Stewart—once understood as a dedicated revolutionary who worked within in the American system—came to be seen as a terrorist facilitator fighting against core democratic American values.**

The defense’s re-sentencing brief painted Stewart as a committed attorney who failed to appreciate the change of tenor after the September 11th attacks.[[128]](#footnote-128) Stewart had facilitated the Islamic Group’s messages to Rahman before the world witnessed the enormously destructive capability of the terrorist networks. How could she have known what she was enabling? Pleading that she was a victim of unfortunate timing, Stewart’s attorney Tigar implored the court to “assess [her actions] from a pre-September 11, 2001 perspective,”[[129]](#footnote-129) before she understood the deadly consequences of her behavior.

Her supporters believed that if not for September 11th, Stewart would not have been prosecuted. “She wasn’t prosecuted for what she did, not under the Clinton administration, nor during the first years of George W. Bush. Then came 9/11.”[[130]](#footnote-130) Defense attorneys in New York claimed that “the charges [against Stewart] would have never been brought if not for the terror attacks, and that John Ashcroft is making a scapegoat out of an easy target.”[[131]](#footnote-131) Indeed, Stewart was not charged for two years after Congress passed the Patriot Act; she was only indicted after September 11th revealed the seriousness of her behavior. Tigar confirmed Stewart did not believe she would be prosecuted for violating the SAMs before September 11th.[[132]](#footnote-132) “Nobody ever imagined until [9/11] that these kinds of consequences would be poured down on a lawyer.”[[133]](#footnote-133)

At trial, Judge Koeltl acknowledged the impact of 9/11 when he cautioned the jury not to consider “any of the tracts or conduct attributable to IG, its leaders or its members” when contemplating Stewart’s innocence or guilt.[[134]](#footnote-134) Similarly, the defense’s sentencing brief called attention to the difficulty of being a defense lawyer for politically unpopular clients after the September 11th attacks—particularly Islamic fundamentalists. “Lynne’s failure, according to the verdict, was she tried too hard to help a reviled client.”[[135]](#footnote-135) After September 11th, Islamic fundamentalists were not seen as deserving the same vigorous defense as other criminals. Stewart may have appreciated the illegality of her actions, but certainly did not foresee the public’s reception of her actions as unacceptable. Indeed, she “stood up for the underdog from [her] earliest years, and, essentially, had never been punished for this role.”[[136]](#footnote-136)

Out of touch with society’s reaction to September 11th, even after her re-sentencing, Stewart and her closest supporters maintained that she represented American ideals, and that her harsh re-sentencing signified a reemergence of the government’s oppressive despotism. Her husband declared, “Stewart’s lynching show[s] America’s true face—cruel, unfair, lawless and debauched.”[[137]](#footnote-137) In Stewart’s lynch mob story, the government-prosecutors acted as oppressors, ruthlessly silencing those who fought for justice and equality. It seems that Stewart misunderstood the threat Rahman embodied, mistaking it for other revolutionary groups she represented since their peak in the 60’s. Stewart believed in defending Rahman’s right to violent revolt, she was advocating on behalf of the oppressed, losing sight that after 9/11, Rahman too was exposed as a would-be oppressor.

Stewart seems to have failed to understand the distinction between Islamic radicals who seek to destroy the American system and 60’s revolutionaries who fought to better the system. Reporter George Packer asserted, “Islamic fundamentalism isn’t Black Power, and the history that began on Sept. 11 will not be forgiving of people who pick the wrong cause.”[[138]](#footnote-138) As Packer predicted, September 11th even prompted members of the criminal defense bar to rethink their assessment of Islamic fundamentalists as leftist revolutionaries.

I love Lynne, but no one in the world could fairly posit the Sheik as progressive or liberal on any issue. In the aftermath of September 11th, I could no longer put myself in the service of those who are trying to create a world in which I would be put up against a wall and shot, and my daughter and wife would be put in burqahs,[[139]](#footnote-139)

said defense attorney Ron Kuby. Even a Rahman co-counsel, William Kunstler, explained his change of heart in 2001.

