

November 18, 2024

The Honorable Mike Johnson
Speaker, U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Hakeem Jeffries
Democratic Leader, U.S. House of Representatives
H-204, The Capitol
Washington, DC 20515

Dear Speaker Johnson and Leader Jeffries:

We write to express our deep concerns with H.R. 9495, the Stop Terror-Financing and Tax Penalties on American Hostages Act. Specifically, this bill includes the text of H.R. 6408, legislation we strongly oppose as it raises significant constitutional concerns. Because H.R. 6408 vests vast unilateral discretion in the Secretary of Treasury, it creates a high risk of politicized and discriminatory enforcement. The executive branch already has extensive authority to prohibit transactions with individuals and entities it deems connected to terrorism and nonprofit organizations are already prohibited from providing material support to terrorist organizations. In fact, it would be a federal crime for them to do so.¹

Moreover, we do not oppose the provisions in H.R. 9495 that relate to preventing the IRS from imposing fines and penalties on hostages while they are held abroad. Indeed, these provisions have already passed the Senate on their own, and if the House of Representatives were to pass a version of this bill that did not include the text of H.R. 6408, it could be sent immediately to the President for his signature.

Without any evidence as to the need for this legislation², H.R. 6408 authorizes broad and easily abused new powers for the executive branch. It grants the Secretary of the Treasury virtually unfettered discretion to designate a U.S. nonprofit as a “terrorist supporting organization” and to strip it of its tax-exempt status if the Secretary finds that the nonprofit has provided material support to a terrorist group, even if the “support” is not intentional or connected to actual violence.

¹ 18 U.S.C. § 2339A, <https://www.law.cornell.edu/uscode/text/18/2339A>

² Several members of Congress have repeatedly, without evidence, conflated students involved in the protests regarding the conflict in Gaza with Hamas and other foreign terrorist organizations. The Supreme Court made clear in *Holder v. Humanitarian Law Project* that the federal statute prohibiting material support to terrorist groups does not criminalize independent advocacy unless it is performed in coordination with or at the direction of a foreign terrorist organization. We are aware of no such evidence having been provided within the House record regarding this legislation.

While the sponsors of this legislation have stated that it is needed to avoid what they refer to as “time-consuming bureaucratic process”³ under current law, what the bill sponsors are actually seeking to avoid is fundamental due process. If this bill were to become law, the Secretary of Treasury could strip a US nonprofit of its tax-exempt status without providing the nonprofit a meaningful opportunity to defend itself before a neutral decisionmaker.⁴ The legislation further does not require disclosure of all the reasons for such a decision or the evidence relied upon to support it.⁵ Nor would the government be required to provide any evidence in its possession that might undermine its decision, leaving an accused nonprofit entirely in the dark about what conduct the government believes qualifies as material support.

The potential for abuse under H.R. 6408 is immense as the executive branch would be handed a tool it could use to curb free speech, censor nonprofit media outlets, target political opponents, and punish disfavored groups across the political spectrum. Moreover, the addition of this authority to the tax code would allow the IRS to explicitly target and harass domestic nonprofits using its investigative authority. It is also not hard to imagine a future administration using this power in far broader circumstances that have nothing to do with the hostilities in Gaza.⁶ And as more recent congressional oversight efforts make clear, these efforts are part of concerted attack on civil society that is targeted at more than just groups involved in the campus protests regarding Gaza.⁷

The executive branch could use this authority to target its political opponents and use the fear of crippling legal fees, the stigma of the designation, and donors fleeing controversy to stifle dissent and chill speech and advocacy. And while the broadest applications of this authority may not ultimately hold up in court, the potential reputational and financial cost of fending off an investigation and litigating a wrongful designation could functionally mean the end of a targeted nonprofit before it ever has its day in court.

The lack of guardrails creates the potential for future administrations to weaponize these powers against groups on both ends of the ideological spectrum. Even if they may never be designated as “terrorist-supporting,” let alone charged with a crime, nonprofits will curtail their activities as a precaution in order to avoid stigmatizing and financially devastating punishments. That is why we strongly urge you to oppose the inclusion of H.R. 6408 in H.R. 9495.

³ Ron Kampeas, *Is a bill targeting support for terrorism a necessary tool after Oct. 7, or authoritarian overreach?*, Jewish Telegraphic Agency, (May 23, 2024), <https://www.jta.org/2024/05/23/politics/is-a-bill-targeting-support-for-terrorism-a-necessary-tool-after-oct-7-or-authoritarian-overreach>.

⁴ The bill’s creation of an after-the-fact administrative or judicial appeals process not only comes too late, but it is also unlikely to remedy these fundamental deficiencies. Instead, it functionally shifts the burden of proof about whether a nonprofit provides material support from the government to the nonprofit.

