



November 20, 2024

The Honorable Mike Johnson
Speaker
568 Cannon House Office Building
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
2433 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, D.C. 20510

RE: H.R. 9495, the Stop Terror-Financing and Tax Penalties on American Hostages Act

Dear Speaker Johnson, Leader Jeffries, Leader Schumer, and Leader McConnell:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. and the undersigned organizations, we ask you to oppose H.R. 9495. The current text of the bill includes the provisions of H.R. 6408 and S. 4136, which grant the Secretary of Treasury unprecedented unilateral authority to designate a U.S. nonprofit a “terrorist supporting organization” and revoke its tax-exempt status. While we do not oppose other provisions in H.R. 9495, such as measures preventing the Internal Revenue Service from imposing fines and penalties on hostages while they are held abroad, we are deeply concerned that the new authorities in H.R. 6408 and S. 4136 will be weaponized to target civil rights and racial justice organizations.

H.R. 9495 would give the Secretary of Treasury expansive powers to revoke the tax-exempt status of nonprofit organizations with few checks on the Secretary’s discretion. Federal law already prohibits terrorist organizations from receiving tax-exempt status.¹ The federal government currently has broad discretion to designate organizations as terrorist organizations or entities providing “material support” to terrorist organizations, with limited due process

¹ 26 U.S.C. § 501(p).

protections for the accused to challenge that designation.² These same overly expansive authorities are, in turn, incorporated into H.R. 9495. The provisions of H.R. 6408 and S. 4136, as incorporated into H.R. 9495, give the Secretary unilateral authority to revoke the tax-exempt status of nonprofits that provide “material support or resources” to terrorist organizations. Given how broadly “material support” is defined under existing law, this measure could be used to target nonprofits regardless of whether the “support” they allegedly provided was intentional³ or connected to actual violence.⁴ Once designated, nonprofit organizations would have little recourse: while H.R. 9495 requires the Secretary to notify nonprofits prior to designating them as terrorist supporting organizations, it does not require the Secretary to share all the evidence or reasoning with accused nonprofits. These nonprofits nevertheless would bear the burden of proof to demonstrate their innocence within 90 days before the Secretary revokes their tax-exempt status without due process.

We are deeply concerned that the authorities granted in H.R. 9495 would be abused to target racial justice organizations and protestors, which have long been targets of biased criminal and terrorism investigations.⁵ The federal government has targeted leaders in the civil rights movement for decades, dating back to the surveillance of Dr. Martin Luther King, Jr. and several other civil rights leaders and organizations by federal intelligence agencies. Such abusive targeting continues to this day. In 2017, just nine days before the deadly white supremacist rally in Charlottesville, the Federal Bureau of Investigation named “Black identity extremists” a growing violent threat⁶ and used the designation to target Black Lives Matter groups and other political activists.⁷ Department of Homeland Security intelligence reports similarly claimed without evidence that “domestic violent extremists”—the agency’s term for domestic terrorists—were attempting to “exploit” racial justice protests.⁸ Most recently, the Department of

² See Anna Meier, *What Does a "Terrorist" Designation Mean?*, LAWFARE (Jul. 19, 2020 10:01 AM), <https://www.lawfaremedia.org/article/what-does-terrorist-designation-mean>.

³ Matter of S-K-, 23 I&N Dec. 936 (BIA 2006).

⁴ Testimony of Anwen Hughes, Senior Counsel, Refugee Protection Program, Human Rights First, *The “Material Support” Bar: Denying Refuge To The Persecuted?: Hearing before the U.S. Senate Judiciary Committee Subcommittee On Human Rights And The Law*, 110th Congress (Sept. 19, 2007), <https://www.govinfo.gov/content/pkg/CHRG-110shrg47451/html/CHRG-110shrg47451.htm> (describing how material support has been defined in the Immigration and Naturalization Act, which is incorporated by references into H.R. 9495).

⁵ AMITH GUPTA, ET AL., PROJECT SOUTH, SPYING ON THE MARGINS: THE HISTORY, LAW, AND PRACTICE OF U.S. SURVEILLANCE AGAINST MUSLIM, BLACK, AND IMMIGRANT COMMUNITIES AND CONTEMPORARY STRATEGIES OF RESISTANCE (2021), https://projectsouth.org/wp-content/uploads/2021/04/FINAL-Project-South_Spying-on-the-Margins_04.26.2021.pdf.

⁶ Dell Cameron, *Homeland Security Admits It Tried to Manufacture Fake Terrorists for Trump*, YAHOO! (Nov. 5, 2022), <https://www.yahoo.com/video/homeland-security-admits-tried-manufacture-114500599.html>; see, e.g., Production of Internal Reports, U.S. Dep’t of Homeland Sec. 16 – 23 (Jun. 2023 – Jul. 2023), <https://www.citizensforethics.org/wp-content/uploads/2022/01/2021.08.13-Responsive-Records-2021-HQLI00009-20-cv-02553-TJK.pdf>; U.S. Dep’t of Homeland Sec., (U//FOUO) Ongoing Violence, Information Narratives Nationwide Poses Continued Threat to Law Enforcement (May 30, 2023) (Unclassified), <https://www.documentcloud.org/documents/6981476-May-30-2020-DHS-Report-on-Floyd-Protests.html> (Report on George Floyd protests).

⁷ Jana Winter & Sharon Weinberger, *The FBI’s New U.S. Terrorist Threat: ‘Black Identity Extremists’*, FOREIGN POL’Y (Oct. 6, 2017, 11:42 AM), <https://foreignpolicy.com/2017/10/06/the-fbi-has-identified-a-new-domestic-terrorist-threat-and-its-black-identity-extremists/>

⁸ U.S. Dep’t of Homeland Sec., Homeland Threat Assessment 17–19 (Oct. 2020), https://www.dhs.gov/sites/default/files/publications/2020_10_06_homeland-threat-assessment.pdf (“Violent extremists will continue their efforts to exploit public fears associated with COVID-19 and social grievances driving lawful protests to incite violence, intimidate targets, and promote their violent extremist ideologies. . . . Other racially or ethnically motivated violent extremists could seek to exploit concerns about social injustice issues to incite violence and exploit otherwise peaceful protests movements.”).

Homeland Security inappropriately described groups opposed to Cop City in Atlanta, GA, as alleged domestic violent extremists, contributing to the arrests of protestors, a legal observer, and three operators of a nonprofit bail fund by Georgia law enforcement authorities.⁹ H.R. 9495 would give the federal government additional tools to target civil rights leaders, racial justice activists, and protestors not because of legitimate national security or law enforcement interests but because the administration disagrees with their positions and goals. Even if these organizations successfully challenge the designation, being labeled a “terrorist supporting organization” may cause irreparable reputational and fiscal harm.

For the foregoing reasons, we urge you to oppose H.R. 9495. Please reach out to Amalea Smirniotopoulos, Senior Policy Counsel and Co-Manager of the Equal Protection Initiative, LDF (asmirniotopoulos@naacpldf.org), if you have any questions or would like additional information.

Thank you.

Sincerely,

NAACP Legal Defense and Educational Fund, Inc. (LDF)
Lawyers’ Committee for Civil Rights Under Law
The Leadership Conference on Civil and Human Rights
National Action Network
NAACP
National Coalition on Black Civic Participation
National Council of Negro Women (NCNW)
National Urban League

⁹ Letter from the NAACP Legal Defense and Educational Fund, Inc., et al. to the Honorable Alejandro Majorkas, Jul. 27, 2024, https://www.naacpldf.org/wp-content/uploads/2023.07.27-DHS-letter_final_logos.pdf.