When [I] took the Sheikh’s case in 1994, [I] felt as if it were 1969 again and this were the Chicago conspiracy trial. [Later I realized] a better analogy would be the 1950’s, when the foreign enemy was real, the domestic support marginal and the hard questions had to do with the appropriate legal response.[[140]](#footnote-140)

Carl Herman, another defense attorney who represented a high-profile terrorist prior to September 11th, explained his reevaluation of Islamic radicals, “We’re not talking about phony revolutionaries, or Mafia guys. These guys are really dedicated to wiping out me and my family.”[[141]](#footnote-141)

Stewart did not appreciate any difference between Rahman and her previous clients. She explained, “This is why I’m a criminal defense lawyer! It’s because [of] these kids in the black community that have no voice, that can’t articulate, that are just so consumed by their own anger and frustration.”[[142]](#footnote-142) Stewart didn’t understand how September 11th changed the rules. Seeing the world in terms of stark contrasts, she didn’t search out finer distinctions—even after the 2001 attacks. “There can be no compromise,” she wrote in a letter from prison.[[143]](#footnote-143) Islamic fundamentalists and other “resisters must be defended to the utmost of our strength and abilities.”[[144]](#footnote-144) Her inability to see shades of grey led Stewart astray—enabling her to believe that Rahman was fighting an oppressive American regime and that, as Rahman’s dedicated attorney, she was on the side of justice. Well after her re-sentencing, Stewart still believed she was on the right side of history in violating Rahman’s SAMs. To Stewart, Rahman remained

a victim of the government-promoted malicious and murderous ‘war on terror’ aimed at stifling dissent and imprisoning the innocent to justify its wars against working people at home and against the oppressed and exploited across the globe.[[145]](#footnote-145)

How could the intelligent, farsighted Stewart misjudge her client and the public’s reception of his cause? Professor Abbe Smith, who serves as Co-Director of the Georgetown Law Criminal Justice Clinic, describes the problem Stewart faced as a defense lawyer, stating,

The ‘bounds of law’ can be elusive. Devoted defenders often ‘push the envelope’ and test the line in the course of advocacy. Even the most restrained and prudent lawyers are tempted to cross the line and disregard some rules.[[146]](#footnote-146)

Professor David F. Chavkin of Washington College of Law at American University similarly noted that Stewart’s

representation of unpopular clients and unpopular causes has forced her to walk a very difficult line between zealous advocacy and the bounds of law. As anyone who has been involved in such representation, it is very easy to lose one’s bearings and to step over the line, especially when one has a real emotional bond with a client.[[147]](#footnote-147)

Analogizing Stewart’s position as walking a “tightrope” between zealous advocacy and providing illicit assistance to terrorism, Stewart’s sentencing memorandum also framed her representation as “driven by hard real world choices defense lawyers on the frontline grapple with every day.”[[148]](#footnote-148)

Why did the public misconstrue actions, which Stewart believed were required in any vigorous defense, so fully? Firstly, Stewart “took the slaughter of innocents with a certain cold-bloodedness.” Supporting what she believed was Islamic fundamentalists’ right to self-defense, she explained, “the U.S. is constantly at war around the world and shouldn’t expect its acts to go unanswered.”[[149]](#footnote-149) She showed little sympathy for innocent American civilian deaths caused by terrorism in the wake of 9/11, callously stating,

I’m pretty inured to the notion that in a war or an armed struggle, people die…. So I have a lot of trouble figuring out why that is wrong, especially when people are sort of placed in a position of having no other way.[[150]](#footnote-150)

She even went so far as to brazenly suggest that she did not find bin Laden “too repugnant to represent.”[[151]](#footnote-151) Ultimately, Stewart’s mistake was she saw the Blind Sheikh and his radical Islamic comrades as “fighters for Egyptian self-determination”—not terrorists.[[152]](#footnote-152)

Even Judge Koeltl acknowledged the fine line between self-defense and terrorism. When the Judge questioned prosecutors on the distinction between constitutionally-protected political activity and criminal aid to terrorism, prosecutor Christopher Morvillo replied, “You know it when you see it, your honor.”[[153]](#footnote-153) Unable to articulate, the distinction seems fuzzy and often responds hyper-sensitively to slight changes in public perception. Perhaps activity that would have been chalked up to political agitation before September 11th was afterwards seen as criminal material support of a terrorist organization. Passage of time might be the only distinguishing factor.

In his sentencing statement that was twice posted on the *Free Lynne Stewart* website, Tarek Mehanna, an American Muslim punished for material assistance to terrorist organizations, expressed Stewart’s belief that her violation of the SAMs was revolutionary in a deeply American sense. Describing the beginnings of the American Revolution, Mehanna said,

There’s an Arabic word to describe what the Minutemen did. That word is JIHAD, and this is what my trial is about. This is not terrorism, and it’s not extremism. It’s what the arrows on that [American] seal above your head represent: defense of homeland. Everything is subjective—even this whole business of ‘terrorism’ and who is a ‘terrorist.’ It all depends on the time and place and who the superpower happens to be at the moment.[[154]](#footnote-154)

Perhaps time will vindicate Stewart. That remains to be seen. What is apparent is that the deadly attacks on September 11th changed the reception of Stewart’s revolutionary rhetoric.

