

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN SOCIOLOGICAL ASSOCIATION;
AMERICAN ASSOCIATION OF UNIVERSITY
PROFESSORS; AMERICAN-ARAB ANTI-
DISCRIMINATION COMMITTEE; BOSTON
COALITION FOR PALESTINIAN RIGHTS, and
ADAM HABIB,

Plaintiffs,

v.

MICHAEL CHERTOFF, in his official capacity as
Secretary of the Department of Homeland Security;
CONDOLEEZZA RICE, in her official capacity as
Secretary of State,

Defendants.

**DECLARATION OF
CARY NELSON**

Case No. 07-11796 (GAO)

DECLARATION OF CARY NELSON

I, Cary Nelson, of Champaign, Illinois, do declare:

1. I am the President of the American Association of University Professors (“AAUP”). I have been a member of AAUP since April 1993. I was a member of the AAUP’s national governing Council from 1995 through 2006; was the AAUP’s Second Vice President for three two-year terms, from 2000 through 2006; and was an *ex officio* member of the AAUP’s Executive Committee from 2000 through 2006.

2. I am the Jubilee Professor of Liberal Arts and Sciences and Professor of English at the University of Illinois at Urbana-Champaign, where I have taught for the past 36 years. I received my Bachelor of Arts Degree from Antioch College in Ohio in June of 1967, and my PhD in English from the University of Rochester in Rochester,

New York, in June 1970. I was a National Defense Education Act Fellow from 1967 through 1970.

3. In my capacity as President of the AAUP, I preside at meetings of the AAUP's Council and of the Executive Committee of the Council; represent the AAUP at meetings of other organizations; serve *ex officio* on all standing committees of the Association and as a member of the executive committees of all state conferences; appoint members of standing committees; and participate with the elected leadership, the AAUP's General Secretary, and other staff in the development of Association policy.

The American Association of University Professors

4. The AAUP is a non-profit organization based in Washington, D.C., with approximately 45,000 members consisting of university and college faculty, graduate students, librarians, and academic professionals.

5. The AAUP's mission is to advance academic freedom and shared governance in the academic profession, to define fundamental professional values and standards for higher education, and to ensure higher education's contribution to the common good. Founded in 1915, the AAUP has helped to shape American higher education by developing the standards and procedures that maintain quality in education and support academic freedom in this country's colleges and universities.

The Effect of Adam Habib's Exclusion from the U.S. on the AAUP

6. The AAUP believes that the free circulation of scholars is inextricably connected to the free exchange of ideas. As part of its mission, the AAUP holds public programs designed to further the global exchange of academic thought, has advocated for public policies that permit the free flow of foreign scholars and foreign scholarship across

national borders, and has intervened on behalf of individual scholars who have been excluded from the U.S.

7. The AAUP has actively protested Professor Habib's exclusion. In October 2006, after defendants revoked Professor Habib's visa, the AAUP wrote to the Secretaries of State and Homeland Security to "urge that the government facilitate, rather than hinder, Professor Habib's entering the United States" to attend upcoming speaking engagements. Exh. A (Letter from Roger W. Bowen to Paul M. Morris and Julie Furuta-Toy dated Oct. 27, 2006). Noting that it was far from the first time in recent years that the AAUP was writing to protest the exclusion of a foreign scholar under like circumstances, the letter also demanded that the government "remove barriers to the visits of other foreign scholars to this country." *Id.* In January 2007, the AAUP wrote once again to protest Professor Habib's exclusion and the revocation of his family's visas, and sought an explanation for and reconsideration of the government's actions. Exh. B (Letter from Jonathan Knight to Secretary of State Condoleezza Rice dated Jan. 18, 2007). The AAUP noted that the government's actions continued to strike it as "at odds with this nation's historic commitment to the free exchange of ideas," and that "[i]f left uncorrected, they will take their toll on the willingness of those in the academic community abroad to visit with their counterparts in this country and indeed on the reputation of our country as an advocate of the free search for knowledge." *Id.*

8. The AAUP has invited Professor Habib to deliver a plenary address to the AAUP membership at the AAUP's 93rd annual meeting to be held in June of 2008 in Washington, D.C. Professor Habib accepted the invitation. The AAUP expects that Professor Habib will be addressing the current state of academic freedom in South

Africa; academic freedom issues in the international context are of significant interest to AAUP members. For instance, the AAUP is a member of the Network for Education and Academic Rights, whose purpose is to facilitate the international exchange of information about threats to academic freedom and human rights in education.

9. The government's refusal to grant Professor Habib a visa or a waiver of inadmissibility on the unsubstantiated ground that he has engaged in terrorist activity prevents Professor Habib from speaking at the AAUP's 93rd Annual Meeting. Professor Habib's exclusion compromises the ability of the AAUP and its members to meet with Professor Habib, to hear him speak, to question him about his ideas, and to engage him in face-to-face dialogue and debate. It also deprives them of their ability to invite him to speak at other events.

10. The exclusion of foreign scholars, particularly on the basis of unverifiable assertions of terrorist activity, raises extremely troubling implications for academic freedom. Such accusations, absent an opportunity to air the underlying factual basis, impose a chill on both the excluded scholars and other foreign scholars who might otherwise engage in peaceful protest in their own countries or teach and write about issues related to terrorism, political Islam, or Islamic militant groups. While some of these subjects are controversial, they are all extremely important areas of scholarly inquiry to which the AAUP, its members and indeed the public need access in order to assure robust exchanges about some of the most serious debates occurring in academia today.

11. If Professor Habib is unable to attend the AAUP's Annual Meeting in person due to the U.S. government's exclusion of him, the AAUP will likely attempt to

set up a videoconferencing link to allow him to participate remotely. Three years ago, the AAUP set up a videoconferencing link to enable a speaker in a foreign country to address the audience; at that time, the AAUP incurred administrative and technological costs of approximately two thousand dollars (\$2,000) in audiovisual and telephone line costs.

12. Even if the videoconferencing link is technologically feasible, however, it is an extremely poor substitute for in-person dialogue and debate. Videoconference communications, while informative, do not supplant face-to-face meetings, which facilitate debate, collaboration, and academic exchange.

Pattern of Ideological Exclusion

13. Since 2001, numerous foreign scholars, human rights activists, artists and writers – often vocal critics of U.S. policy – have been barred from the U.S. without explanation or on unspecified and unsubstantiated national security grounds, under circumstances that appear ideologically-motivated.

14. Haluk Gerger is a Turkish sociologist and journalist. Professor Gerger was one of dozens of Turkish writers and intellectuals jailed in the 1990's for writing about Turkey's Kurdish minority. 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 Turkey, and in 1999, when he was on trial again for his writings, the U.S. issued Professor Gerger and his wife 10-year, multiple entry visas to visit the U.S. But in October 2002, when Professor Gerger and his wife arrived at Newark airport, border officials informed them that the State Department had cancelled their visas and that they

had to return immediately to Germany. Neither Professor Gerger nor his wife was provided with any explanation as to why they were being excluded and they remain excluded today. *See* Exh. C (Letter from PEN American Center to Secretary of State Colin Powell and Attorney General John Ashcroft dated Oct. 11, 2002).

15. Karim Meziane, a naturalized Canadian citizen, is a physicist at the University of New Brunswick. Professor Meziane previously lived in the U.S. and has entered the U.S. for the purpose of attending conferences on multiple occasions. In 2004, Professor Meziane arrived at the U.S.-Canadian border on his way to the University of New Hampshire, where he had been invited to attend a conference. Border officials detained Professor Meziane for six hours of questioning about, among other things, his religious views, his views on the war in Iraq and the Israeli-Palestinian conflict, and his opinion of the U.S. more generally. Border officials then denied him entry to the U.S. because of “unlawful activities committed in Canada.” Exh. D (Scott Jaschik, *Kafka at the Border*, InsideHigherEd.com, Mar. 13, 2007). When Professor Meziane returned to Canada he lodged an inquiry with the Royal Canadian Mounted Police in order to ascertain whether they possessed records about Professor Meziane and any purported “unlawful activity.” The Canadian police, however, had no such records. In an effort to rectify the situation, Professor Meziane, along with the Canadian Association of University Teachers, informed the U.S. Ambassador to Canada that the Canadian police possessed no records about any unlawful activity by Professor Meziane, but to no avail. The Ambassador informed the Association and Professor Meziane that the information did not alter the U.S.’s position that Professor Meziane is inadmissible. Professor Meziane remains barred from the U.S. *Id.*

