

March 18, 2009

Hon. Eric H. Holder Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Hon. Hillary Rodham Clinton
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Hon. Janet Napolitano
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Attorney General Holder and Secretaries Clinton and Napolitano:

Over the last eight years, the Departments of State and Homeland Security revived the practice of “ideological exclusion,” refusing visas to foreign scholars, writers, artists, and activists not on the basis of their actions but on the basis of their ideas, political views, and associations. As a result of this practice, dozens of prominent intellectuals were barred from assuming teaching posts at U.S. universities, fulfilling speaking engagements with U.S. audiences, and attending academic conferences. Many of those barred from the United States were vocal critics of U.S. foreign policy.

We are writing to urge you to end this practice. While the government plainly has an interest in excluding foreign nationals who present a threat to national security, no legitimate interest is served by the exclusion of foreign nationals on ideological grounds. To the contrary, ideological exclusion impoverishes academic and political debate inside the United States. It sends the message to the world that our country is more interested in silencing than engaging its critics. It undermines our ability to support political dissidents in other countries. And it deprives Americans of a right protected by the First Amendment. *See Kleindienst v. Mandel*, 408 U.S. 753 (1972). No legitimate interest is served by the government’s use of the immigration laws as instruments of censorship.

In fact, ideological exclusion is a practice that history had discredited long before the Bush administration. During the Cold War, the United States used the ideological exclusion provisions of the McCarran-Walter Act to bar, among others, Colombian novelist Gabriel García Márquez, Palestinian poet Mahmoud Darwish, Chilean poet Pablo Neruda, Italian playwright Dario Fo, British novelist Doris Lessing, and Canadian writer and environmentalist Farley Mowat. Those exclusions came to be seen as an embarrassment to the country, and virtually no one proposes now that those exclusions

served the national interest. History will judge the ideological exclusions of the last eight years in the same way. Such exclusions are ineffective as a matter of security policy and they are inconsistent with the ideals that make this country worth defending.

The undersigned organizations are eager to see the new administration commit itself to these ideals. Accordingly, we respectfully ask **(1)** that you evaluate applicants for admission to the United States on the basis of their actions rather than their political beliefs and associations; **(2)** that, as to foreign scholars, writers, artists, and activists who are deemed inadmissible under the Immigration and Nationality Act, you exercise your discretion to waive inadmissibility except where articulable national security interests unrelated to the applicant's political beliefs or associations make waiver inappropriate; and **(3)** that you immediately revisit the specific cases listed below:

- Iñaki Egaña. Mr. Egaña is a respected historian and writer from the Basque region of Spain. In March 2006, Mr. Egaña traveled to the United States to conduct research for a book about Basque author Mario Salegi, who was a target of McCarthyism during the 1950s. Upon disembarking the plane, however, Mr. Egaña and his children were interrogated, detained for 24 hours, and forced to return to Madrid. The government has provided no explanation for Mr. Egaña's exclusion.
- Haluk Gerger. Professor Gerger is a Turkish sociologist and journalist. He was jailed by Turkey in the 1990s for his writing about Turkey's Kurds. Twice during that time, in its 1994 and 1995 Country Reports on Human Rights, the U.S. State Department cited Professor Gerger's treatment as an example of the misuse of antiterrorism legislation to stifle freedom of expression. In 1999, when Professor Gerger was on trial again for his writings, the U.S. issued Professor Gerger and his wife 10-year, multiple entry visas. In October 2002, however, when Professor Gerger and his wife arrived at Newark airport, border officials informed them that the State Department had cancelled their visas. The government has provided no explanation for Professor Gerger's exclusion.
- Adam Habib. Professor Habib, a South African national, is a prominent human rights activist and public intellectual. Although he earned his PhD in the United States, when he attempted to visit the United States in October 2006 for professional meetings, he was interrogated for seven hours at the border and then told that his visa had been revoked. After U.S. organizations filed suit to challenge his exclusion, the government notified Professor Habib that he had been denied entry on terrorism-related grounds. It still has not informed him, however, of the specific legal or factual basis for its decision. The evidence strongly suggests that Professor Habib has been excluded not because of any connection to terrorism but because of his political activism.¹

¹ Professor Habib's exclusion is the subject of ongoing litigation. *Am. Sociological Ass'n, et al. v. Clinton, et al.*, No. 07-cv-11796 (D. Mass. filed Sept. 25, 2007).

