NEWS RELEASE

Federal Court in Boston Rules Bush Administration Must Justify Scholar's Visa Denial

ACLU Hails Victory, Says U.S. Must End Censorship At The Border

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BOSTON -- A federal court today ruled that it has the power to review whether the Bush administration has a valid reason for denying a visa to respected South African scholar Adam Habib. The decision comes in a lawsuit brought by the American Civil Liberties Union and ACLU of Massachusetts challenging the State Department's refusal to grant Professor Habib a visa based on unsubstantiated national security claims. Habib remains banned from the country and unable to attend speaking engagements in the United States.

"Today's ruling reaffirms that the Bush administration cannot manipulate immigration laws to silence critics of U.S. government policy and then shield their actions from scrutiny by the courts. The government cannot cherry pick whose voices we are allowed to hear," said Melissa Goodman, staff attorney with the ACLU National Security Project who argued the case in court. "As the court recognized, the government cannot bar Professor Habib from speaking in the U.S. without any explanation or substantiation whatsoever. Today's decision is a major victory for judicial review and a significant blow to the administration's failed attempt at stifling debate by banning a prominent critic of U.S. policy."

Judge George A. O'Toole, Jr. of the U.S. District Court for the District of Massachusetts ruled that the First Amendment requires the government to provide a valid, substantiated reason for excluding a scholar invited to speak to U.S. audiences. Writing that "the government has not given a reason for the denial," Judge O'Toole allowed the ACLU's challenge to move forward. In late 2007, the State Department refused Habib a visa after months of inaction, claiming that he is barred because he has "engaged in terrorist activities," but the government failed to explain the basis for its accusation, let alone provide any evidence to prove it.

Habib is a renowned scholar, sought-after political analyst, and Deputy Vice-Chancellor of Research, Innovation and Advancement at the University of Johannesburg. He is also a Muslim who has been a vocal critic of the war in Iraq and some U.S. terrorism-related policies. Habib has repeatedly condemned terrorism but urged governments to respond to the terror threat with policies that are consistent with human rights norms and the rule of law. Until the government suddenly revoked his visa without explanation in October 2006, he never experienced any trouble entering the U.S.; in fact, Habib lived in New York with his family for years while earning a Ph.D. in political science from the City University of New York.

The October 2006 revocation of Professor Habib's visa prevented him from attending a series of meetings with representatives from the National Institutes of Health, the Centers for Disease Control and Prevention, the World Bank, Columbia University and the Gates Foundation. When he landed in New York, Habib was detained for seven hours and interrogated about his associations and political views. Armed guards eventually escorted him to a plane and deported him back to South Africa. The State Department later revoked the visas of Professor Habib's wife and two small children, again without explanation. In May 2007, Habib applied for a new visa that would allow him to travel to the U.S. to attend speaking engagements.

The ACLU filed this lawsuit in September 2007, charging that the government's exclusion of Professor Habib amounts to censorship at the border because it prevents U.S. citizens and residents from hearing speech that is protected by the First Amendment. The ACLU brought this case on behalf of organizations that have invited Professor Habib to speak in the U.S., including the American Sociological Association, the American Association of University Professors, the American-Arab Anti-Discrimination Committee and the Boston Coalition for Palestinian Rights. Habib has missed several of these events as a result of his visa denial.

"We are gratified that the court ruled that this case can go forward," said Sally T. Hillsman, Executive Officer of the American Sociological Association. "The government's actions have already prevented Professor Habib from attending two American Sociological Association conferences. We believe that the global exchange of knowledge is vital to the advancement of science and we are hopeful that today's ruling will facilitate the free exchange of ideas."

Professor Habib's exclusion is part of a larger pattern. Over the past few years, numerous foreign scholars, human rights activists and writers -- all vocal critics of U.S. policy -- have been barred from the U.S. without explanation or on vague national security grounds. In 2006, the ACLU filed a similar lawsuit on behalf of U.S. academic groups and Professor Tariq Ramadan, a widely respected Swiss scholar of the Muslim world. When the government revoked his visa in 2004, Professor Ramadan was prevented from assuming a tenured teaching position at the University of Notre Dame. The ACLU's case is currently pending before the U.S. Court of Appeals for the Second Circuit; Ramadan remains excluded from the U.S. to this day.

Attorneys in the case are Goodman, Jameel Jaffer and Judy Rabinovitz of the ACLU, and Sarah Wunsch and John Reinstein of the ACLU of Massachusetts.

More information about ideological exclusion -- including a podcast with Adam Habib, plaintiff statements in support of Habib, and today's decision -- is available at:

http://www.aclu.org/exclusion

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For more information, go to:
www.aclum.org