16. Professor Tariq Ramadan is a prominent Swiss scholar of Islam who teaches at the University of Oxford. Professor Ramadan is also a vocal critic of certain U.S. foreign policies. Until 2004, Professor Ramadan frequently traveled to the U.S. to lecture and speak with American audiences. In 2004, the University of Notre Dame offered him a double-tenured position as a professor of Islamic Studies and the Henry R. Luce Professor of Religion, Conflict and Peacebuilding. The State Department granted Professor Ramadan a visa that would allow him to assume this post but then revoked the visa nine days before Professor Ramadan and his family were scheduled to move to Indiana, citing a provision of law that bars individuals who have endorsed terrorism. Professor Ramadan, who has repeatedly and publicly condemned terrorism, ultimately was forced to abandon the Notre Dame post. Professor Ramadan, however, continued to receive many invitations to speak in the U.S., and in September 2005 applied for a non-immigrant visa that would permit him to attend these speaking engagements. The government refused to act on Professor Ramadan's visa until a judge ordered it to do so. The government then denied Professor Ramadan's visa application, not on the grounds that he had endorsed terrorism (an accusation it retracted and disavowed in litigation) but on a wholly new basis. Now the government claims Professor Ramadan is barred because he provided small humanitarian donations to European charities that provide aid to Palestinians – charities that operate lawfully in Europe but which the U.S. government believes provide funds to Hamas. U.S. organizations that have invited Professor Ramadan to speak in the U.S. – including the AAUP – continue to challenge Professor Ramadan's exclusion in court, but for now he remains barred from the U.S. *See* Exh. E (George Packer, *Keep Out*, *New Yorker*, Oct. 16, 2006).

17. Dora Maria Tellez is a Nicaraguan historian known for her leading role in the 1979 revolution overthrowing Nicaragua's U.S.-backed dictator. She later went on to serve as Nicaragua's Minister of Health. Between 1979 and 2005, Professor Tellez traveled to the U.S. on many occasions without incident. In early 2005, after Professor Tellez had been appointed the Robert F. Kennedy visiting professor in Latin American studies at Harvard University's Divinity School, the State Department refused to issue her a visa. The State Department stated that Professor Tellez was being excluded on terrorism-related grounds, but never explained why this bar to entry was being applied to her for the first time. Professor Tellez remains excluded today. *See* Exh. F (Duncan Campbell, *U.S. Bars Nicaragua Heroine as "Terrorist,"* The Guardian, Mar. 4, 2005).

18. Nalini Ghuman, a British citizen, is a musicologist and professor at Mills College in Oakland, California who, until recently, had lived and taught in the U.S. for many years. In August 2006, she arrived at the San Francisco International Airport from England, after traveling for a research trip. Border officials detained Professor Ghuman for eight hours. When border officials told her that she immediately had to return to London or be sent to a detention center, Professor Ghuman chose to return to London. Professor Ghuman received no explanation for her ordeal. Unable to return to her teaching post, Ghuman applied for a new visa in October 2006. The application remains pending despite repeated inquiries by Professor Ghuman, the American Musicological Society, Mills College, and others. *See* Exh. G (Nina Bernstein, *Music Scholar Barred From U.S., but No One Will Tell Her Why,* N.Y. Times, Sept. 17, 2007).

19. Yoannis Milios is a Greek professor of Marxist economic thought. Until 2006, he often traveled to the U.S. to deliver papers and attend conferences. In June

2006, Professor Milios traveled to the U.S. to deliver a paper at a conference hosted by the State University of New York at Stony Brook. When he arrived at John F. Kennedy Airport, he was detained for several hours, interrogated about his political views, and ultimately denied entry to the country. The next month, Professor Milios submitted an application for a new visa that would allow him to attend upcoming speaking engagements in the U.S. Although a year and a half has passed since he submitted the application, it remains pending without action. Exh. H (Letter from Jonathan Knight to Secretary of State Condoleezza Rice and Secretary of Homeland Security Michael Chertoff dated June 20, 2006).

20. Professor Riyadh Lafta is an Iraqi Professor of Medicine at Baghdad's Al-Mustansiriya University and one of the principal authors of a controversial 2006 article about civilian casualties in Iraq. At the time the article was published, Professor Lafta had concluded that the number of civilian deaths in Iraq since the U.S.-led invasion was as high as 650,000 civilian casualties, a number that was much higher than other reported statistics. In April 2007, Professor Lafta was invited to present a paper at the University of Washington on unusually high rates of cancer among children in Iraq, and applied for a visa in order to attend the speaking engagement. The U.S. government, however, denied Professor Lafta's visa application. The government claims that the visa denial was due to miscommunication and its inability to get in touch with Professor Lafta; officials at the University of Washington refute this claim and assert that they contacted U.S. visa officials several times on Professor Lafta's behalf without success. Professor Lafta's U.S. research partners believe he is being excluded because of the civilian

casualty study. *See* Exh. I (Burton Bollag, *Politics Keeps Scholars Out of U.S., Critics Say*, Chronicle of Higher Education, June 15, 2007).

21. Professor Waskar Ari is a Bolivian historian of Aymara Indian descent who obtained a PhD from Georgetown University. In 2005, while Professor Ari was finishing his studies at Georgetown, the University of Nebraska offered him a tenured track professorship. Professor Ari accepted the position and then returned briefly to Bolivia for vacation and to obtain his new visa. Rather than issue Professor Ari a visa, however, the State Department cancelled his student visa and refused to act on his application for a visa to teach at the University of Nebraska. The AAUP wrote to the government to express its concern over Professor Ari's exclusion. Exh. J (Letter from Roger W. Bowen to Secretary of State Condoleezza Rice and Secretary of Homeland Security Michael Chertoff dated Feb. 26, 2006). According to a statement from a State Department spokesperson in March 2006, the student visa was cancelled pursuant to a "terrorism-related section of U.S. legislation on the granting of visas." Exh. K (Burton Bollag, *U.S. Withholds Visa From Bolivian Scholar Hired to Teach at U. of Nebraska*, Chronicle of Higher Education, Mar. 3, 2006). The government did not act on Professor Ari's visa application until March 2007, and only after the University filed a lawsuit about the matter. Although the U.S. ultimately granted Professor Ari's visa application, it never explained to the University or Professor Ari why it had cancelled Professor Ari's visa or why it had failed to act on the application for so long. *See* Exh. L (Melissa Lee, *Bolivian Professor Coming to UNL*, Lincoln Journal Star, July 19, 2007).

22. These are but a few examples of exclusions since 2001 that are mysterious, appear ideologically motivated, and are often accomplished, much like

Professor Habib's exclusion, on the basis of unexplained and unsubstantiated national security grounds. The AAUP has written to the Departments of State and Homeland Security to protest and request an explanation for many of these exclusions, which are fundamentally at odds with this country's history of commitment to the free exchange of ideas.

23. These exclusions, taken collectively, show a pattern that is extremely troubling to the AAUP. It is increasingly evident that scholars are being barred simply because the government disfavors their politics. The AAUP has long held that opportunities for face-to-face professional discourse enrich scholarly activity. These opportunities are wrongly restricted and intellectual endeavors needlessly impoverished if individuals are barred from entering the country on the basis of their political beliefs. Nor is it an answer to say that other means of communication can substitute for direct personal contact between the excluded visitor and the willing invitee. Foreign visitors are not invited to meet with or address passive audiences, but to engage in "real contact" with them so that all concerned will know other points of views "in their most plausible and most persuasive form." J.S. Mill, *On Liberty*, 1859,1985:99.

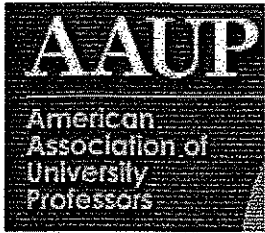
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 11th day of February, 2008.



CARY NELSON

Exhibit A



Letter Regarding Adam Habib

October 27, 2006

Ms. Julie Furuta-Toy
Director, Office of Diplomatic and Public Liaison
Visa Services
Department of State
Washington, DC 20520

Mr. Paul M. Morris
Executive Director, Admissibility Requirements and Migration Control
Office of Field Operations
U.S. Customs and Border Protection
Department of Homeland Security
Washington, DC 20229

Dear Ms. Furuta-Toy and Mr. Morris:

We have corresponded with your offices previously with regard to decisions of the Department of State and the Department of Homeland Security to keep foreign academics from entering this country for legitimate academic reasons. Our writing again is prompted by the decision of government officials to deny entry into the United States of Professor Adam Habib, a citizen of South Africa, upon his arrival at JFK international airport on October 21. Professor Habib is an officer of the South African Human Sciences Research Council (HSRC), and was a member of an HSRC delegation scheduled to meet with donor institutions in this country, among them the Social Science Research Council, Columbia University, the National Institutes of Health, and the World Bank.

