

Attorney Eric Lee addresses London meeting on case of Momodou Taal: “The president is attempting to establish a dictatorship”

Eric Lee
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Eric Lee, the attorney of Momodou Taal, delivered the following speech at a public meeting in London hosted by the Socialist Equality Party (UK) on Saturday May 31, “Trump’s war on free speech: The case of Momodou Taal”.

A British-Gambian citizen who was studying at Cornell University, Taal was forced to leave the United States in March to escape arrest and detention by Immigration and Customs Enforcement (ICE) agents following his lawsuit challenging the legality of US President Donald Trump’s decrees banning campus protests against the Gaza genocide.

The report has been edited slightly for publication. An initial report of the meeting was published by the World Socialist Web Site on June 1, 2025.

I’ll speak to some of the points that Momodou raises and also to some of the historical issues involved in this.

First, I want to note that though we’re very glad that Momodou is here and not in detention, Mahmoud Khalil is in detention in Louisiana, separated from his wife and his baby, who was born when he couldn’t be by his wife’s side in the hospital. He’s over a thousand miles away from them, and June 8 will mark three months since he was abducted and disappeared by the Trump administration. We at this meeting send our deepest regards to Mahmoud, to Noor, his wife, to his family, and to his team who are fighting for his liberation.

One has to begin by understanding what is broadly happening in the United States right now. There is no historical precedent at any time in the country’s 250-year history for what is presently taking place. The president is attempting to establish a dictatorship, to abolish the most basic democratic rights, including the right to habeas corpus, the right to free speech, the right to seek redress of grievance by suing the government over constitutional violations, as Momodou has outlined.

The administration is disappearing individuals to a dungeon in El Salvador called CECOT, in violation of court orders. Trump has barred and has announced as recently as last week that they will be aggressively attempting to revoke the visas of Chinese students at American universities, tapping into among the most vile, reactionary periods of American history, the period of Chinese exclusion and also of Japanese internment.

They are going to be vetting, really for the first time systematically, the political views posted by immigrants, including those already in the United States, where the First Amendment that guarantees the right to free speech unquestionably applies—examining all the social media accounts of people attempting to acquire an immigration benefit. And if their social media accounts are set to private, according to a cable from Secretary of State Marco Rubio, that will be construed as proof that they have something to hide.

The Trump administration and Nazi lawyer Carl Schmitt’s “State of Exception”

There are too many things happening in the United States to list them all right now, but the pseudo-legal basis, or explanation, for what is happening is a conception developed by the—I won’t call him a legal theorist or jurist because the term is too kind—Nazi lawyer Carl Schmitt, who said that in times of political crisis the only thing that matters is the state’s right to exist and that all legal norms, designed to save bourgeois legality, have to be dispensed with. It’s called the State of Exception. It is not a legitimate legal theory, but nevertheless, it is the theory which is guiding the Trump administration’s policies. And to make one thing clear, the attack on immigrants is the spearhead but this is an attack directed at the entire American population.

Any government that wants to tell students who are from other countries what they can and cannot say in the United States is ultimately telling American citizens what they have the right to hear. The government is attempting to turn off the spigot on what ideas the American population is allowed to hear.

In that sense, the place to really start in this discussion of Momodou’s case is the two executive orders themselves which were promulgated by the Trump administration in January. The two that are relevant here are, number one, the so-called antisemitism order, which renders individuals, as we’ve already gone over and seen in this case, removable for criticizing Israel, or makes them excludable if they’re a student or individual attempting to apply for a visa from outside the United States. It also requires—and this we’re now beginning to see play out more concretely—universities to “monitor and report” in-class statements by non-citizen students and professors, including perhaps the things they post on social media, the points they make in homework assignments, the things they may write in their dissertations. There is not a historical precedent for this.

The second executive order, which the government acknowledges is closely connected to the first, purports to protect the American people from terrorism, which is a term the administration means to basically apply to all opposition to the Trump administration itself. It renders individuals potentially deportable or excludable if they so much as criticize the US government, its institutions, or American culture. Under those extraordinarily broad terms, one could understand that, for instance, pointing out that the United States military killed a million people in the war in Iraq and the subsequent opposition this generated might be construed as criticism of American culture; or criticizing the internment of 120,000 Japanese and Japanese-Americans during the Second World War; Operation Rolling Thunder in the Vietnam War; it goes on and on.