⁵ The legislation explicitly allows the Secretary to limit notice of the reasons and evidence by requiring such notice only “to the extent consistent with national security and law enforcement interests.”

⁶ Kate Arnoff, *This Bipartisan Bill Could Give Trump Huge Power Against His Enemies*, The New Republic, (April 30, 2024), <https://newrepublic.com/article/181087/treasury-pipelines-gaza-non-profit-terrorism>

⁷ See, Congressman Brian Mast letter to Secretary of State Anthony Blinken, May 22, 2024, <https://freebeacon.com/wp-content/uploads/2024/05/May22GroupMeetingletter.pdf>, and Chairman James Comer and Chairwoman Virginia Foxx letter to Secretary of Treasury Janet Yellen, May 14, 2024 <https://freebeacon.com/wp-content/uploads/2024/05/Letter-to-Yellen-051424.pdf>.

Sincerely,

#WelcomeWithDignity

18 Million Rising

350.org

AAPI Equity Alliance

AAPI New Jersey

Access Now

Accountability Counsel

Advocacy for Principled Action in Government

Advocates for Youth

Afghans For A Better Tomorrow

AFL-CIO

Alamosa Riverkeeper

Alliance for Peacebuilding

Amazon Watch

American Atheists

American Civil Liberties Union

American Federation of Teachers

American Friends Service Committee

American Humanist Association

American Library Association

American Oversight

American Public Health Association

Americans United for Separation of Church and State

Amnesty International USA

Anethum Global

APIA Vote-Michigan

Arab American Institute (AAI)

Asian American Federation

Asian American Organizing Project

Asian American Voices for Education

Asian Americans Advancing Justice | AAJC

Asian Community Development Corporation

Asian Counseling and Referral Service

Asian Law Caucus

Asian Student Alliance

Association of Fundraising Professionals

Aunties Coalition

Ayuda

Baptist Joint Committee for Religious Liberty

Beloved Community Incubator

Bend the Arc: Jewish Action

Better Ballot Arizona

Bhutanese Community Association of Pittsburgh (BCAP)

Black Alliance for Just Immigration

Borderlands Resource Initiative

Brennan Center for Justice at NYU School of Law
Bridges Faith Initiative
Center for American Progress
Center for Biological Diversity
Center for Civilians in Conflict (CIVIC)
Center for Common Ground
Center for Constitutional Rights
Center for Democracy & Technology
Center for International Policy
Center for Law and Social Policy (CLASP)
Center for Media and Democracy
Center for Popular Democracy
Center for Victims of Torture
Charity and Security Network
Chesapeake Climate Action Network Action Fund.
Chinese for Affirmative Action
Choctawhatchee Riverkeeper
Citizens for Responsibility and Ethics in Washington (CREW)
Civil Liberties Defense Center
Clean Water Action
Climate Action Campaign
Coalition for Civil Freedoms
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition for Peace Action
COLAGE
Color of Change
Colorado Immigrant Rights Coalition
Community Change Action
Comunidades Sin Fronteras CSF-CT
Corporate Accountability
Council for Global Equality
Council on American-Islamic Relations
DAWN
DC Volunteer Lawyers Project
Dear Asian Youth
Defending Rights & Dissent
Del Camino Jesuit Border Ministries
Demand Progress
Democratic Messaging Project
Dorothy Day Catholic Worker, Washington DC
Earthjustice Action
EarthRights International
Earthworks
EcoEquity
El Pueblo Unido of Atlantic City
Emgage Action

Empowering Pacific Islander Communities
Endangered Species Coalition
Ensaaf
Equality California
Equality Federation
Evangelical Lutheran Church in America
Faith in Action
Faiths for Safe Water
First Friends of New Jersey & New York
Florida Immigrant Coalition
Food & Water Watch
Food Justice DMV
Food Shift
FOSNA-MI
Free Press Action
Freedom Now
Freedom of the Press Foundation
Friends Committee on National Legislation
Friends of Casco Bay
Friends of Human Rights
Friends of Sabeel North America (FOSNA)
Friends of the Earth
Fund the People
GLMA: Health Professionals Advancing LGBTQ+ Equality
Great Lakes Business Network
Green America
GreenLatinos
Greenpeace USA
HEART
Hindus for Human Rights
Human Rights First
Human Rights Watch
ICNA Council for Social Justice
ICNA Dallas
Immigrants Act Now
Immigration Equality Action Fund
Immigration Hub
Indivisible
Innocence Project
Innovation Law Lab
Interfaith Center on Corporate Responsibility
Interfaith Power & Light
International Civil Society Action Network (ICAN)
International Jewish Anti-Zionist Network
International Refugee Assistance Project (IRAP)
Islamic Association of The Colony