1. **Conclusion**

The court system often has difficulty addressing novel issues.[[155]](#footnote-155) Grappling with new anxieties about terrorism, courts could no longer metabolize Stewart’s revolutionary rhetoric and rule violations as benign. Stewart sincerely believed that the American government used the September 11th terrorist attacks to “destroy constitutional rights.”[[156]](#footnote-156) She believed violating the SAMs was part of her struggle to uphold deeply American values.

The tragedy of Stewart’s story is that—after a lifetime of dedication to justice[[157]](#footnote-157)—she lost touch with the ultimate purposes of the justice system[[158]](#footnote-158) while battling for her client’s best interests. The government painted Stewart as someone who flouted the system’s rules, making a mockery of her duties and responsibilities to the legal bar.[[159]](#footnote-159) Yet, a former client explained that Stewart encouraged him to respect the law and “to work from within the system to affect change.”[[160]](#footnote-160) Another client recalled, “Lynne always maintained a hope and faith in the ultimate strength of the Constitution.”[[161]](#footnote-161) Stewart’s sister explained the irony

that these grave charges condemn her to be branded a traitor to the home she loves. How incongruous it seems… that her belief in our system, guaranteeing representation to all, circuitously led her to current predicament.[[162]](#footnote-162)

Indeed, her passion for and belief in justice led her astray. But—was it for Stewart to determine what was just? Stewart believed she could adjudicate justice for herself, and therefore flouted government regulations that she felt unjustly restricted her client’s right to a zealous defense. Underlying the government’s case against Stewart was the notion that if everyone could determine for themselves what constitutes justice, the American system would cease to function effectively—leaving the nation without protection against the grave national security threats embodied in Rahman’s fundamentalist beliefs.

