



United States Department of State

Washington, D.C. 20520

December 22, 2010

Ms. Joanne Lin
Legislative Counsel
American Civil Liberties Union
915 15th Street, N.W.
Washington, D.C. 20005

Dear Ms. Lin:

Thank you for forwarding the February 16 coalition letter expressing appreciation for the Department of State's decision to exempt Professor Adam Habib and Professor Tariq Ramadan from inadmissibility on the basis of the facts that previously led to their visa denials.

In that letter, the coalition asked for an end to the practice of ideological exclusions and requested a review of past visa denials, which it stated reflected an Administration practice of ideological exclusion. Although the statutory confidentiality of visa records precludes me from discussing particular cases, let me assure you that this Administration does not engage in the practice of ideological exclusion.

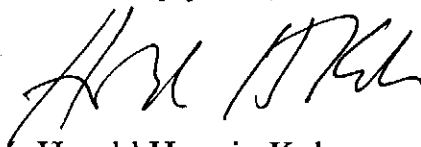
The Department of State is aware that in litigation filed by the ACLU on behalf of various U.S. organizations, plaintiffs have described as "ideological exclusion" a statutory provision at section 212(a)(3)(B)(i)(VII) of the Immigration and Nationality Act (INA) that renders inadmissible an alien who "endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization." The Department is obligated by law to apply that provision, if applicable, but any finding of inadmissibility under that provision may be overcome through exercise of waiver or other discretionary authority, as appropriate.

The coalition's letter also references the Administration's use of the INA's discretionary authority to waive certain grounds of inadmissibility, when consistent with the safety and security of the United States. Waivers may be granted by the Department of Homeland Security following a recommendation from the State Department. In evaluating whether to seek waivers from the Department of Homeland Security for individuals subject to inadmissibility on terrorism-related grounds, the Department considers the recent nature and seriousness of the activity

or condition causing the visa inadmissibility, the reasons for the proposed travel, and the positive or negative effect, if any, of the planned travel on U.S. public interests. In evaluating the reasons for the proposed travel, the Department will give significant and sympathetic weight to the fact that the primary purpose of the visa applicant's travel will be to assume a university teaching post, to fulfill speaking engagements, to attend academic conferences, or for similar expressive or educational activities.

The Department of State has taken steps to ensure that appropriate attention is given to the great importance of hearing diverse views, balanced against other relevant factors, including any facts that may make the individual inadmissible. Within the Department, the Deputy Assistant Secretary of State for Visa Services in the Bureau of Consular Affairs is charged with reviewing all cases involving individuals found inadmissible on terrorism-related grounds who seek to enter the United States for teaching or speaking engagements. The State Department will review carefully the circumstances of the individuals identified in the coalition's letter, in a manner consistent with the law and with an eye toward promoting the global marketplace of ideas to which we are all committed.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Harold Koh', written in a cursive style.

Harold Hongju Koh
The Legal Adviser