- Riyadh Lafta. Dr. Lafta, an Iraqi national, is Professor of Medicine at Baghdad's Mustansiriyah University. In the fall of 2006, Dr. Lafta applied for a U.S. visa in order to attend a speaking engagement at the University of Washington that was to take place in April 2007. His visa application was denied. Although the government stated that the denial was the result of a "miscommunication," the circumstances strongly suggest that Dr. Lafta was refused a visa because of conclusions he had drawn in a 2006 article regarding the number of civilian casualties in Iraq.
- Tariq Ramadan. Professor Ramadan, a Swiss national, is a professor at the University of Oxford and, in the words of *Time* magazine, "the leading Islamic thinker among Europe's second- and third-generation Muslim immigrants." In 2004, he was offered a teaching position at the University of Notre Dame; only days before he was to begin teaching, however, he was told that his visa had been revoked under a provision that renders inadmissible anyone who has "endorse[d] or espouse[d]" terrorism. After U.S. groups filed suit, the government abandoned the accusation that Professor Ramadan had endorsed terrorism. It continues to exclude him now, however, under the INA's "material support" provisions. We believe that the material support provisions do not apply to Professor Ramadan, and the evidence strongly suggests that he has been excluded not because of his donations but because of his vocal criticism of U.S. foreign policy.²
- Rafael de Jesus Gallego Romero. Father Gallego is a parish priest from the village of Tiquisio in North-Central Colombia, where he ministers to miners and peasants, facilitates community support initiatives, and runs a local radio station. Father Gallego is also a vocal critic of government-supported paramilitary units acting on behalf of multinational mining corporations. In the fall of 2008, Father Gallego received invitations to travel to the United States to address universities, activist organizations, community radio stations, and churches. The U.S. government simply failed to adjudicate the visa. Father Gallego eventually learned from the Provincial Jesuit, who has ties to the American Embassy, that his visa was going to be denied "for national security reasons," but he has never received a formal notification that his visa was adjudicated, let alone an explanation of the grounds on which it was denied.
- Dora María Téllez. Professor Téllez was a leading figure in Nicaragua's revolution against the brutal Somoza regime, and has served in her country as a government minister, political activist, and professor. She has also been a vocal critic of U.S. foreign policy. In 2004, she was appointed Robert F. Kennedy visiting professor in Latin American Studies at Harvard's Divinity School and Rockefeller Center for Latin American Studies. When Professor Téllez attempted to enroll at a language class in California in preparation for that post, however, her student visa was denied on the ground that she had previously engaged in

² Professor Ramadan's exclusion is the subject of ongoing litigation. *Am. Acad. of Religion, et al. v. Napolitano, et al.*, No. 08-0826-cv (2d Cir.).

terrorist acts, despite the fact that she had been granted visas to enter the United States in the past.

Ideological exclusion compromises the vitality of academic and political debate in the United States at a time when that debate is exceptionally important. The practice was misguided during the Cold War and it is misguided now. We strongly urge you to end the practice and to immediately revisit the cases noted above.

Sincerely,

The Advocates for Human Rights
African Services Committee
American Anthropological Association
American-Arab Anti-Discrimination Committee
American-Arab Anti-Discrimination Committee of Massachusetts
American Association of University Professors
American Booksellers Foundation for Free Expression
American Civil Liberties Union
American Civil Liberties Union of Southern California
American Federation of Teachers
American Friends Service Committee – Project Voice
American Gateways
American Immigration Lawyers Association
American Library Association
American Political Science Association
American Sociological Association
American Statistical Association
American Studies Association
The Asian American Legal Defense and Education Fund
The Asian Law Caucus
Association of American Publishers
Association of Research Libraries
Bill of Rights Defense Committee
Boston Coalition for Palestinian Rights
California Scholars for Academic Freedom
Center for Campus Free Speech
Center for Financial Privacy and Human Rights
The Center for Women's Health and Human Rights at Suffolk University
Citizens for Health
Chicago Branch, National Alliance Against Racist and Political Repression
Colombia Support Network
Committees of Correspondence for Democracy and Socialism
The Constitution Project
Defending Dissent Foundation
Equal Justice Society
Feminists for Free Expression

First Amendment Project
Friends Committee on National Legislation
General Commission on Religion and Race, The United Methodist Church
Hitec Aztec Collaborations/FM Global
Immigrant Legal Advocacy Project
Immigration Justice Clinic at John Jay Legal Services, Inc.
Jewish Alliance for Law and Social Action
Just Foreign Policy
Justice Now
The Juvenile Justice Clinic at the University of North Carolina School of Law
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Liberty Coalition
Linguistic Society of America
Maria Baldini-Potermin & Associates, P.C.
Masterman Institute on the First Amendment and the Fourth Estate at Suffolk University
Law School
Middle East Studies Association
The Multiracial Activist
Muslim American Society of Boston
Muslim Bar Association of New York
Muslim Public Affairs Council
National Coalition Against Censorship
National Council of Jewish Women
National Economic and Social Rights Initiative
National Education Association
National Immigration Project of the National Lawyers Guild
New England First Amendment Center at Northeastern University
New York Civil Liberties Union
The Nieman Foundation for Journalism at Harvard University
Oak Institute for Human Rights at Colby College
Office of the Americas
Open Society Policy Center
PEN American Center
The Rutherford Institute
The Sikh Coalition
Society of American Law Teachers
South Asian Americans Leading Together
United Methodist Church, General Board of Church and Society
United Steel Workers AFL-CIO
Washington Defender Association's Immigration Project

cc: David Martin, Principal Deputy General Counsel
Esther Olavarria, Deputy Assistant Secretary for Policy
David Ogden, Deputy Attorney General
Janice L. Jacobs, Assistant Secretary, Bureau of Consular Affairs
Dr. Anne-Marie Slaughter, Director, Policy Planning Staff