

February 16, 2010

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

Dear Secretary Clinton:

We write to thank you for signing the orders effectively ending the exclusion of Professor Adam Habib of the University of Johannesburg and Professor Tariq Ramadan of Oxford University. The orders represent an important step toward restoring a robust exchange of ideas across international borders. We are hopeful that the State Department will now expeditiously grant both scholars' pending visa applications so that they can attend the U.S. conferences, public events, and meetings to which they have been invited.

As you know, however, the last administration's practice of ideological exclusion was not limited to Professors Habib and Ramadan. Between 2001 and 2008, dozens of prominent intellectuals were prevented from assuming teaching posts at U.S. universities, fulfilling speaking engagements with U.S. audiences, and attending U.S. academic conferences. 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, suggests to the world that our country is more interested in silencing than engaging its critics, and undermines our ability to support political dissent in politically repressive nations. Ideological exclusion also deprives U.S. citizens of their First Amendment right to "hear, speak, and debate with" foreign scholars face-to-face. See *Kleindienst v. Mandel*, 408 U.S. 753 (1972); see also *Academy of Religion v. Napolitano*, 573 F.3d 115 (2nd Cir. 2009). Ideological exclusion is accordingly a practice that our government should retire once and for all. As you recognized in your recent remarks concerning Internet freedom, the United States can and should work to advance rather than subvert the freedoms of expression, information, and inquiry.

Against this background, we are writing now to urge you to issue agency-wide guidance making clear that: (1) all applicants for admission to the United States will be evaluated on the basis of their actions, not their political beliefs and associations; and (2) with respect to foreign scholars, writers, artists, and activists who are deemed inadmissible under the Immigration and Nationality Act, the State Department will exercise its discretion to waive inadmissibility except where articulable national security interests unrelated to the applicant's political beliefs or associations make waiver inappropriate. We also request that you immediately reconsider and review the following ideological exclusion cases:

- Dora María Téllez. Prof. 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 Prof.

Téllez attempted to enroll at a language class in California in preparation for that post, her student visa was denied on the ground that she had previously engaged in terrorist acts, despite the fact that she had been granted visas to enter the United States in the past.

- Iñaki Egaña. Mr. Egaña is a respected historian and writer from the Basque region of Spain. In March 2006 he 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 airplane in the United States, Mr. Egaña and his children were interrogated, detained for 24 hours, and forced to return to Spain. The U.S. government has provided no explanation for his exclusion.
- Haluk Gerger. Prof. Gerger is a Turkish sociologist and journalist. He was jailed by Turkey in the 1990s for his writing about Kurds. Twice during that time, in its 1994 and 1995 *Country Reports on Human Rights*, the U.S. State Department cited Prof. 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 State Department issued Prof. Gerger and his wife 10-year, multiple-entry visas. In Oct. 2002, however, when they arrived at Newark airport, border officials informed them that the State Department had revoked their visas. The government has provided no explanation for their exclusion.
- Riyadh Lafta. Dr. Lafta, an Iraqi national, is Professor of Medicine at Baghdad's Mustansiriyah University. In fall 2006, he applied for a visa 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 statements he made in a 2006 article regarding the number of civilian casualties in Iraq.
- 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. He is a vocal critic of government-supported paramilitary units acting on behalf of multinational mining corporations. In fall 2008, Father Gallego received invitations to visit the United States to address universities, activist organizations, community radio stations, and churches. Despite multiple speaking engagement requests, the U.S. government failed to adjudicate his visa application. 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." To date, he has never received a formal notification that his visa was adjudicated or an explanation of the grounds on which it was denied.

The State Department should retire the practice of ideological exclusion for good. Agency-wide policy guidance, as well as a systematic review of recent denials based on the applicants' ideology, is necessary to ensure a vibrant global marketplace of ideas.

We urge you to end all Department policies and practices pertaining to ideological exclusion. Thank you again for your action in the cases of Professors Habib and Ramadan, and thank you for your attention to this letter.

Sincerely,

American Association of University Professors
American Booksellers Foundation for Free Expression
American Civil Liberties Union
American Immigration Lawyers Association
American Sociological Association
American Statistical Association
American Studies Association
Asian Law Caucus
Association of Research Libraries
Bender's Immigration Bulletin
Bill of Rights Defense Committee
The Constitution Project
Feminists for Free Expression
Latin American Studies Association
Linguistic Society of America
Maria Baldini-Potermine & Associates, PC
NAFSA: Association of International Educators
National Immigrant Justice Center
The Rutherford Institute
Scott D. Pollock & Associates, P.C.
World Organization for Human Rights

cc: Harold Koh, Legal Advisor to the Secretary of State
Janice L. Jacobs, Assistant Secretary, DOS Bureau of Consular Affairs
Anne-Marie Slaughter, Director, DOS Policy Planning Staff
Scott Busby, Director for Multilateral Affairs, National Security Council
David A. Martin, DHS Principal Deputy General Counsel
Esther Olavarria, DHS Deputy Assistant Secretary for Policy
Gary Grindler, DOJ Acting Deputy Attorney General