

March 21, 2011

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

Hon. Janet Napolitano  
Secretary of the Department of Homeland Security  
U.S. Department of Homeland Security  
Washington, DC 20528

Dear Secretaries Clinton and Napolitano,

We are writing to express our deep concern about the reported denial of a visa to Afghan politician, writer, and human rights activist Malalai Joya. Ms. Joya is an important figure in Afghan politics and a leader of the Afghan women's rights movement, and Americans should not be denied the opportunity to meet with her in person and to hear her speak. We urge you to issue her a visa that would allow her to visit the United States.

We understand that Ms. Joya has been denied a B visa that would have allowed her to visit the United States for a three-week speaking tour relating to the paperback edition of her memoir, *A Woman Among Warlords*. It is our understanding that Ms. Joya has already toured widely in connection with the hardcover edition of this book, travelling without difficulty to the United States last year and to countries including Australia, the UK, Canada, Norway, Germany, Italy, Spain, Portugal, France, and the Netherlands. She is, as you must know, an internationally recognized and acclaimed voice from a country where women are frequently endangered simply for seeking to speak out and to lead. Because of her harsh criticism of Afghan warlords, Ms. Joya has been the target of several assassination attempts in Afghanistan, and she has been forced to live in hiding. In recent years, she has become a vocal critic of the Karzai government and of the American-led war effort against the Taliban. Last year, *TIME* magazine named Ms. Joya to its "TIME 100" list, the magazine's annual list of the 100 most influential people in the world. *Foreign Policy Magazine* named Ms. Joya one of the "Top 100 Global Thinkers."

When she was in the United States last year, Ms. Joya spoke to American audiences about her own experiences in Afghanistan, including her experiences as the first woman elected to the Afghan parliament, and about the ongoing conflict in her country, and we expect she would do the same this year. We are not aware of any reason why Ms. Joya would have been deemed inadmissible to the United States since her last visit.

If you have concluded that she is inadmissible, however, we urge you to use your authority to waive inadmissibility. As you may recall, the undersigned organizations were among those that wrote to Secretary Clinton in February 2010 asking that the State Department take steps to ensure that the immigration laws do not unwarrantedly become

barriers to the free exchange of ideas across international borders. In a constructive response to that letter, State Department Legal Advisor Harold Koh wrote in a December 2010 letter that, in assessing whether to recommend a waiver of inadmissibility, the State Department would consider “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 effects, if any, of the planned travel on U.S. public interests.” Mr. Koh also wrote: “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 factors that Mr. Koh outlined in his letter weigh in favor of granting a waiver to Ms. Joya. Ms. Joya seeks to enter the United States in order to speak to American audiences. She has already scheduled speaking engagements in New York, New Jersey, Washington DC, Maryland, Massachusetts, Vermont, New Hampshire, Pennsylvania, Illinois, Minnesota, Oregon, Washington and California. Moreover, Ms. Joya has an extraordinary story and a great deal to add to the ongoing discussion about the lives of the Afghan people, women in particular, about the current political and social realities in her country, and about the wisdom and success of American diplomatic and military efforts in Afghanistan. Americans should not be denied the chance to meet with her, to hear her speak, and to engage her in debate.

Thank you for your attention to this letter.

Sincerely,

American Civil Liberties Union  
American Association of University Professors  
PEN American Center

cc: Harold Koh, Legal Advisor to the Secretary of State  
Janice L. Jacobs, Assistant Secretary, DOS Bureau of Consular Affairs  
Anne-Marie Slaughter, Director, DOS Policy Planning Staff  
Scott Busby, Director for Multilateral Affairs, National Security Council  
Kelly Ryan, Acting Deputy Assistant Secretary for Immigration and Border Security, DHS (Office of Policy)  
John R. Sandweg, Counselor to the Secretary and the Deputy Secretary, DHS (Office of the Secretary)  
Esther Olavarria, Counselor to the Secretary, DHS  
Gary Grindler, Acting Deputy Attorney General, DOJ