Before October 21, Professor Habib had been allowed entry into the United States nearly two dozen times since obtaining a Ph.D. in political science from the City University of New York, including some half-dozen visits since September 11, 2001. He reports that he was given no reason for the decision. Professor Habib has written to the U. S. Customs and Border Protection office seeking an explanation for a decision that on its face, like similar decisions which occasioned our earlier letters to you, raises troubling implications for academic freedom (a copy of his letter is enclosed for your convenience). In his letter, Professor Habib points out that he has accepted an invitation to participate in a 2007 meeting sponsored by the American Sociological Association to be held in New York City. We urge that the government facilitate, rather than hinder, Professor Habib's entering the United States to attend this meeting, much as we urge it to remove barriers to the visits of other foreign scholars to this country.

Sincerely,

• **Protecting
Your Rights**

• **Issues in
Higher
Education**

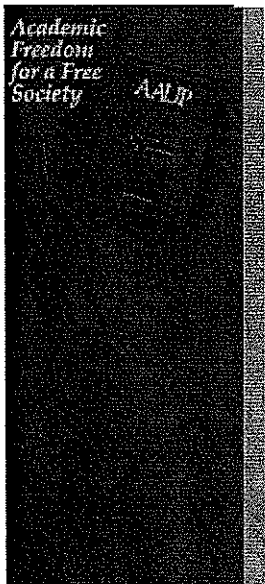
• **Publications
& Research**

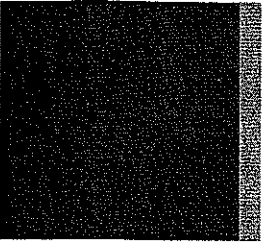
• **Censured
Administrations**

• **Government
Relations**

• **Get Involved**

• **Information
on
Restructuring**





Roger W. Bowen
General Secretary
American Association of University Professors

cc: Professor Adam Habib

American Association of University Professors
1012 Fourteenth Street, NW, Suite #500; Washington, DC 20005
Phone: 202-737-5900 | Fax: 202-737-5526

Exhibit B

AAUP

American Association of University Professors

Academic Freedom for a Free Society

January 18, 2007

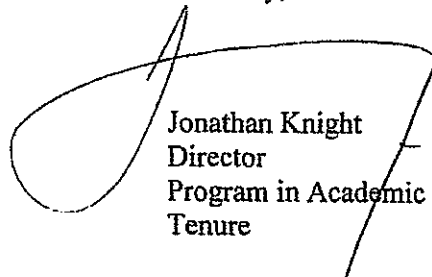
The Honorable Condoleezza Rice
Secretary of State
Department of State
2201 C Street
Washington, DC 20520

Dear Secretary Rice:

Last October, we wrote to the Department of State as well as to the Department of Homeland Security to register our concern over the decision of government officials to deny entry into the United States of Professor Adam Habib, a citizen of South Africa. (A copy of that letter is enclosed for your convenience.) That decision, as with similar governmental decisions to bar entry into this country of academics scheduled to meet with their counterparts in various academic fora, struck us then and continues to strike us as at odds with this nation's historic commitment to the free exchange of ideas. Because Professor Habib accepted an invitation to participate in a meeting this year sponsored by the American Sociological Association, we hoped that the Department of State would reconsider its position and facilitate his entering the country. Much to our dismay, however, Professor Habib informed us today that he was notified earlier this week by the American consulate in Johannesburg that the State Department has revoked the visas of his wife and his two children for travel to the United States, thereby seeming to preclude the possibility of his being issued a visa. No reason was given for this extraordinary decision, just as no reason was given for the action directed earlier against Professor Habib.

We urge that you personally review these decisions. If left uncorrected, they will take their toll on the willingness of those in the academic community abroad to visit with their counterparts in this country and indeed on the reputation of our country as an advocate of the free search for knowledge.

Sincerely,



Jonathan Knight
Director
Program in Academic Freedom and
Tenure



Exhibit C



568 Broadway, suite 401
New York, NY 10012
212 334-1660 Phone
212 334-2181 Fax
pen@pen.org



672 S. Lafayette Park Pl., #42
Los Angeles, CA 90057
213 365-8500 Phone
213 365-9616 Fax
pen@pen-usa-west.org

October 11, 2002

The Honorable Colin Powell
Secretary of State
US Department of State
2201 C Street, NW
Washington, DC 20520
FAX: 202-261-8577

The Honorable John Ashcroft
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
FAX: 202-307-6777

Dear Secretary Powell and Mr. Attorney General:

We are writing on behalf of more than 3,500 professional writers who are members of PEN American Center and PEN Center USA, the two U.S.-based centers of International PEN, to express our shock over reports that Turkish journalist, writer and political scientist Dr. Haluk Gerger was recently denied entry to the United States.

According to information we have received from our international colleagues, Dr. Gerger and his wife flew to the United States on October 1, 2002, and presented their passports, complete with U.S. visas issued in 1999 and valid for 10 years, to U.S. officials at Newark Airport. At that moment, Professor Haluk was informed that his visa had been cancelled by the U.S. State Department. With no plausible explanation for his treatment, he was reportedly photographed and fingerprinted, and he and his wife were forced to return to Munich on the immediate outbound flight.

As you must know, Professor Gerger is well known in Turkey for his work as a writer, academic, and human rights activist, and he has earned an international reputation for his courage in challenging restrictions on freedom of expression in Turkey -- challenges that earned him two prison terms in the 1990s. International PEN vigorously protested both sentences, secured under anti-terror laws that the United States and European nations consistently condemned as serving to restrict the Turkish people's universally-guaranteed right to freedom of expression. PEN was not alone in protesting Professor Gerger's prison sentences: the U.S. State Department cited his case in discussions of misuse of anti-terror laws in its 1994 and 1995 Country Reports on Human Rights, and issued him a visa in 1999 despite the fact that he was facing trial proceedings in the Ankara State Security Court on yet more charges connected to his statements and writing. In Europe, meanwhile, the European Court of Human Rights found that Professor Gerger had been unjustly imprisoned under Turkey's anti-terror laws.

What was wrong before September 11, 2001 remains wrong today. Nothing can alter the fact that Turkey has used and continues to use overly-broad anti-terror legislation to suppress the opinions and ideas of

Professor Gerger and hundreds like him. Before September 11, 2001, the United States consistently protested such treatment, expressed concern for Professor Gerger and many other writers, journalists, and intellectuals like him, and actively sought to preserve their right to seek, receive, and impart information, up to and including their right to travel to the United States. To withdraw this support now – worse, to reverse course and join in abridging these rights – can only weaken U.S. efforts to promote democratization and human rights around the world.

We therefore respectfully request that your offices conduct thorough reviews of the decision to deny Professor Gerger entry to the United States and take action to renew his visa immediately.

Sincerely,

JOEL CONARROE
President, PEN American Center

AIMEE LIU
President, PEN Center USA

Exhibit D

Advertisement



March 13, 2007

Kafka at the Border

Everyone agrees that in the immediate aftermath of 9/11, the United States was so worried about who it would let into the country that visa problems were widespread — even for many scholars posing no security threat. But the Bush administration has boasted that things are better now — and that the United States wants foreign talent to feel welcome.

Tell that to Karim Meziane. He's a citizen of Canada and a physicist at the University of New Brunswick, who was turned away at the U.S. border in 2004 when he was trying to attend a research conference to which he had been invited by the University of New Hampshire.

While many have been turned away or denied visas or just had visa applications languish, Meziane's case is unusual: He got the Department of Homeland Security to tell him, in writing, why he was *persona non grata*. He was then able to demonstrate — with written government documents — that the department was wrong. But to this day, he can't get anyone to change the conclusion or even talk about the case. And when the head of Canada's largest professors' group asked for a meeting with the U.S. ambassador to talk about the case and the issues it raises, he was turned down without explanation.