1. Feuer, Alan. “A Nation Challenged: The Lawyer; A Persistent Defender, Even in a Mets Cap.” The New York Times 10 Apr. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-1)
2. Rahman is a blind Islamic scholar and cleric, who describes himself as leading “the struggle against the enemies of Islam.” *United* *States v. Stewart*, 590 F.3d 93, 101 (2d Cir. 2009). As the Islamic Group’s leader, Rahman “dispenses fatwas, religious opinions on the holiness of an act, to members of the group sanctioning proposed courses of conduct and advising them whether the acts would be in furtherance of jihad.” *Id.* at 101. [↑](#footnote-ref-2)
3. The United States Secretary of State designated the IG a “foreign terrorist organization” in 1997. *United* *States v. Stewart*, 590 F.3d 93, 101 (2d Cir. 2009). [↑](#footnote-ref-3)
4. *United States v. Stewart*, 2002 U.S. Dist. LEXIS 10530 \*2 (SDNY 2002). [↑](#footnote-ref-4)
5. *Id*; see also *United States v. Rahman*, 189 F.3d 88 (2d Cir. 1999). [↑](#footnote-ref-5)
6. *United States v. Stewart*, 590 F.3d 93, 98 (2d Cir. 2009). [↑](#footnote-ref-6)
7. *United States v. Stewart*, 2002 U.S. Dist. LEXIS 10530 \*2 (SDNY 2002); see also *28 C.F.R. §501.3(a)*. [↑](#footnote-ref-7)
8. On May 16, 2000, Stewart signed SAMs that stated, “I…understand that neither I not any member of my office shall forward any mail received from inmate Abdel Rahman to a third person. Nor shall I use my meetings, correspondence or phone calls with Abdel Rahman to pass messages between third parties (including, but not limited to, the media) and Abdel Rahman.” In the May 7, 2001 statement, Stewart affirmed, “I…specifically understand that the meetings shall not be for the purpose of presenting statements to the defense team for further dissemination to third parties, including the media. I will only allow the meetings to be used for legal discussion between Abdel Rahman and me.” *United States v. Stewart*, 590 F.3d 93, 119-20 (2d Cir. 2009). [↑](#footnote-ref-8)
9. *United States v. Stewart*, 590 F.3d 93, 102 (2d Cir. 2009). [↑](#footnote-ref-9)
10. *United States v. Stewart*, 590 F.3d 93, 102 (2d Cir. 2009) (quoting the May 11, 1998 SAMs). [↑](#footnote-ref-10)
11. SAMs of May 11, 1998; see also *United States v. Stewart*, 590 F.3d 93, 102 (2d Cir. 2009). [↑](#footnote-ref-11)
12. SAMs of May 11, 1998. [↑](#footnote-ref-12)
13. SAMs of May 11, 1998. [↑](#footnote-ref-13)
14. Stewart signed similar affirmations of the SAMs on May 1, 1998, May 16, 2000 and May 7, 2001. *United States v. Stewart*, 590 F.3d 93, 103 (2d Cir. 2009). [↑](#footnote-ref-14)
15. Affirmation of Lynne Stewart, May 1, 1998 as quoted in *United States v. Stewart*, 590 F.3d 93, 103 (2d Cir. 2009). [↑](#footnote-ref-15)
16. Affirmation of Lynne Stewart, May 1, 1998 as quoted in *United States v. Stewart*, 590 F.3d 93, 103 (2d Cir. 2009). [↑](#footnote-ref-16)
17. *United States v. Stewart*, 590 F.3d 93, 103 (2d Cir. 2009). [↑](#footnote-ref-17)
18. *United States v. Stewart*, 590 F.3d 93, 103 (2d Cir. 2009). [↑](#footnote-ref-18)
19. *United States v. Stewart*, 590 F.3d 93, 102 (2d Cir. 2009). [↑](#footnote-ref-19)
20. *United States v. Stewart*, 590 F.3d 93, 104 (2d Cir. 2009). [↑](#footnote-ref-20)
21. *United States v. Stewart*, 686 F.3d 156, 162 (2d Cir. 2012). [↑](#footnote-ref-21)
22. *United States v. Stewart*, 590 F.3d 93, 104 (2d Cir. 2009). [↑](#footnote-ref-22)
23. *United States v. Stewart*, 590 F.3d 93, 104 (2d Cir. 2009). [↑](#footnote-ref-23)
24. *United States v. Stewart*, 590 F.3d 93, 104 (2d Cir. 2009). [↑](#footnote-ref-24)
25. Rahman’s dictated response said, “To those against whom war is made, permission is given to fight, because they are wronged—and verily God is most powerful for their aid…….. The latest thing published in the newspapers was about the Egyptian regime’s killing of four members of the Group. This is… enough proof that the Egyptian regime does not have the intention to interact with this peaceful Initiative [i.e., the cease-fire] which aims at unification. I therefore demand that my brothers, the sons of al Gama’a do a comprehensive review o the Initiative and its results. I also demand that they consider themselves absolved from it.” As quoted in *United States v. Stewart*, 590 F.3d 93, 104 (2d Cir. 2009). [↑](#footnote-ref-25)
26. *United States v. Stewart*, 590 F.3d 93, 105 (2d Cir. 2009). [↑](#footnote-ref-26)
27. Transcript of Second Audiovisual Recording involving Rahman, Yousry and Stewart, May 19,2000, as quoted in *United States v. Stewart*, 590 F.3d 93, 105 (2d Cir. 2009). [↑](#footnote-ref-27)
28. The electronic surveillance of Rahman lasted seven years, though officially, FISA must be extended every 90 days. *United States v. Sattar*, 2003 U.S. Dist. LEXIS 16164, \*14-5 (S.D.N.Y. 2003). This indicates either the government’s extremely invasive actions with regard to Rahman’s attorney-client privilege, or the government’s assessment of Rahman as extremely threatening and thus meriting long term surveillance. [↑](#footnote-ref-28)
