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BARBARA JACKMAN / HADAYT NAZAMI**

March 23, 2009

Robert J. Orr
Immigration Programme Manager
Immigration Section
Canadian High Commission
38 Grosvenor Street
London W1K 4AA

Dear Mr. Orr:

Re: George Galloway M.P.

Please be advised that we have been contacted by the above mentioned person concerning his planned entry to Canada for a speaking tour commencing at the end of this month.

We have been given a copy of a letter from yourself, dated March 20, 2009, advising Mr. Galloway that a "preliminary determination" has been made by the Canadian Border Services Agency (CBSA) that he is inadmissible to Canada and inviting him to make submissions. The letter also indicates that in the event that Mr. Galloway wishes to enter Canada he could make an application for a temporary resident permit (TRP) which would not likely be approved.

The delivery of a letter to a person who is not required to obtain a visa prior to arriving at a Canadian port of entry is unusual. It is even more so for Immigration officials to "rely" on a CBSA opinion rather than accept ownership itself. Your Minister, Mr. Kenney, was in fact claiming ownership of it.

We are writing to respond to the invitation to Mr. Galloway to make submissions as to why he should not be determined to be inadmissible to Canada. This invitation does not appear to have been made in good faith, but merely to give the appearance of fairness when it is clear that a decision has been made - not only with respect to admissibility but as well with respect to an exemption from the inadmissibility bar. The letter is misleading because it leaves out reference to the 'reasonable grounds' standard which governs the conclusions drawn. An officer need be satisfied that it is possible that Mr. Galloway is a member of the Hamas and engaged in terrorism. Even on this low standard, however, such a conclusion is perverse.

We are surprised (and frankly shocked) that it is the view of the Government of Canada that Mr. Galloway is considered to be a member of a terrorist organization and to have engaged in terrorism. While Canadian courts have applied a broad definition to the concept of “member” to include ‘fellow travelers’ and other associates, the provision has never, to my knowledge, been so broadly interpreted as to include an elected member of Parliament, from a democratic country, because he engaged in symbolic support for a severely oppressed people, the Palestinians of Gaza. Nor has engagement in terrorism been so broadly interpreted. These interpretations are novel and far reaching in their effect.

For the record, as you no doubt know already, Mr. Galloway is not a member of the Hamas. He is an elected British Member of Parliament. He is a member of the Respect Party. Wikipedia, the free Encyclopedia cites Respect as being the Unity Coalition “... A left wing political party in England and Wales, founded on 25 January 2004 in London. Its name is an acronym standing for Respect, Equality, Socialism, Peace, Environmentalism, Community and Trade Unionism. It is often referred to simply as Respect or as the Respect Party.¹ If you go to the website of the Party² it references George Galloway as its Member of Parliament. It characterizes itself as socialist.

While membership in a particular party does not preclude membership in another, Mr. Galloway’s membership in Respect is a clear indication that he is not likely to be a member of the Hamas. Mr. Galloway is not a member of the Hamas. Indeed he has for 30 years described himself as a supporter of the late President Arafat.

The CBSA determination is one based on inference drawn from his involvement in the Viva Palestina aid convoy. It is not a reasonable inference. It is clear that this convoy was what it purported to be: a symbolic gesture by a number of individuals and organizations to support the Palestinians isolated and blockaded in Gaza. The passing of the convoy into Gaza was simply a recognition that the Palestinians of Gaza, who elected Hamas in a democratic election, ought not be punished by withholding from them the means of survival.

The convoy consisted of aid donated by groups and individuals in an act of solidarity with the people of Gaza. The Viva Palestina website³ indicates that the efforts were directed towards assisting the Palestinian people of Gaza, that a number of organizations, including Stop the War Coalition, the Anglo-Arab Organisation, several British trade unions and a large number of Muslim organizations were involved, and that the aid sent to Gaza was for the Palestinian people, not any faction. The organizers have worked through charitable organizations operating

¹ Wikipedia, the free encyclopedia. www.wikipedia.org

² Website, www.respectrenewal.org

³ www.vivapalestina.org

on the ground in Gaza, including the Red Crescent and Unrwa. The directing of aid to the Palestinians in Gaza is apparent in the press coverage of the convoy.⁴

The second part of the inadmissibility determination is that there are reasonable grounds to believe that Mr. Galloway engaged in terrorism. It appears that this is based on the convoy as well, implying that the provision of humanitarian aid to the Palestinians in Gaza is an act of terrorism. As with the membership inference this is perverse. It would mean that UNWRA, the Red Crescent Society and other aid organizations are terrorist organizations and the individuals who support them are terrorists.

Accusing a person of being a terrorist is a serious allegation - one of the worst which can be leveled against a person. It is not a one time event- it lasts forever. Mr. Galloway will forever be barred from Canada by this decision unless a specific exemption is granted by the Minister on the basis that it would not be contrary to Canada's national interest to permit him to enter Canada.

The terrorism inadmissibility provision in the IRPA was not meant to permit Canadian officials to sanction individuals because they do not share their beliefs. Mr. Kenney, the Minister of Citizenship and Immigration, and many other members of the Harper government have clear views on Israel and its practices in relation to the territories it has occupied since 1967. Their sympathies are invariably are with the Israeli government, regardless of the kind of conduct in which it engages. These views are not shared by all Canadians. Mr. Harper and Mr. Kenney are involved in the operation of the government of Canada, not the Conservative Party. As such their actions ought to be measured, rational and objective, consistent with their obligation to represent the interests of all Canadians. The decision to exclude Mr. Galloway from Canada because he participated in the symbolic gesture of bringing humanitarian aid to the Palestinian people of Gaza is a political decision. It is perverse and we believe constitutes an abuse of power.

It is an abuse of power for two reasons: first, s. 34(1) of the *IRPA* was never meant to apply to such situations, and second the refusal to let Mr. Galloway enter Canada to speak infringes the freedoms under s. 2 of the *Charter* of those within Canada who want to attend and listen to him.

We would ask that you obtain instructions to advise Mr. Galloway that he is not inadmissible to Canada and is free to speak as planned next week. We would appreciate it if you would advise by tomorrow, March 24, 2009, of the outcome of this request. Mr. Galloway was to come to Canada to speak on March 30, 2009. There is little time left to bring the matter before a court, which we expect you knew when you advised that only a 'preliminary' decision was made and invited further submissions to further delay Mr. Galloway's ability to take legal steps to have

⁴ See for eg. Press TV, 'Viva Palestina' aid convoy nears Egypt . Thu, 05 Mar 2009; Al Arabiya News Channel, "Egypt lets UK convoy cross Rafah border - UK aid convoy Viva Palestina makes it to Gaza, Mon, Mar 23, 2009; BBC, "UK aid convoy crosses into Gaza, Part of a 99-vehicle convoy bringing medicine, food, clothing and toys from the UK has reached Gaza after a 24-day journey through Europe and Africa" , Monday, 9 March 2009

a court review the government's decision. We are forced to conclude that if you do not reply by tomorrow that the decision is negative. We cannot wait on a response at any time later than tomorrow afternoon.

Thank you for your attention in this matter.

Yours truly,

Barbara Jackman

Hadayt Nazami

Solicitors for Mr. Galloway