"I found the reaction [from the U.S.] both surprising and in some ways insulting. He was just dismissive," said James L. Turk, executive director of the Canadian Association of University Teachers. "This sends the message that once you get on a list, even if it is clearly in error, there is nothing that can be done." Turk's association — unable even to get a hearing from U.S. officials in Canada — is now talking about the case in the hope that Americans and others may benefit from learning about it, and may be able to do something. (Meziane said he didn't want to talk about the case, except to confirm that the correspondence is accurate.)

One irony of the case is that Meziane spent several years in the United States, legally, when he was a citizen of Algeria, where he was born. He had fellowships at the University of California at Berkeley and the University of Washington and also attended conferences in the United States. Turk said that's part of what really bothers him about the case: He notes that the U.S. let Meziane in when he was on an Algerian passport but won't do so when he carries the passport of Canada, in theory one of the closest allies of the United States. (Officials of the U.S. Embassy in Canada, where protests about the incident have been lodged, did not respond to calls or e-mail seeking comment.)

"What has happened to Meziane is yet another example of how a visa decision harms our country and why Congress needs to look into how the visa system can be improved," said Jonathan Knight, who handles academic freedom issues for the American Association of University Professors.

Meziane's problems started in 2004. As he has recounted, and as university officials on both sides of the border have verified, he was en route to the University of New Hampshire, where he was scheduled to speak at a physics conference on "Multi-spacecraft Observations on Field Aligned Beams." He was

stopped at the Maine-Canada border by U.S. authorities, and was detained for multiple rounds of questions, even though he had with him a Canadian passport, and a copy of his invitation from the university. In addition, once word reached the university that he was having difficulty, the university was able to call the border crossing and confirm his identity and his invitation.

In letters, Meziane said that during the six hours of questioning, he was asked about his religion, about his views on the war in Iraq, about his views of the Israeli-Palestinian conflict, of his views of the United States, and many other questions — over and over again. Eventually, he was let go, but only back to Canada.

Meziane said it was important for him to find out what happened because he is invited to conferences in the United States regularly and didn't want a similar experience. So he started writing and calling U.S. authorities. In June 2005, he received a letter from the Department of Homeland Security in which it gave a reason for his exclusion: "Our review indicated that you were detained and refused admission prior to entry into the United States because of a [sic] unlawful activities committed in Canada." The letter did not specify the unlawful activities, but Meziane thought he had an opening. He knew that he hadn't committed any crimes in Canada, so he set out to demonstrate that.

Who better to call than the Royal Canadian Mounted Police — and more specifically its National Security Investigation Section (sort of the Canadian Federal Bureau of Investigation). Meziane wrote and six months later, he got an answer from the superintendent of the branch: Canada "does not hold any information that would indicate involvement in criminal activities or criminal conviction for the name Karim Meziane." Turk, of the Canadian faculty group, said that the phrasing is key.

In its letter, Homeland Security used the phrase "unlawful activities," which could have meant activities known to be illegal but for which no charges had been brought. Canadian authorities responded in kind, saying that not only didn't Meziane have a criminal record, but there was no information suggesting he deserved one.

By this time, it was March 2006, a year and a half after Meziane had tried to enter the U.S. Why had it taken so long — six months — for the Canadian authorities to verify his lack of a criminal activity? According to the letter from the Royal Canadian Mounted Police, it "contacted the American authorities and request clarification regarding their assertion that they had refused you entry into the United States due to the fact that you had been involved in unlawful activities in Canada. To date, we have received no responses."

So Meziane thought he had had the proof he needed — he just needed to get the word to U.S. authorities. So he appealed to Turk's organization, and Turk wrote to the U.S. ambassador, outlining the situation, sharing copies of all the documents, noting that his group represents more than 55,000 academics at 100 colleges and universities in Canada, and requesting a meeting.

A few weeks later, he received a three-sentence reply from David H. Wilkins, the ambassador. The relevant two sentences: "I have fully checked with the appropriate U.S. agencies in Canada regarding the case of Dr. Meziane and have been assured that they stand by their decision. It therefore appears there is no change in Professor Meziane's status at this time."

Turk said he doesn't know what to do — since the U.S. authorities won't meet or identify the alleged criminal activities, even to the Canadian security agency. He noted that Meziane is a common enough last name in Algeria that he suspects this is a case of the wrong Meziane ending up on the wrong list.

The Meziane case is unusual, Turk said, in that the physicist was able to get a written response from Homeland Security, and was willing to share the information. Turk said he hears from between a dozen and two dozen scholars a year who are Canadian citizens and are having similar issues. Most of those cases involve people who were born outside of Canada, typically in the Middle East, and most of those professors never find out why the U.S. won't let them in, he said. Some of the cases, he noted, have involved people with Anglo-Saxon names, people who have worked as consultants for U.S. federal agencies, and people who have made many trips without incident to the United States before somehow being declared unsuitable for entry.

The impact of these cases goes well beyond those like Meziane, he said. Turk said he hears from many Canadian scholars, especially those whose last names might suggest that they are Muslim, who are unsure about whether they can safely accept invitations to attend conferences or do collaborative research in the United States. "This is having a real chilling affect. There is a lot of anxiety," he said. "I'm getting calls from people saying, 'If I go to a conference, could I be detained?'"

— Scott Jaschik

*The original story and user comments can be viewed online at
<http://insidehighered.com/news/2007/03/13/canada>.*

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Exhibit E

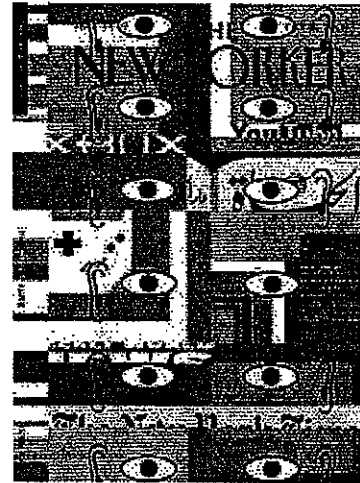
THE NEW YORKER

COMMENT

KEEP OUT

by George Packer

OCTOBER 16, 2006



There is an American tradition of responding to threats by confusing thoughts with acts and temporarily forgetting what Jefferson set down, in 1779, as one of the country's founding principles: "that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate." The modern legislative history of banning undesirable opinions from American shores began in 1918, when Congress passed the Anarchist Act, which was designed to keep out people with subversive ideas. In 1952, as the McCarthy era was reaching its hysterical phase, the Immigration and Nationality Act, better known as McCarran-Walter, added Communists to the list of aliens to be excluded from entry. In the following years, Graham Greene, Gabriel García Márquez, Pablo Neruda, and Dario Fo were denied visas.

In the age of terror, the Patriot Act denies entry to anyone who materially supports a terrorist organization, which is defined in hopelessly broad terms as any group of two or more people who intend to kill or inflict harm upon others. Among many thousands of foreigners, the law has kept out the Swiss-Egyptian scholar Tariq Ramadan. Ramadan is a grandson of the founder of the Muslim Brotherhood and is an Islamist himself. He argues for a large role for religion in Arab-Muslim states and an assertion of Muslim identity alongside citizenship in Western democracies. (Some critics accuse him of concealing more radical views; their evidence is thin.) His lectures and his books on Islam and the West have gained him a following among young European Muslims. In 2004, Ramadan was given a tenured appointment at the University of Notre Dame. He had rented a house in South Bend, shipped his furniture there, and enrolled his children in Indiana schools, when the State Department, acting on secret information from the Department of Homeland Security, revoked the visa that it had granted him. It has taken two years of repeated applications and inquiries, as well as a lawsuit by American civil-liberties, academic, and literary organizations, for Ramadan to receive an official explanation: between 1998 and 2002, he donated about seven hundred and seventy dollars to a pro-Palestinian French charity that was suspected of channelling money to Hamas, and which did not appear on the State

Department's blacklist until 2003. Ex post facto, Ramadan has run afoul of the Patriot Act.

It's hard to shake the suspicion that what has really kept Ramadan out is his ideas. State and Homeland Security have interpreted the language of the Patriot Act so loosely that, according to official documents released under the Freedom of Information Act, anyone who is guilty of "irresponsible expressions of opinion" can be refused entry to the United States. In this climate, the American Civil Liberties Union reports, the government has recently denied, delayed, or revoked visas to a group of seventy-five South Korean farmers and trade unionists opposed to a free-trade agreement; a Marxist Greek academic; a Sri Lankan hip-hop singer, whose lyrics were deemed sympathetic to the Tamil Tigers and the Palestine Liberation Organization; a Bolivian professor of Latin-American history who had been offered a position at the University of Nebraska; a Basque historian; a former Sandinista minister of health; and nine thousand five hundred Burmese refugees.