This type of a legal regime has not existed in American history before. I'll talk about some of the historical traditions from which this administration draws, but it's important as a preliminary matter to explain that though the United States government and its ruling class have committed no shortage of great historic crimes over the course of its existence, especially in the period following the American Civil War, that we are in new territory. There is both an element of continuity, the dredging up of all of the most reactionary forms of capitalist political rule, xenophobia, nationalism, reaction, police state repression, and spewing it out in the form of these State Department cables and executive orders, which have acquired a character which is unprecedented.

I'll talk a little bit about our lawsuit and the legal arguments that we raised. We're proud of the fact that we were the first to challenge the executive orders and we're proud that we asked for a nationwide injunction demanding that these orders not only not be applied to our client but that they not be applied to anybody. I should say also, I appreciate the kind words, but I was one of a large team of attorneys on this case—Chris Godshall-Bennett, my co-counsel, and the American Arab Anti-Discrimination Committee—which jumped on the case as we decided to file, and many others who helped at Cornell University and beyond.

At bottom, we made two arguments. We argued that these orders violate the First Amendment not only because they restrict an individual's freedom of speech, and the law is very clear that once you're in the United States, the First Amendment applies to you provided you've developed substantial connections to the United States. That's because the Bill of Rights doesn't use the term "citizens", it uses the term "people", that rights derive from the people and that individuals, regardless of whether they're citizens or denizens, which was the old term, or whether they're guests or visitors, they have the same rights or comparable level of protection under the Bill of Rights as American citizens whose families have lived in the US for centuries.

We made that argument vis-a-vis Momodou. We also made the argument that our two co-plaintiffs, Sriram Parasurama, who's a graduate student at Cornell, and Professor Mukoma Wa Ngugi, were deprived of their right to listen to the views that Momodu wished to espouse, and that all individuals, both at universities and beyond, have the right to not have the executive branch and the president himself tell them what they can and can't hear. This was, in effect, an effort to transform the university systems into the type of universities that existed in Nazi Germany, producing compliant academics, complacent people, and barring all discussion. The antisemitism executive order, I should say, still says that they can criminally prosecute American citizens even, for potentially attending a demonstration, which they equate to an act of antisemitism.

The other argument we made was that the executive orders themselves violate the Fifth Amendment Due Process Clause on the grounds that nobody, no reasonable person, can have any idea of what type of speech is antisemitic, or is construed as critical of American institutions, or of American culture, as we've talked about. We challenged the executive orders on the basis that they should be voided by the court because they're too vague and they don't provide anybody with the type of notice of the things that they should say, or by getting close to what lines will they subject themselves, or their friends and colleagues, to deportation. In that sense, the orders were very deliberately aimed at scaring people out of speaking. You see that right now. There's over a million visa holders in the United States, almost all of whom are sitting scared that the things that they say on social media, or that by attending a protest now or in the past or even saying something too loudly in a public place may result in their removal from the country, their banishment.

Sometimes we use the term "self-deportation", but that implies a little too much agency. It's a banishment. It's forced exile. And what Momodou has had to go through and what many of the students who have made the decision to leave the United States, rather than risk this have had

to go through is unacceptable.

A couple points on the timing of our lawsuit. The First Amendment not only protects the right to speak, it also protects the right to seek redress, to petition the government for redress of grievances. That is one of the founding principles of the American Revolution, which I hope I won't offend this British audience by mentioning.

Once we filed this lawsuit, according to the government, according to affidavits that the government filed when we were in court, or when we were going through the process in court, well...

Momodou's already gone over the timeline to some extent.

ICE agents launch operation against Momodou Taal

On Saturday, March 15, we filed the lawsuit in the Northern District of New York, a federal court located in Syracuse in upstate New York. Several days later, I think it was Tuesday, the ICE [Immigration and Customs Enforcement] agents began to deploy throughout Ithaca, basically where Cornell is located, in effectively an enforcement operation directed against Momodou. There were multiple undercover agents located throughout the region of his neighbourhood right off campus, and individuals who were undercover did show badges to residents of his communal living space. We were getting reports throughout the entire day of students who said that they were identifying federal agents parked in unmarked cars throughout the area.

A couple of days later, we received, at about one or two in the morning—my co-counsel Chris and I—an email from the Department of Justice informing us that they were demanding we turn Momodou in to ICE. Then they informed us they had issued a removal order, which is the formal process, the formal service which initiates the deportation process. We requested at that time a copy of the order to make sure that it existed. I still have not seen that. That was not provided to us. But in that email, it was demanded of us that we personally, as Momodou's attorneys, basically walk him to an ICE office so that he could be handcuffed and taken away to Louisiana or whatever detention centre they were going to put him in where he'd still probably be if he hadn't made the decision to leave the US.