29. *United States v. Stewart*, 590 F.3d 93, 105 (2d Cir. 2009). [↑](#footnote-ref-29)
30. *United States v. Stewart*, 590 F.3d 93, 105 (2d Cir. 2009). [↑](#footnote-ref-30)
31. *United States v. Stewart*, 590 F.3d 93, 105 (2d Cir. 2009). [↑](#footnote-ref-31)
32. *United States v. Stewart*, 590 F.3d 93, 106 (2d Cir. 2009). [↑](#footnote-ref-32)
33. *United States v. Stewart*, 590 F.3d 93, 106 (2d Cir. 2009). [↑](#footnote-ref-33)
34. *United States v. Stewart*, 590 F.3d 93, 106 (2d Cir. 2009). [↑](#footnote-ref-34)
35. *United States v. Stewart*, 590 F.3d 93, 106 (2d Cir. 2009). [↑](#footnote-ref-35)
36. *United States v. Stewart*, 590 F.3d 93, 107 (2d Cir. 2009). [↑](#footnote-ref-36)
37. *United States v. Stewart*, 590 F.3d 93, 107 (2d Cir. 2009). [↑](#footnote-ref-37)
38. *United States v. Stewart*, 590 F.3d 93, 106 (2d Cir. 2009). [↑](#footnote-ref-38)
39. *United States v. Stewart*, 590 F.3d 93, 107 (2d Cir. 2009). [↑](#footnote-ref-39)
40. *United States v. Stewart*, 590 F.3d 93, 107 (2d Cir. 2009). [↑](#footnote-ref-40)
41. *United States v. Stewart*, 590 F.3d 93, 107 (2d Cir. 2009). [↑](#footnote-ref-41)
42. *United States v. Stewart*, 590 F.3d 93, 107 (2d Cir. 2009). [↑](#footnote-ref-42)
43. *United States v. Stewart*, 590 F.3d 93, 107 (2d Cir. 2009). [↑](#footnote-ref-43)
44. *United States v. Stewart*, 590 F.3d 93, 107 (2d Cir. 2009). [↑](#footnote-ref-44)
45. Indictment of Sattar, Stewart and Yousry, filed in SDNY on April 8, 2002. [↑](#footnote-ref-45)
46. Feuer, Alan. “A Nation Challenged: The Lawyer, A Persistent Defender, Even in a Mets Cap.” *The New York Times* 10 Apr. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-46)
47. *See supra* Part I.c. [↑](#footnote-ref-47)
48. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-48)
49. Stewart defended “a rogues’ gallery of characters” including David J. Gilbert, the Weather Underground member convicted of an armored car robbery, Larry David, a drug dealer who was accused and acquitted of trying to murder nine policemen in a shootout, Richard C. Williams, who was convicted of setting off explosives at military sites and corporate offices in the 1980s, and Salvatore Gravano, the Mafia hit man who turned government informant who was convicted of drug trafficking. Feuer, Alan. “A Nation Challenged: The Lawyer, A Persistent Defender, Even in a Mets Cap.” *The New York Times* 10 Apr. 2002. Web. 10 Oct. 2012. *See also* Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-49)
50. Metro Times Staff. “Ashcroft’s Matronly Nemesis.” *Metro Times*. 17 Sept. 2003. Web. 23 Oct., 2012. [↑](#footnote-ref-50)
51. Stewart was first radicalized as a PS 175 librarian who witnessed the “poverty and squalor” in the 1960s Harlem school systems. Stewart recalled seeing an 8-year –old boy “whose lips had been chewed by a rat while he slept” and teachers who expected that their students would learn nothing. Stewart acknowledges her awakening to the capitalist oppression thus: “I said, ‘Why are all these people living in these conditions? I wouldn’t,’” she told the Times seven years ago. “My answer was, ‘Because they’re kept here and society had an interest in keeping them here.’” Further radicalizing Stewart was her time in law school, where she studied under Professor Arthur Kinoy, a “prominent radical legal scholar whose theories centered on the criminalization of the poor.” In 1999, Stewart first signaled her resolve and her belief that “the causes she admired are more important than what happens to her individually” when Stewart pled guilty to criminal contempt for refusing to disclose information about her client—specifically regarding her fee arrangements with a Lower East Side drug dealer. Feuer, Alan. “A Nation Challenged: The Lawyer, A Persistent Defender, Even in a Mets Cap.” *The New York Times* 10 Apr. 2002. Web. 10 Oct. 2012. *See also* Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012; Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-51)
52. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-52)
53. Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-53)
54. Fried , Joseph P. “In Muslim Cleric’s Trial, a Radical defender; Left-Leaning Lawyer and Revolutionary Sympathizer Comes Back in the Limelight.” *The New York Times* 28 Jun. 1995. Web. 10 Oct. 2012. [↑](#footnote-ref-54)
55. Fried , Joseph P. “In Muslim Cleric’s Trial, a Radical defender; Left-Leaning Lawyer and Revolutionary Sympathizer Comes Back in the Limelight.” *The New York Times* 28 Jun. 1995. Web. 10 Oct. 2012. [↑](#footnote-ref-55)
56. Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-56)
57. Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-57)
58. Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-58)
59. Fried , Joseph P. “In Muslim Cleric’s Trial, a Radical defender; Left-Leaning Lawyer and Revolutionary Sympathizer Comes Back in the Limelight.” *The New York Times* 28 Jun. 1995. Web. 10 Oct. 2012; Front Line Defenders. “Human Rights Defender Lynne Stewart.” *LynneStewart.org* Sept. 2006. Web. 10 Oct. 2012. [↑](#footnote-ref-59)