In these official follies there is an apparent mixture of deliberate ideological exclusion and blind bureaucratic stupidity. Among refugees, the government has kept out anti-Castro Cubans, Vietnamese and Laotian Montagnards, Liberians, Somalis, and Colombian peasants, all of them barred for voluntary or coerced support of armed groups, all of them desperate for asylum in this country. In the aftermath of September 11th, the United States drastically reduced the number of people admitted as political refugees. In 1992, there were more than 130,000; this year, of 60,000 slots, only 41,500 have been filled. Most of these cases of exclusion are so unjust that an unusual coalition of congressional liberals and conservatives is advocating a change to the Patriot Act.

Getting a visa has, inevitably, become harder since 2001. Consular offices have to vet every applicant with a battery of intrusive questions, and if an applicant's name is Ahmed Abdullah there is a chance that it will light up the name-check system and force his application into a congressionally mandated clearance process that can last months, involving not just the State Department but also the Department of Homeland Security. Because the government's explanations are so minimal, the ensuing delay seems insulting as well as inconvenient, and by the time the visa is finally granted the applicant's ardor to rush into the embrace of freedom may well have cooled. Iranians, whom we should be welcoming as freely as possible, suffer particularly arduous waits.

The larger problem is that terrorism has created an atmosphere in which no official wants to be the one who gives a visa to an Al Qaeda operative, while there is no professional price for barring a professor with unpopular ideas or for making a graduate student miss a semester of school. (The number of foreign students admitted annually has declined in the past five years, though the State Department is trying to ease their visa process.) Living in the United States is a better advertisement for America than most of its foreign policies, but it is an increasingly difficult experience for foreigners to have.

The United States should grant Tariq Ramadan a visa, not because he has an inalienable right to one but in the interest of the national good. The continuing effort to keep him out is a strategic mistake, and it shows a depressingly familiar failure on the part of the Administration to grasp the nature of the conflict with Islamist radicalism. It is a struggle of ideas, played out around the world, and a figure like Ramadan, who can appeal to young Muslims on the basis of both group identity and tolerance, is a valuable interlocutor. Allowing him to assume his position at Notre Dame as Luce Professor of Religion, Conflict, and Peacebuilding would not necessarily improve Muslim-Western understanding (interfaith dialogue is overrated, as the Pope recently demonstrated). But it would reduce the "habits of hypocrisy and meanness" that Jefferson identified as the result of legislating against thought. Barring Ramadan makes the country that claims to represent the side of freedom in this struggle appear defensive, timorous, and closed.

Exhibit F

Advertisement

US bars Nicaragua heroine as 'terrorist'

Writers and academics voice anger as state department refuses visa to let Sandinista revolutionary take up post as Harvard professor

Duncan Campbell
Friday March 4, 2005

Guardian

The woman who epitomised the 1979 Nicaraguan revolution that overthrew the dictator Anastasio Somoza has been denied entry to the US to take up her post as a Harvard professor on the grounds that she had been involved in "terrorism".

The decision to bar Dora Maria Tellez, one of the best-known figures in recent Latin American history, who has frequently visited the US in the past, has been attacked by academics and writers.

It comes at a time when President George Bush has appointed as his new intelligence chief a man associated with the "dirty war" against the Sandinistas in Nicaragua.

A spokeswoman for Harvard University said it was "very disappointed" that she would not be taking up her appointment.

Ms Tellez was a young medical student when she became a commandante with the leftwing Sandinistas in their campaign to topple the dictator.

She was Commander 2^o in 1978 when a group of guerrillas took over the National Palace and held 2,000 government officials hostage in a two-day standoff. After negotiations, she and the other guerrillas were allowed to leave the country. The event was seen as a key moment that indicated the Somoza regime could be overthrown.

She later led the brigade that took Leon, the first city to fall to the Sandinistas in the revolution, and she is celebrated as one of the popular figures of the revolution. She became minister of health in the first elected Sandinista administration.

Last year Ms Tellez, now a historian, was appointed as the Robert F Kennedy visiting professor in Latin American studies in the divinity department at Harvard, a post which is shared with the Rockefeller Centre for Latin American Studies. She was due to start teaching students this spring.

The US state department has told her she is ineligible because of involvement in "terrorist acts". A spokesman for the department confirmed yesterday that she had been denied a visa under a section making those who had been involved in terrorist acts ineligible. He said he could not comment further on the reasons for the ban.

"I have no idea why they are refusing me a visa," said Ms Tellez from her home in Managua yesterday. "I have been in the US many times before - on holidays, at conferences, on official business."

A number of academics and writers are protesting against the ban. "It is absurd," said Gioconda Belli, the Nicaraguan writer who was also an active member of the Sandinistas and is now based in Los Angeles. "Dora Maria is an outstanding woman who fought against a dictatorship. If fighting against tyranny is 'terrorism' how does the United States justify the invasion of Iraq? It is an insult."

Ms Belli, whose memoirs of her time as a Sandinista, *The Country Under My Skin*, was published two years ago, said many people were puzzled and angry about the decision.

Professor Andres Perez Baltodano, a Nicaraguan sociologist based in Toronto, said: "Dora Maria is as much a terrorist as George Washington." He described the taking of the National Palace as a heroic act which had helped to lead to the overthrow of a dictator.

The US, under President Ronald Reagan, opposed the Sandinistas even after they had been elected in 1984 and supported the contras, or counter-revolutionaries in their attempts to overthrow them.

In the 1987 Irangate scandal, it was discovered that the US was secretly supplying arms to Iran in exchange for money being channelled to the contras. When Mr Bush took office he rehabilitated a number of people associated with the contras and one, John Negroponte, is now his chief of intelligence responsible for dealing with terrorism.

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Exhibit G

September 17, 2007

Music Scholar Barred From U.S., but No One Will Tell Her Why

By NINA BERNSTEIN

Nalini Ghuman, an up-and-coming musicologist and expert on the British composer Edward Elgar, was stopped at the San Francisco airport in August last year and, without explanation, told that she was no longer allowed to enter the United States.

Her case has become a cause célèbre among musicologists and the subject of a protest campaign by the American Musicological Society and by academic leaders like Leon Botstein, the president of Bard College at Annandale-on-Hudson, N.Y., where Ms. Ghuman was to have participated last month in the Bard Music Festival, showcasing Elgar's music.

But the door has remained closed to Ms. Ghuman, an assistant professor at Mills College in Oakland, Calif., who is British and who had lived, studied and worked in this country for 10 years before her abrupt exclusion.

The mystery of her case shows how difficult, if not impossible, it is to defend against such a decision once the secretive government process has been set in motion.

After a year of letters and inquiries, Ms. Ghuman and her Mills College lawyer have been unable to find out why her residency visa was suddenly revoked, or whether she was on some security watch list. Nor does she know whether her application for a new visa, pending since

last October, is being stymied by the shadow of the same unspecified problem or mistake.

In a tearful telephone interview from her parents' home in western Wales, Ms. Ghuman, 34, an Oxford graduate who earned her Ph.D. from the University of California, Berkeley, said she felt like a character in Kafka.

"I don't know why it's happened, what I'm accused of," she said. "There's no opportunity to defend myself. One is just completely powerless."

Kelly Klundt, a spokeswoman for Customs and Border Protection in the Department of Homeland Security, said officers at San Francisco International Airport had no choice but to bar Ms. Ghuman because the State Department, at its discretion, had revoked her visa. The State Department would not discuss the case, citing the confidentiality of individual visa records.

Mr. Botstein, who wrote to Secretary of State Condoleezza Rice in the hope of having the visa problem resolved before the music festival, said Ms. Ghuman's case is symptomatic. "This is an example of the xenophobia, incompetence, stupidity and then bureaucratic intransigence that we are up against," he said, also citing the case of a teacher of Arabic at Bard who missed the first weeks of the spring semester this year because of visa problems. "What is at stake is America's pre-eminence as a place of scholarship."

Ms. Ghuman is certainly not alone in her frustration. Academic and civil liberties groups point to other foreign scholars who have been denied entry without explanation at an airport, or refused a visa when they applied. A pending lawsuit by the American Civil Liberties Union contends that the Bush administration is using heightened security measures to keep foreign scholars out on ideological grounds in violation of the First Amendment rights of American

scholars to hear them.