There was not really a precedent for that type of a communication, that I'm aware of. Momodou had at that point done nothing wrong, and we were already contesting the legality of the orders under which they were purporting to deport him. We learned in court filings that they filed a couple of days later that there was no question that the basis for deporting Momodou was based on his speech, which is totally illegal. This is a quote I want to read from one of the affidavits which was submitted by an ICE official who said, "Mr. Taal was identified as a student at Cornell University and a prominent pro-Palestinian activist involved in protests and disruption of university events. In one incident that led to the university suspending him, he failed to comply with university directives to remove an unauthorized encampment, cease unreasonably loud chants and behaviour, and disperse."

There's nothing in American immigration law that says loud chanting can lead to your deportation. There's nothing in the immigration statute which says that being temporarily suspended by the university can make you deportable, can ruin your academic career, and force your separation from the community in which you've lived for several years.

The affidavits cited by ICE and the Department of Homeland Security referenced and quoted from Cornell University officials. Momodou has explained that the university, earlier in the fall, had essentially told him that we are going to inform the Department of Homeland Security we are suspending you, which will trigger under federal regulations our

obligation to tell them that your visa is no longer valid. As Momodou says, they tried to say, “well, we don’t have the power to deport you”, but we’re doing something that will make it inevitable that you will be deported. In total disregard for the regulations about the timing for making that statement to the Department of Homeland Security, they told Momodou he had two days to leave the country. The regulations say the university doesn’t have to report someone who’s violated the terms of their enrolment for 30 days. There was no legal basis whatsoever in immigration law for what the university was trying to do to railroad Momodou out of the country and send a message to others.

It was because of the overwhelming opposition of the population of the United States, and of the world, who learned about this case through viral social media posts and news coverage that the university was forced to back down and allow Momodou to stay in his position. That was not their position initially, and that I think is an important lesson as well.

Then the government informed us, fast forwarding to the lawsuit, that Momodou’s visa had been revoked a week before. The government’s position in this case was what they told us in these affidavits in court—“Oh no, we’re not trying to deport Momodou because he filed a lawsuit against us”. The fact that ICE agents showed up at his house a couple of days after he filed the lawsuit is just basically a coincidence. And that supposedly the day before, Friday, all the government agencies responsible for coordinating with the State Department, with the consulate, with the Department of Homeland Security in the US, through a flurry of heroic bureaucratic activity—on a Friday—they worked together to figure out that the biggest priority the government had at that moment was to revoke Momodou’s visa because of a protest that happened six months earlier.

That was the position that the government took in their sworn declarations entered under perjury. And the court unfortunately did not question the government about that position, so we were not able to prevail in our lawsuit. The district court made her decision. I will say the judge did not technically say that the only way Momodou could challenge it was in jail. It was procedurally a bit complicated. After the ruling went against us initially, what we did next had to do with a complicated statutory framework for saying courts don’t have jurisdiction over challenges to deportation cases. I’m not going to go into the details beyond saying that the provision is in the law because of the bipartisan vote taken by the Democrats and Republicans in the 1996 law, which was intended to make it impossible for immigrants to bring constitutional challenges to their deportations, or next to impossible.

We were aware that the imminent efforts by the administration to detain and jail Momodou meant that we were allowed to file a petition for a writ of habeas corpus, which presented a certain different set of legal issues.

The judge indicated that she was willing to hear those arguments and set a briefing schedule where we would have had the opportunity to go before the court again, and seek to prevent the government from arresting and detaining Momodou, allowing him to do what Rumeysa Ozturk and some of the other individuals who have been targeted by the government subsequent to Momodou are now able to do, which is fight their deportation orders in immigration court, which is a separate process than a federal case. But as Momodou said, there was a lot of uncertainty at that time, and there remains a lot of uncertainty about the executive branch’s willingness to follow court orders. And we weren’t sure. They were spiriting people away to El Salvador in direct violation of various courts. They are in the process of attempting to skirt, would be the most favorable way of putting it, orders even from the United States Supreme Court. And so Momodou made the decision that he made to leave the US. I think it was an entirely appropriate one, given the prospect of many months in detention.

Brutal treatment awaited Momodou Taal at a detention camp

People in these detention centres are losing massive amounts of weight. They are not being provided access to halal food. Their religious liberties are being violated by their jailers. These are not pleasant places to be. In fact, a couple of weeks ago, ICE even argued in court, and the Department of Justice joined them in this argument shamefully, that Mahmoud Khalil could not even physically hold his newborn baby at the detention centre because that would pose a security risk, that his wife was only allowed to speak to him and that he was only allowed to look at his child through plexiglass.