60. Stewart continued, “Blacks and Hispanics can hear nuances in a Larry Davis story. Blacks fear the police being able to kill their kids at any time and being able to get away with it. This [was] payback time.” Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-60)
61. Fried, Joseph P. “In Muslim Cleric’s Trial, a Radical defender; Left-Leaning Lawyer and Revolutionary Sympathizer Comes Back in the Limelight.” *The New York Times* 28 Jun. 1995. Web. 10 Oct. 2012. [↑](#footnote-ref-61)
62. Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-62)
63. Democracy Now! Interview with Lynne Stewart, “Judge Drops Two Terrorism Counts Against Civil Rights Attorney Lynne Stewart in Major Defeat for the Justice Department.” 23 Jul. 2003. Web. 23 Oct. 2012. [↑](#footnote-ref-63)
64. Fried , Joseph P. “In Muslim Cleric’s Trial, a Radical defender; Left-Leaning Lawyer and Revolutionary Sympathizer Comes Back in the Limelight.” *The New York Times* 28 Jun. 1995. Web. 10 Oct. 2012. [↑](#footnote-ref-64)
65. Fried , Joseph P. “In Muslim Cleric’s Trial, a Radical defender; Left-Leaning Lawyer and Revolutionary Sympathizer Comes Back in the Limelight.” *The New York Times* 28 Jun. 1995. Web. 10 Oct. 2012. [↑](#footnote-ref-65)
66. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-66)
67. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-67)
68. Stewart compared Rahman’s politics to her Communist heroes, Mao and Ho Chi Minh, who also “resisted imperialism.” Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-68)
69. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-69)
70. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-70)
71. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-71)
72. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-72)
73. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-73)
74. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-74)
75. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-75)
76. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-76)
77. Even the fact that Stewart was compelled to go on a media tour after her arrest, “bringing her message to any group interested in hearing it,” speaks to her revolutionary fervor. Metro Times Staff. “Ashcroft’s Matronly Nemesis.” *Metro Times*. 17 Sept. 2003. Web. 23 Oct., 2012. [↑](#footnote-ref-77)
78. Metro Times Staff. “Ashcroft’s Matronly Nemesis.” *Metro Times*. 17 Sept. 2003. Web. 23 Oct., 2012. [↑](#footnote-ref-78)
79. Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-79)
80. “In democracy people sometimes are willing to just cave in to Big Brother, and in a time of fear, which this certainly is, to say I will believe whatever the government says, because that’s the safest way to be. The women—three of the women on the jury wept during the entire rendition of the verdict. Why were they weeping if they thought they had done justice? You can only say that somehow they knew they hadn’t but felt that they had to bring in this verdict which was asked of them by the government lawyers.” Democracy Now! Interview with Lynne Stewart, “You Can’t Lock up the Lawyers.” 11 Feb. 2005. Web. 10 Oct. 2012. [↑](#footnote-ref-80)
81. Similarly, another Rahman defense attorney, Ramsey Clark, noted in an interview with Stewart that, “it is clear that Lynne Stewart and the truth and the Constitution of the United States are all victims of 9/11 and of a repressive government that is taking advantage of the fear that they have helped create arising from that that is destroying freedom in this country.” Democracy Now! Interview with Lynne Stewart, “You Can’t Lock up the Lawyers.” 11 Feb. 2005. Web. 10 Oct. 2012. [↑](#footnote-ref-81)
82. Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-82)
83. CNN. “Civil Rights Attorney Convicted in Terror Trial.” *CNN.com* 10 Feb. 2005. Web. 10 Oct. 2012. [↑](#footnote-ref-83)
84. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-84)
85. Feuer, Alan. “A Nation Challenged: The Lawyer, A Persistent Defender, Even in a Mets Cap.” *The New York Times* 10 Apr. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-85)
86. Abu-Jamal, Mumia. “Journalist and Political Prisoner Mumia Abu-Jamal on the Targeting of Lynne Stewart.” *LynneStewart.Org* 2005. Web. 23 Oct. 2012. [↑](#footnote-ref-86)
87. Democracy Now! Interview with Lynne Stewart, “You Can’t Lock up the Lawyers.” 11 Feb. 2005. Web. 10 Oct. 2012. [↑](#footnote-ref-87)
88. Cassel, Elaine. “The Cases of Lynne Stewart, Clive Stafford Smith, and Navy JAG Lawyer Charles Swift: Government Retaliation Against Attorneys for Terrorism Suspects.” *Find Law.com* 19 Oct. 2006. Web. 23 Oct. 2012. [↑](#footnote-ref-88)
89. Front Line Defenders. “Human Rights Defender Lynne Stewart.” *LynneStewart.org* Sept. 2006. Web. 10 Oct. 2012. [↑](#footnote-ref-89)