But Ms. Ghuman's case does not seem to fit such a pattern. Few believe that her book in progress, "India in the English Musical Imagination, 1890-1940," or her work on Elgar, best known by Americans for "Pomp and Circumstance," could have raised red flags in Washington. And if it were a question of security profiling, nothing in her background fits.

She was born in Wales. Her mother is a British homemaker, and her father, an emeritus professor of educational psychology at the University of Wales, was born in India to a Sikh family and moved to Britain in the 1960s. Last semester, Ms. Ghuman tried to teach her students by video link. This academic year, she is on an unpaid leave of absence.

"The arbitrary and inexplicable exclusion of Dr. Ghuman has been a personal tragedy for her and a cause of distress to Mills and to American higher education," said Janet L. Holmgren, the president of Mills College, who called her "one of our most distinguished faculty members."

"She seems to be in this limbo," said Ms. Ghuman's fiancé, Paul Flight, 47, who has visited her three times in Britain and is considering a move there. Mr. Flight, a countertenor, co-directed Darius Milhaud's opera about Orpheus and Eurydice with Ms. Ghuman at Mills three years ago.

Ms. Ghuman's descent into the bureaucratic netherworld began on Aug. 8, 2006, when she and Mr. Flight returned to San Francisco from a research trip to Britain. Armed immigration officers met them at the airplane door and escorted Ms. Ghuman away.

In a written account of the next eight hours that she prepared for her lawyer, Ms. Ghuman said that officers tore up her H-1B visa, which was valid through May 2008, defaced her British

passport, and seemed suspicious of everything from her music cassettes to the fact that she had listed Welsh as a language she speaks. A redacted government report about the episode obtained by her lawyer under the Freedom of Information Act erroneously described her as “Hispanic.”

Held incommunicado in a room in the airport, she was groped during a body search, she said, and was warned that if she moved, she would be considered to be attacking her armed female searcher. After questioning her for hours, the officers told her that she had been ruled inadmissible, she said, and threatened to transfer her to a detention center in Santa Clara, Calif., unless she left on a flight to London that night.

Outside, Mr. Flight made frantic calls for help. He said the British Consulate tried to get through to the immigration officials in charge, to no avail. And Ms. Ghuman said her demands to speak to the British consul were rebuffed.

“They told me I was nobody, I was nowhere and I had no rights,” she said. “For the first time, I understood what the deprivation of liberty means.”

As Ms. Ghuman tells it, the officers said they did not know why she was being excluded. They suggested that perhaps a jilted lover or envious colleague might have written a poison pen letter about her to immigration authorities, she said, or that Mills College might have terminated her employment without telling her. The notions are unfounded, she said.

One officer eventually told her that her exclusion was probably a mistake, and advised her to reapply for a visa in London after a 10-day wait. But it took more than eight weeks for her file to be transferred to the United States Embassy in London, in part because of routine anthrax screening at the State Department.

As for the possibility that she has been deemed a security threat, Ms. Ghuman said: "It's not only insulting and heartbreaking, but how? In what way? Musicians, dangerous people? Is it my piano playing?"

"I have no indication at all," she added, "and it has been 13 1/2 months."

Inquiries by Ms. Ghuman's representative in Parliament and several members of Congress, including Senator Richard J. Durbin of Illinois, have been to no avail, said Byron Adams, a professor of music at the University of California, Riverside, who said he had known Ms. Ghuman for years and respected her work.

"All of these people have gotten the runaround from the State Department," Mr. Adams said.

In late spring, when hope faded that Ms. Ghuman's visa nightmare would be resolved quietly, Charles Atkinson, the president of the American Musicological Society, asked its 3,600 members to send letters to the State Department expressing "our profound consternation and anxiety over the treatment of one of our members."

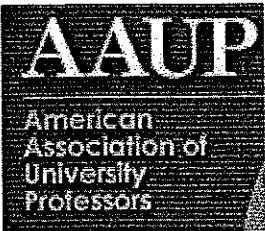
The society has invited her to lecture at its conference in November, which, "in a fortunate circumstance," Mr. Atkinson said, is to be held in Quebec.

The \$500 travel grant they have awarded her will not cover the cost. But at least, he said, she can expect Canada to let her in.

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Exhibit H



Letter Regarding John Milios

June 20, 2006

The Honorable Condoleezza Rice
Secretary of State
Department of State
2201 C Street
Washington, DC 20520

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20280

Dear Secretary Rice and Secretary Chertoff:

We write again to express our strong concern with the decision of the Department of State and the Department of Homeland Security to bar a foreign scholar from entering this country to participate in an academic conference. On June 8, Professor John Milios, a faculty member at the National Technical University of Athens who was to present a paper at a conference on "How Class Works" at the State University of New York at Stony Brook, was denied entry into the United States upon his arrival at JFK international airport because of purported irregularities in his visa. The visa was issued in 1996 and was set to expire on November 6, 2006. Since 1996 and prior to June 8, he had been allowed entry into the country on five separate occasions to participate in academic meetings, including a meeting in February 2003 of the Eastern Economic Association. He reports that he was questioned at the airport by US officials about his political ideas and his political affiliations, and he reports further that upon his return to Greece the American consul in Athens also queried him about the same subjects. Professor Milios is active in Greek national politics, is a member of the Syriza party (Coalition of the Radical Left), and has twice been a candidate for the Greek parliament.

In our letter to you of February 28 (a copy is enclosed for your convenience) with respect to the case of Professor Waskar Ari, we wrote that our concern about that case was "deepened because it appears to be another instance of the government's barring entry of a scholar who wishes to visit this country for legitimate academic reasons." The government's barring entry of Professor Milios is one more instance, so the available information indicates, of the administration's seeming disregard for our society's commitment to academic freedom. As you both are aware, and as Secretary Rice well knows from her experience as a professor and administrator at Stanford University, opportunities for the free exchange of ideas among scholars are essential to the search for knowledge. Preventing

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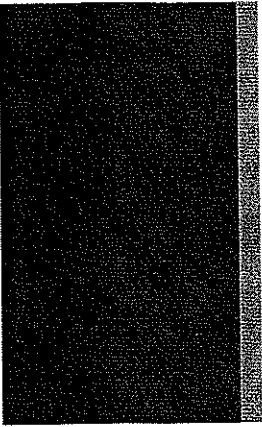
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Academic
Freedom
for a Free
Society
AAUP



these exchanges because of objections to the political activities or associations of participating scholars is at odds with this fundamental purpose.

We would welcome hearing directly from you about this important matter.

Sincerely,
Jonathan Knight
Director, Program in Academic Freedom and Tenure

American Association of University Professors
1012 Fourteenth Street, NW, Suite #500; Washington, DC 20005
Phone: 202-737-5900 | Fax: 202-737-5526

Exhibit I

THE CHRONICLE OF HIGHER EDUCATION

International

<http://chronicle.com/free/v53/i41/41a00101.htm>

From the issue dated June 15, 2007

Politics Keeps Scholars Out of U.S., Critics Say

Withholding visas is said to endanger America's intellectual freedom

By BURTON BOLLAG

For nine months, Riyadh Lafta, an Iraqi professor of medicine, tried to get a visa to visit the University of Washington, where he had been invited to share his research on the unusually high rates of cancer among children in southern Iraq.

But by last March, with no visa forthcoming, the American institution came up with an alternative plan. Mr. Lafta would deliver his lecture at Simon Fraser University, in Vancouver, British Columbia, and it would be broadcast by video to a public meeting long planned for the purpose at Washington.

The day before his mid-April flight, however, the British consulate in Amman, Jordan, turned down his request for a transit visa to change planes at London's Heathrow Airport. So Mr. Lafta, a faculty member at Baghdad's Al-Mustansiriya University, had to make the long and dangerous trip back to the Iraqi capital.

His American research partners say they think they know why he never received a U.S. visa: The Iraqi was one of the principal authors of an October 2006 study published in the British medical journal *The Lancet* that controversially estimated that more than 650,000 Iraqis — far more than officially reported — had died as a result of the American-led invasion.

Academic and civil-liberties groups say Mr. Lafta's case is troubling, but not unique. They assert that during the last year or so the Bush administration has increased its use of heightened security measures, introduced after the 2001 terrorist attacks, to keep out foreign scholars whose politics or ideas it does not like. In such cases the government does not give reasons for denying a visa, making it nearly impossible to challenge the decision, academic advocates say.