I want to make one point about the statutory ground under which a lot of people are being charged. Mahmoud was not charged under the same statutory deportation ground as several other people were. But the ground that people like Mahmoud Khalil have been charged with is that their presence in the United States, their attendance at protests in Rumeysa Ozturk’s case (I believe she was charged under that provision), is that they pose a threat to American foreign policy and that the Secretary of State has made the decision to, at his discretion, revoke the visas of individuals and put them into deportation proceedings because their speech threatens American foreign policy.

A district court judge in Mahmoud Khalil’s case just earlier this week, has ruled that provision is likely void for vagueness under the type of argument I was explaining that we made just a couple of minutes ago. But if one takes this provision at its word, what does that mean? It means that criticizing the American government or the state of Israel threatens foreign policy, even if that speech is clearly protected by the First Amendment. For over 100 years, the United States government has been causing destruction, killing millions of people, ruining entire countries based on the claim that it’s making the world safe for democracy. But evidently making the world safe for democracy means eliminating democracy at home.

I want to come back to this question of history because, of course, there are no shortage of instances in which the American government has targeted immigrants. Many of you are probably aware of some of these examples. I’ll go through a couple of them briefly, and I’m going to be referencing an excellent book by Julia Rose Kraut, *Threat of Dissent*, published by Harvard University Press in 2020 and which I recommend that people read.

The attack on immigrants and fear of social revolution

There are two basic conclusions that come out of these examples relating to the situation Momodou has faced. That is, that there is an inextricable link between the attack on immigrants and fear of social revolution. And there’s also the lesson from these past examples, and it’s playing out again right now, that every time the government tries to suppress speech it blows up in its face, alerts the population to the danger, awakens in the American population in particular and in the working class the best democratic elements from its history and from its historical experience, and provokes a massive new level of social opposition to the government itself.

I’m going to give three examples.

In 1798, the administration of John Adams and the Congress that was controlled by the Federalists passed the Alien Friends Act and the Sedition Act, which together barred and gave the president the power to deport people who were “dangerous to the peace and safety of the United States.”

Three weeks later, Congress passed a bill that gave the executive branch the power to charge, or that provided authorities with the power to charge criminally, citizens who made slanderous statements against the government. Now, we pointed out that these executive orders not only barred people from speaking slander, they also barred people from speaking the truth, which was something new.

Nobody was deported under the Alien Friends Act. However, that year, shortly after its passage, several boats filled with French citizens living in the United States who were sympathizers of the French Revolution, which was the basic motivating factor behind the Adams administration's crackdown on free speech, left the country. In 1798, and this is from Julia Kraut's book, a dozen ships filled with anxious Frenchmen transported them back to France or Haiti. One prominent former member of the French Assembly left voluntarily with his family in August, after ending up on a list that John Adams had produced seeking the deportation of opponents of the government. When asked why this individual was placed on the list, Adams' response was, no reason in particular, but he's too French.

At the turn of the 20th century, the Congress passed the Immigration Act of 1903, which essentially banned and made deportable all anarchists—a term used very broadly to apply to socialists and communists as well. It targeted people who are opposed to all organized government. There were a number of prominent cases, including that of John Turner, a British citizen and trade unionist and anarchist, whose case made it all the way up to the Supreme Court, where he lost.

There are many other examples from this period, but perhaps the most important, and this is fast forwarding a little bit, is the Palmer Raids, which took place in the immediate aftermath of American imperialism's intervention in the First World War, named for [President Woodrow] Wilson's Attorney General, A. Mitchell Palmer. Three thousand radicals were detained on Ellis Island pending deportation. There were brutal physical attacks. On one day, there was a nationwide operation in which authorities under the direction of a very young man at that time named J. Edgar Hoover, went through workers' union halls and associational halls and people's homes, beating people up, taking their papers without warrants, locking them up in jail without access to attorneys. Ultimately, 556 people were deported, but the opposition which this engendered in the American population was massive.

This was a period of anti-syndicalist laws directed against, in particular, the Industrial Workers of the World. And I'll quote briefly from an important observation made at the time by a prominent legal academic, Zechariah Chafee, in his famous book *Freedom of Speech* in 1920. He wrote, and this very much bears on Momodou's situation, "Persons already here are seriously affected if they are denied the privilege of listening to, associating with, a foreign thinker. The progress of this country as a whole may be gravely retarded. Truth is truth whether it comes from a citizen or an alien, and the refusal to admit a wise foreigner may simply result in our remaining ignorant. We shall soon be in the shameful position of seeing political offenders from this country demanding asylum in the very lands from which men has fled to be free to think and talk on our shores."