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98. Stewart released a press statement after her conviction stating that, “Everyone who has a sense that the United States needs to protect the Constitution at this time understands my struggle.” Democracy Now! Interview with Lynne Stewart, “You Can’t Lock up the Lawyers.” 11 Feb. 2005. Web. 10 Oct. 2012. [↑](#footnote-ref-98)
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100. Democracy Now! Interview with Lynne Stewart, “You Can’t Lock up the Lawyers.” 11 Feb. 2005. Web. 10 Oct. 2012. [↑](#footnote-ref-100)
101. Stewart’s Sentencing Memorandum, 27. [↑](#footnote-ref-101)
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111. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-111)
112. Stewart’s Sentencing Memorandum, 27. [↑](#footnote-ref-112)
113. Stewart’s Sentencing Memorandum, Exhibit 34 (Professor Margulies letter). [↑](#footnote-ref-113)
114. Stewart’s Sentencing Memorandum, Exhibit 34 (Professor Margulies letter). [↑](#footnote-ref-114)
115. Stewart’s Sentencing Memorandum, Exhibit 34 (Professor Margulies letter). “She dignifies her clients […], recognizing that no man is all good or all evil.” Stewart’s Sentencing Memorandum, Exhibit 22 (letter from Gerald L. Shargel, Esq., a prominent defense lawyer). [↑](#footnote-ref-115)
116. Stewart’s Sentencing Memorandum, Exhibit 1 (letter from psychiatrist Dr. Teich). [↑](#footnote-ref-116)
117. Vickers, Particia. “Human Rights Coalition Interview with Lynne Stewart.” *Justice for Lynne Stewart* 5 Sept. 2011. Web. 23 Oct. 2012. [↑](#footnote-ref-117)
118. Stewart’s Sentencing Memorandum, Exhibit 41 (letter from Jabara). [↑](#footnote-ref-118)
119. Stewart’s Sentencing Memorandum, 40. See also Exhibit 9 (letter from Freeman firm) stating that “devotion to [Rahman] was fueled by her extraordinary sense of duty to put his interests first, and was stoked by the belief in his innocence, the boundary between principled devotion and excessive zeal became unclear. [... Her] misstep was driven by a pursuit to be an effective and zealous advocate. In other words, Stewart only acted according to what she passionately believed was her duty.” [↑](#footnote-ref-119)
120. Front Line Defenders. “Human Rights Defender Lynne Stewart.” *LynneStewart.org* Sept. 2006. Web. 10 Oct. 2012. [↑](#footnote-ref-120)
121. Revolutionary Worker. “Trial of People’s Lawyer Lynne Stewart Begins.” *Rwor.org* 4 Jul. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-121)
122. Stewart’s Sentencing Memorandum, Exhibit 5 (letter from Daniel Meyers, Esq.) [↑](#footnote-ref-122)
123. Stewart’s Sentencing Memorandum, 45. [↑](#footnote-ref-123)
124. Jabara noted that the Sheikh was only allowed one fifteen-minute telephone call per month with his family. “Lynne was his significant connection with humanity;” she was “important to his emotional survival.” See Exhibit 6 (letter from Mr. Jabara). [↑](#footnote-ref-124)
125. Government’s Sentencing Memorandum, 112. [↑](#footnote-ref-125)
126. Andrew McCarthy, “Sentencing Day Arrives for Lynne Stewart.” The National Review 16 Oct. 2006. Web. http://www.nationalreview.com/articles/218974/sentencing-day-arrives-lynne-stewart/andrew-c-mccarthy# [↑](#footnote-ref-126)
127. Hamblett, Mark. “New Lynne Stewart Charges Raise Hurdle for Government.” The New York Law Journal 4 Dec. 2004. Web. 23 Oct. 2012. [↑](#footnote-ref-127)
128. “For more than twenty-five years I have known of her as a member of a group of brash, ‘radical’ lawyers whose culture preaches a deep and abiding mistrust of the government as an article of faith. They push the envelope to the very edge, and sometimes over, and get great satisfaction out of driving the members of the AUSA culture nuts. An article of faith of the AUSA culture is a deep and abiding mistrust of this defense group. In my day, the hostility generated by this mutual mistrust rarely broke into the open with any serious consequences. If anything, back in those days if Lynne Stewart had violated some administrative rule—the most she could have thought she was risking was an administrative sanction. With the wake-up call of horrendous terrorist attacks on our nation, the world changed, the rules changed, the DOJ changed. Tolerance for certain ‘in-your-face’ defense tactics evaporated and further, transformed into intolerance driven by law enforcement’s deep sense of responsibility and need to demonstrate its ability to meet the terrorist challenge. The tragedy here, I believe, is that Lynne Stewart—a product of her culture—didn’t have the judgment to see this change and to exercise a new measure of care. Instead, she still saw herself as operating within a protective ‘bubble,’ lulled by a history of government benign neglect. I think she didn’t have a clue that the stick she was poking in the government’s eye was going to have consequences. She just kept ‘poking’ and laughing about it.” Stewart’s Sentencing Memorandum, Exhibit 8 (letter from former Justice Department’s Criminal Division chief Jo Ann Harris, Esq.). [↑](#footnote-ref-128)
129. Stewart’s Sentencing Memorandum, 42. [↑](#footnote-ref-129)