"Each new case seems to underscore the doubts that the administration has any justifiable

security basis" to exclude the scholars, says Jonathan Knight, director of the program on academic freedom and tenure at the American Association of University Professors.

The pattern not only hurts the scholars in question, but also damages America's reputation for academic freedom, those groups say. Some academic associations have felt forced to move their meetings to Canada to ensure that members from other countries can attend. They also report that the United States has become a less appealing destination for foreign scholars.

"There are many people who simply don't think of teaching or attending a conference in the United States because they don't want to put up with the humiliation of the visa process," says Barbara Weinstein, president of the 14,000-member American Historical Association.

Official Denial

When U.S. State Department officials were asked about Mr. Lafta's case, they denied that the government had intentionally kept the Iraqi professor out, saying they had simply been unable to reach him when his visa was ready last fall. His American colleagues find that explanation implausible, saying they contacted U.S. visa officials several times on Mr. Lafta's behalf without success.

The State Department, which is responsible for issuing visas, declined requests for an interview for this article. But in an e-mail message, a department official who requested anonymity because he was not authorized to speak about this issue said that while the government considers such factors as national security and foreign policy, no one had been denied a visa "due to any expression of the applicant's views."

Scholars who may have been barred recently because of their politics include Adam Habib, a prominent South African political scientist, and Yoannis Milios, a left-wing Greek political economist. Both had their visas revoked when they arrived at John F. Kennedy International Airport in New York for academic meetings, and both say they were questioned about their political views before being put on flights back to their own countries.

Other scientists and social-science professors from a variety of countries, including Bolivia, Canada, and Switzerland, have been barred from attending academic conferences or taking teaching positions in the United States. Many of the scholars were frequent visitors to the United States before suddenly being declared undesirable. There appears to have been a de facto ban on most scholars from Cuba for the last three years.

Academic associations have issued protests in about a dozen cases. The groups say that since the government does not release figures, it is hard to know the true number of scholars who have been kept out.

Challenging the Government

In two or three cases, U.S. officials made vague references to a security threat. But to the frustration of the scholars' supporters, the government has typically not provided any reasons for keeping the scholars out. Critics, however, believe the issue is politics, not security.

"Because it is draped in secrecy," says Melissa Goodman, a staff lawyer with the American Civil Liberties Union, "they get to keep out people whose views they don't want [American] people to hear."

The secrecy also makes it all but impossible to challenge exclusions that appear to be simple mistakes, say academic advocates. For example, Nalini Ghuman, a British citizen who has lived for the last 10 years in the United States and is an assistant professor of music at Mills College, was sent back to Britain last August, eight hours after she returned from a research visit there. She and her college are convinced that her visa was canceled mistakenly, but they have been unable to get any explanation from U.S. authorities.

"We're sort of flummoxed," says Robert F. Judd, executive director of the American Musicological Society, which recently issued a public appeal on Ms. Ghuman's behalf. "We don't know how to deal with this."

Opponents of the government's policy have forced small concessions from the authorities through lawsuits brought in two of the best-publicized cases. One suit, filed by the ACLU on behalf of several academic groups, challenged the government's use of the so-called ideological exclusion clause of the USA Patriot Act to keep out Tariq Ramadan. The prominent Swiss scholar of Islam had his visa revoked in 2004, preventing him from taking up a teaching job at the University of Notre Dame. At the time, U.S. officials referred to a provision of the act that allow them to deny a visa to anyone who "endorses or espouses terrorist activity" or "persuades others" to do so.

But after a federal judge ruled last summer that the government had to provide an explanation, the authorities presented a new reason: donations totaling about \$800 that he had made to two European groups providing humanitarian assistance to the Palestinians. The two groups were later blacklisted by the Bush administration for allegedly providing "material support" to Hamas, the senior partner in the Palestinian Authority.

In the other case, in May, the Department of Homeland Security finally approved an employment-visa petition submitted almost two years ago by the University of Nebraska at Lincoln for a Bolivian historian, Waskar T. Ari Chachaki. The move came shortly after the university sued to force the government to respond to the application.

The approval simply means that Mr. Ari, an expert on the indigenous Indians of the Andes,

and an Aymara Indian, can request a visa to take up a job as an assistant professor of history and ethnic studies at Nebraska. The government never gave a reason for not responding earlier. But some academics speculate it may have been to show displeasure with Bolivia's president, Evo Morales, who is also an Aymara and has been critical of U.S. policy toward his country's coca cultivation.

Striking a Balance?

When asked about the case of Mr. Ramadan last December, Karen Hughes, under secretary of state for public diplomacy and public affairs, said the administration's goal was "balancing our current security regulations with our desire to remain a welcoming country."

Critics say the government has not found that balance. Ms. Weinstein, of the American Historical Association, says that by keeping out foreign scholars who could help Americans understand the sources of international tensions, the policy "makes us less safe."

In the first years after the 2001 terrorist attacks, scholars in scientific and technical fields especially faced long delays and interminable security checks. Problems for them have lessened considerably during the last two years, say academic officials. But scholarly associations in the social sciences say problems persist for their foreign members.

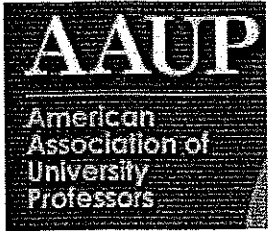
Carol L. Martin, executive director of the 2,200-member African Studies Association, says at least 12 African members were unable to get visas to attend the group's most recent annual meeting, in San Francisco last November. The policy "deprives everyone else of their unique perspective. It hinders policy making in the United States," she says.

Several academic associations have responded by moving their meetings to Canada. In the largest move to date, the Latin American Studies Association has decided to hold its next congress, in September, which 6,000 people are expected to attend, in Montreal. The group made the decision after its congress last year became the second in a row for which all of the more than 50 Cuban scholars who had registered were denied visas. Under the circumstances, said the group in a written statement, "we can no longer, in good conscience, hold our congress inside the United States."

The Institute of Electrical and Electronics Engineers, one-third of whose 370,000 members live outside the United States, now regularly holds some committee meetings in Canada to ensure that all members can attend. Chris J. Brantley, managing director of the group's American branch, says this step is still needed even though fewer of his members have been denied visas in the last two years.

<http://chronicle.com>
Section: International

Exhibit J



Letter Regarding Waskar Ari

27 February 2006

The Honorable Condoleezza Rice
Secretary of State
Department of State
2201 C Street, NW
Washington, DC 20520

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Secretary Rice and Secretary Chertoff:

I write to express the deep concern of the American Association of University Professors, the leading organization in the United States devoted to advancing principles of academic freedom, with the decision of the Department of State and the Department of Homeland Security to revoke the visa of Professor Waskar Ari, a citizen of Bolivia, who has been appointed to a faculty position at the University of Nebraska-Lincoln that was to have started last fall. The effect of the revocation is to bar him from entering the country. We understand that Professor Ari was awarded the Ph.D. in history by Georgetown University in 2004, that he was a visiting faculty member at Western Michigan University in the spring of 2005, that he was last in the United States in May 2005, and that he learned of the visa revocation last June while visiting family in Bolivia. Neither the Department of State nor the Department of Homeland Security has provided an explanation of the visa decision to either Professor Ari or to the University of Nebraska-Lincoln.

Our concern about Professor Ari's case is deepened because it appears to be another instance of the government's barring entry of a scholar who wishes to visit this country for legitimate academic reasons. We see a troubling pattern emerging in which foreign scholars offered appointments at American universities or invited to attend academic conferences are prevented from entering the United States because of their perceived political beliefs or associations. Professor Ari's case and earlier ones—they include the 2004 case of Professor Tariq Ramadan, a Swiss citizen who was appointed to a faculty position at the University of Notre Dame, and in the same year the case of 65 Cuban scholars who had been scheduled to participate in an international conference sponsored by the Latin American Studies Association that was held in Las Vegas -- point to a disturbing disregard on the part of the Bush administration for our society's commitment to academic freedom.