Islamic Center of Quad Cities
JACL-AZ
Japanese American Citizens League
Just Foreign Policy
Kings & Priests Court Int'l Ministries- City of Light
Labor Council for Latin American Advancement
Lake Guardian
Last Mile4D
Latino Action Network Foundation
Lawyers for Good Government
League of Conservation Voters
Local Majority
Los Padres ForestWatch
MAFRAC
Main Line Chinese Culture Center, Inc.
Make the Road CT
Make the Road Nevada
Make the Road NJ
Make the Road PA
Make the Road States
Mauritanian Network for Human Rights
McKinney Islamic Association
Medical Center Islamic Society
Michigan Coalition for Human Rights
Michigan League for Public Policy
Michigan League of Conservation Voters
Mid Atlantic Food Resilience & Access Coalition (MAFRAC)
Middle East Democracy Center (MEDC)
Milwaukee Riverkeeper
MINISTER AT UNITARIAN UNIVERSALIST CONGREGATION AT MONTCLAIR
Missouri Asian American Youth Foundation
MLFA
MoveOn
MPower Change Action Fund
Multicultural Center
Muslim Advocates
Muslim Counterpublics Lab
Muslim Justice League
Muslims for Just Futures
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Asian American Pacific Islander Mental Health Association (NAAPIMHA)
National Asian Pacific American Women's Forum
National Black Justice Collective
National Council of Asian Pacific Americans
National Disabled Legal Professionals Association

National Education Association
National Immigration Law Center
National Iranian American Council Action
National Lawyers Guild-Mesoamérica subcommittee
National LGBTQ Task Force Action Fund
National Network of Abortion Funds
National Tongan American Society
National Women's Law Center
Natural Resources Defense Council
NCAAT in Action
NETWORK Lobby for Catholic Social Justice
New Georgia Project Action Fund
New Israel Fund
New Jersey Alliance for Immigrant Justice
New Jersey Policy Perspective
Nonviolent Peaceforce
North American Indian Muslim Association
North Carolina Asian Americans Together (NCAAT)
NTIC
OCA-Greater Houston
Oceana
Oil Change International
Old Town North Community Partnership
OPAWL - Building AAPI Feminist Leadership
Organization for Identity & Cultural Development (OICD.net)
Othman Bin Affan Mosque
Oxfam America
PAI
Palestine Legal
Palestinian American Community Center
PASNY
Peace Action
Peace Appeal Foundation
Peace Catalyst International
Peace Direct
People for the American Way
People's Action
Physicians for Reproductive Health
Physicians for Social Responsibility
Planned Parenthood Federation of America
Plus
Positive Women's Network-USA
Predistribution Initiative
Presbyterian Church (USA), Office of Public Witness
Progressive Change Campaign Committee
Project On Government Oversight

Project South
Protect Democracy
Public Citizen
Refreshed Refined Reformed R3 Inc
Refugees International
Remake
Reproductive Freedom for All (former NARAL Pro-Choice America)
Restore the Fourth
Riverkeeper
Robert F. Kennedy Human Rights
September 11th Families for Peaceful Tomorrows
Shoulder to Shoulder Campaign
Sierra Club
Silvix Resources
Sisters of Mercy of the Americas Institute Justice Team
So What Else
Social Workers for Immigration Justice
Southern Poverty Law Center
SPAN Parent Advocacy Network
Spokane Riverkeeper
Stop AAPI Hate
Stupski Foundation
Take Back Christianity
Texas Civil Rights Project
The Advocates for Human Rights
The African American Development Officers Network
The Center for Economic and Policy Research
The CLEO Institute
The Conservation Angler
The Earth Bill Network
The Interfaith Center of New York
The Leadership Conference on Civil and Human Rights
The Seed Program by Kai, Inc.
The Sidewalk School
The Sikh Coalition
The Unitarian Society
The United Methodist Church - General Board of Church and Society
The Workers Circle
The X-Lab
Three Rivers Waterkeeper
Tides Center
Tides Foundation
Transparentem
Twin Harbors Waterkeeper
Unitarian Universalist Church at Washington Crossing
Unitarian Universalist FaithAction New Jersey

Unitarian Universalist Service Committee (UUSC)
Unitarian Universalists for Social Justice
Unite for Reproductive & Gender Equity
United Auto Workers
United Church of Christ
United Church of Christ of Seneca Valley
United Women in Faith
US Campaign for Palestinian Rights Action (USCPR Action)
VAYLA New Orleans
Waterkeeper Alliance
WE ACT for Environmental Justice
We Are All America (WAAA)
Western Watersheds Project
Win Without War
Wind of the Spirit Immigrant Resource Center
Wing Luke Museum
Witness at the Border
Women for Weapons Trade Transparency
Women's March
Young Center for Immigrant Children's Rights
Zevin Asset Management