130. Smith, Michael Steven. “The Sentencing of Lynne Stewart.” *Justice for Lynne Stewart* 23 Jul. 2010. Web. 23 Oct. 2012. [↑](#footnote-ref-130)
131. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-131)
132. Tigar explained that Stewart received a letter from assistant U.S. attorney Pat Fitzgerald that stated that she would not be able to see her client until the violation of the SAMs was “straightened out.” This was the worst Stewart expected. [↑](#footnote-ref-132)
133. Democracy Now! Interview with Lynne Stewart, “You Can’t Lock up the Lawyers.” 11 Feb. 2005. Web. 10 Oct. 2012. [↑](#footnote-ref-133)
134. Stewart’s Sentencing Memorandum, 31. Stewart originally moved for the court to sever her case from her co-defendant, Sattar, as his actions were directly involved in assisting terrorist operations in Egypt. However, Judge Koeltl denied her motion, indicating that careful jury instructions would be enough to prevent the jury from being prejudiced by the evidence presented under Count Three (“soliciting persons to engage in crimes of violence”) against Sattar. *See United States v. Sattar,* 272 F.Supp.2d 348 (2003). [↑](#footnote-ref-134)
135. Stewart’s Sentencing Memorandum, Exhibit 5 (letter from Daniel Meyers, Esq.) The defense described Stewart as “fighting for justice in the face of criticism” and “filled with compassion for those that society has shunned.” Stewart’s Sentencing Memorandum, Exhibit 26 (letter from Stacy Richman, Esq). [↑](#footnote-ref-135)
136. Stewart’s Sentencing Memorandum, Exhibit 1. [↑](#footnote-ref-136)
137. Lendman, Stephen. “Darkness in America: Lynne Stewart’s Resentencing.” *Justice For Lynne Stewart.org.* 23 Jul. 2010. Web. 23 Oct. 2012. Her sentence was understood as a “shocking miscarriage of justice, symbolizing America’s descent to hell, its moral remnants lost, its democracy a convenient illusion, its despotic reality ruthless, corrupted, brutish and merciless, favoring power over populism under a Constitution … conscripted to serve as its apprentice rather than its conscience.” [↑](#footnote-ref-137)
138. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-138)
139. Powell, Michael. “Accused of Aiding Terror Plot, Lawyer Braces for Fight of Her Life.” *The Washington Post* 22 Jun. 2004. Web. 10 Oct. 2012. [↑](#footnote-ref-139)
140. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-140)
141. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-141)
142. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-142)
143. Stewart, Lynne. “Subpoenas.” *Fight Back! News.* 25 Jan. 2012. Web. 15 Nov. 2012. [↑](#footnote-ref-143)
144. Stewart, Lynne. “Subpoenas.” *Fight Back! News.* 25 Jan. 2012. Web. 15 Nov. 2012. [↑](#footnote-ref-144)
145. Mackler, Jeff. “Court Confirms Ten-Year Sentence for Lynne Stewart.” *Justice for Lynne Stewart,org.* 29 Jun. 2012. Web. 23 Oct. 2013. [↑](#footnote-ref-145)
146. Stewart’s Sentencing Memorandum, Exhibit 32 (letter from Georgetown Law Professor Abbe Smith). [↑](#footnote-ref-146)
147. Stewart’s Sentencing Memorandum, Exhibit 33 (letter from Law Professor David F. Chavkin). [↑](#footnote-ref-147)
148. Stewart’s Sentencing Memorandum, Exhibit 9 (Freedman firm letter). [↑](#footnote-ref-148)
149. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-149)
150. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-150)
151. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-151)
152. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-152)
153. Front Line Defenders. “Human Rights Defender Lynne Stewart.” *LynneStewart.org* Sept. 2006. Web. 10 Oct. 2012. [↑](#footnote-ref-153)
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155. Ferguson, Robert. "Kaufman, Gross Indecency: The Three Trials of Oscar Wilde." The High Profile Trial: Yesterday, Today, and Tomorrow. Columbia Law School. William C. Warren Hall, New York. 16 Oct. 2012. Class lecture. [↑](#footnote-ref-155)
156. Packer, George. “Left Behind.” *The New York Times Magazine* 22 Sept. 2002. Web. 10 Oct. 2012. [↑](#footnote-ref-156)
157. “Whatever her acts in this matter, they do not negate a lifetime of work to further the democratic process.” Stewart’s Sentencing Memorandum, Exhibit 33 (letter from Professor Chavkin). [↑](#footnote-ref-157)
158. The deterrence of harm and safety of society are the stated goals of the justice system, as reflected in 18 U.S.C. §3553(a)(2). [↑](#footnote-ref-158)
159. The government portrayed Stewart as “someone without respect for the criminal justice system” whose conduct “compromised its integrity” at trial. The Government’s Sentencing Memorandum, 4. [↑](#footnote-ref-159)
160. Stewart’s Sentencing Memorandum, Exhibit 3 (letter from former client, James Della Bella). [↑](#footnote-ref-160)
161. Stewart’s Sentencing Memorandum, Exhibit 53 (letter from former client, Jaan K. Laaman). [↑](#footnote-ref-161)
162. Stewart’s Sentencing Memorandum, Exhibit 18 (letter from sister Laurel Freedman). [↑](#footnote-ref-162)