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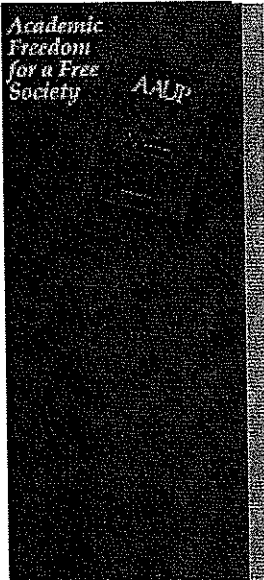
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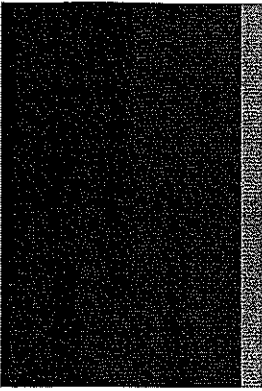
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on
Restructuring**





We join the American Historical Association and the University of Nebraska-Lincoln in urging the Department of State and the Department of Homeland Security to reconsider their position and allow Professor Ari to take up his faculty appointment at the University of Nebraska-Lincoln.

Sincerely,
Roger W. Bowen
General Secretary

American Association of University Professors
1012 Fourteenth Street, NW, Suite #500; Washington, DC 20005
Phone: 202-737-5900 | Fax: 202-737-5526

Exhibit K

THE CHRONICLE OF HIGHER EDUCATION

International

<http://chronicle.com/weekly/v52/i26/26a04402.htm>

From the issue dated March 3, 2006

U.S. Withholds Visa From Bolivian Scholar Hired to Teach at U. of Nebraska

By BURTON BOLLAG

A Bolivian scholar hired by the University of Nebraska at Lincoln has been unable to take up his post because the federal government has withheld his visa. The case has again raised concern over what critics have described as the arbitrary use of government power to keep foreign academics out of the United States.

Waskar T. Ari earned a Ph.D. in history from Georgetown University in 2005 and was hired by Nebraska as an assistant professor of history and ethnic studies. His job was to have begun last August.

Barbara S. Weinstein, a history professor at the University of Maryland at College Park, called the situation "very disturbing." Ms. Weinstein is president-elect of the American Historical Association, which has spoken out on behalf of Mr. Ari.

The government's reason for not issuing the visa, she speculated, seems related to his ethnicity. Mr. Ari is a member of the Aymara people, one of the largest indigenous Indian groups that together account for two thirds of Bolivia's eight million people. "He has certainly never been a member of any movement that would be of a security concern to the U.S. government," she said.

Mr. Ari is a scholar of the religious beliefs and political activism among indigenous Bolivians. He has served as a consultant to the World Bank and the Inter-American Development Bank on social and economic issues facing Bolivia's indigenous people. Last year he served as the representative of Bolivia's umbrella peasant-and-indigenous organization to a committee of the Organization of American States that was drafting an indigenous-rights declaration.

Last December Bolivia elected its first indigenous president, Evo Morales, a leftist who has opposed U.S.-backed efforts to eradicate the cultivation of the coca plant. Coca is the main ingredient in cocaine. Mr. Morales is also an Aymara.

Peter S. Levitov, Nebraska's associate dean of international affairs, said the history department was "particularly excited" to have hired Mr. Ari. His specialty in the indigenous peoples of the Andes region would make a fruitful match with the department's strengths in indigenous peoples of the central part of the United States, he said.

In a letter sent in February to Secretary of State Condoleezza Rice and subsequently made public, the historical association wrote: "We recognize that there may be individuals who pose a genuine security risk... . However, in Dr. Ari's case, we feel there are no perceptible grounds for such treatment. Within

the Aymara community of Bolivia, he is widely recognized as a voice of moderation."

Mr. Ari's situation recalls the case of Tariq Ramadan, a prominent Swiss Muslim scholar who was appointed to a tenured professorship at the University of Notre Dame in 2004 but was unable to assume the post after the federal government revoked his visa (*The Chronicle*, September 10, 2004). Mr. Ramadan subsequently took a position at a British university.

In January the American Civil Liberties Union filed a lawsuit challenging a provision of the USA Patriot Act that was used to deny a visa to Mr. Ramadan. In the lawsuit, the ACLU said the government was using the provision broadly to exclude from the United States people whose views it disfavors.

'Derogatory Information'

Last June, shortly after it hired Mr. Ari, the University of Nebraska paid \$1,000 for an expedited application to the U.S. immigration service to have him declared eligible to apply for a visa for a professional job in the United States. Now, nine months later, the service's Web site shows the application as "pending."

The university says it has not received any explanation from the immigration service, which is part of the Department of Homeland Security.

But it appears that the government has classified Mr. Ari as a threat to American security. Mr. Ari had been living in the Washington area when he was hired by Nebraska, and returned home to Bolivia for what he expected would be a short stay to settle his affairs and pick up a new visa. But when he visited the U.S. Consulate last summer in the Bolivian capital, La Paz, U.S. officials took his passport and stamped "canceled" over his student visa, which was about to expire anyway.

Asked about the situation, a spokeswoman at the State Department's Bureau of Consular Affairs checked Mr. Ari's file and said the cancellation of his old visa was done under a terrorism-related section of U.S. legislation on the granting of visas. "We have derogatory information that renders him ineligible," she said, but declined to add any further information.

Reached by telephone at his home in La Paz, Mr. Ari described being in a kind of limbo, waiting for the United States to make a decision on his case. Initially, when he was unable to return to the United States, he worked in a real-estate agency "just to pay the bills," he said. Now he has a temporary teaching job at Bolivia's biggest public institution, the Greater University of San Andrés.

Mr. Ari is one of only a few members of Latin America's large indigenous population to have attained a Ph.D. When he enrolled at a university two decades ago, however, "it was very hard to get a higher education in Bolivia if you had an indigenous name," he said. So he applied under an assumed name, "Juan Arias." Only halfway through his graduate studies in the United States did he decide to start using his real name again.

Mr. Ari said that he considers the United States his second "fatherland," adding that "many indigenous people think I'm too pro-American."

"It must be some big mistake," he said of his situation, adding, "I believe in justice. The truth will win out."

Exhibit L

Bolivian professor coming to UNL

*BY MELISSA LEE / Lincoln Journal Star
Thursday, Jul 19, 2007 - 06:53:43 pm
CDT*

Waskar Ari's long wait in Bolivia is finally coming to an end. Hired two years ago by the University of Nebraska-Lincoln to teach in the Department of History, Ari said he has been cleared at last to enter the United States. He said he received a passport and work visa from the U.S. Consulate in La Paz late Thursday afternoon.

And he'll be here soon: Ari wrote in an e-mail to the Journal Star he expects to arrive in Lincoln before Aug. 20 and is planning to teach two classes this fall.

"I think I am committed for life with UNL," he wrote. "They were extraordinarily helpful."

Thursday's news came more than four months after UNL sued the U.S. Department of Homeland Security, demanding the department either act on Ari's work visa petition or explain why Ari had been kept waiting.

Homeland Security offered no official response to UNL's lawsuit, but in May, it approved Ari's work visa petition without explanation, giving hope the final step in his journey to Nebraska — a work visa from the U.S. Consulate — was near.

It was.

If all goes as planned, Ari will be on campus a week before fall classes begin Aug. 27. He says he's prepared to teach courses on Latin American colonial history and colonial Mexico.

The history department has begun clearing out an office for him, UNL spokeswoman Kelly Bartling said.

"We're all just really pleased that the situation has been resolved," she said.

UNL hired Ari in early 2005, just before he earned a doctoral degree from Georgetown University. He was touted as a top draw because of his expertise on Latin American indigenous communities.

But in June, when Ari stopped home in Bolivia for a quick family visit, he found his student visa had been canceled and he could not get a replacement work visa to return to the United States because the U.S. government had discovered "derogatory information" in his file.

Ari's Washington.-based lawyer, Michael Maggio, believes Ari may have been linked to Bolivian President Evo Morales, a frequent and harsh critic of the Bush administration.

Maggio, who represented UNL in its lawsuit pro bono, said such links were "totally baseless."

The case attracted substantial media coverage and public support for Ari, Maggio said, which may have helped compel the government to approve the visa petition.

Still, Maggio said, his office has received no word from Homeland Security on why it had been concerned about Ari or why it ultimately gave him the green light.

But he said it was the right decision.

"Finally, justice prevails," he said. "The vetting that Dr. Ari has endured is just short of what someone goes through to become a saint."

During the delay, Ari said, he spent time lecturing throughout Bolivia and taught and did research at Universidad Mayor de San Andres.

Now he says he's ready to begin a new chapter.

"I cannot wait to arrive to Lincoln," he wrote. "It cost me two years of my life."

Reach Melissa Lee at 473-2682 or mlee@journalstar.com.

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