That level of opposition from within the academic establishment is largely absent today, though not entirely, and certainly from the administrations themselves.

The second-to-last example I want to give is a very interesting case that we talked a little bit about from the early 1930s. Li Xiaojun was a New York University student from China who was a self-admitted opponent of imperialism and a communist. He was arrested in late 1930 by immigration authorities and detained under deplorable conditions at Ellis Island in New York. He requested the right to leave the US for the Soviet Union, and that request was denied. There were substantial protests, again, that took place, especially at Columbia University and New York

University, where Professor John Dewey, the famous philosopher, spoke out against Mr. Xiaojun's deportation to China. There are some other cases which are very relevant today, given the present attack on Chinese students in particular.

The period of McCarthyism saw massive efforts to deport non-citizens or exclude them based on their speech. People targeted included conductor Arturo Toscanini and violin virtuoso Joseph Segetti. They were both questioned and detained at Ellis Island. Novelist Graham Greene's visa was delayed for many, many months in 1952 because he was very briefly a member of the Communist Party. The composer Hans Eisler, most famously Charlie Chaplin, whose re-entry permit was revoked after he criticized the McCarran Act, the 1952 immigration law, which was essentially the immigration version of McCarthyism or the expression of that movement.

When his visa was revoked, Chaplin described his treatment as, "the object of lies and vicious propaganda by powerful reactionary groups who, by their influence and by the aid of America's yellow press, have created an unhealthy atmosphere in which liberal-minded individuals can be singled out and persecuted."

How the Democratic Party paved way for the attacks on students targeted by Trump administration

I'll conclude with a couple of points about the last 25 years, because Trump did not fall from the sky. This is a point which has been made very regularly by the *World Socialist Web Site*. The "War on Terror," which was a completely bipartisan effort, paved the way for the attacks that are being waged on Momodou, that are being waged on Mahmoud Khalil and Rumeysa Ozturk and Yunseo Chung and all the other students targeted by this administration. The Democratic Party went along with all of this, or in many cases led the way, including in 2010 when the Obama administration asked the United States Supreme Court for a ruling that advocating in support of a foreign terrorist organization, that is, speech related to a group that is on a list that's put out by the State Department of foreign terrorist organizations, can render one subject to criminal prosecution, regardless of your citizenship. And they got what they wanted.

There was also a bill, as I mentioned earlier, passed during this period, which made it illegal and rendered an individual deportable or excludable if they endorsed or espoused a terrorist view.

This is a totally bipartisan attack on free speech that is long in the making. The Obama administration kept Guantanamo Bay open and moved so many people who had been held under indefinite detention from Guantanamo to Bagram Air Force Base in Afghanistan as a blatant attempt to skirt a Supreme Court ruling that individuals detained at Guantanamo did have the right to petition American federal courts under the writ of habeas corpus.

There are cases such as the case of Jose Padilla, a US citizen who was charged under criminal terrorism statutes and was essentially disappeared and denied the right to counsel and kept without charges or without trial for an extraordinarily long time in the mid-2000s.

Some of the most notorious individuals who are leading the current crackdown on immigration were appointed by Barack Obama, including Tom Homan, Trump's immigration czar, among the most vile and reactionary members of the current administration, which is saying something. There were millions of deportations under Obama. Under the Biden administration, the right to asylum was essentially banned. We know the role played by the Biden administration in facilitating the crackdown on pro-Palestinian and anti-genocide speech.

These points are very important to make here, to understand the way to fight and the way to mobilize the population and to alert them, and to awaken in them those democratic traditions, which, yes, for all the problems in the political consciousness of the American population, still do exist.

They do not exist at all or find expression in either of the two parties. But there are tremendous opportunities, I think, for alerting people and for allowing people to understand that if somebody like Momodou, whose position in the United States was legally tenuous to start with, had the courage to stand up and oppose the genocide, despite the threats against him, and to go into court and file a lawsuit in which Donald Trump was the primary named defendant, asking for a national injunction against two presidential executive orders.

This will, as you're seeing, lead to the increased development of opposition to these policies.

Polls that are coming out now show that by two- or three-to-one margins, people oppose removing people like Momodou from the country. It is sickening to the vast majority of the population. People are extremely concerned in the United States right now about the case of an individual named Kilmar Abrego Garcia and similar individuals, who are being taken out of their homes in the United States and sent to a torture chamber in El Salvador, which is what CECOT is.

Without going on any longer, I just want to thank you again for having me. Momodou, it's great to see you again here in person, and it's been an honour to be involved in this case and to defend the principles that are involved in it. And hopefully there will be plenty of questions for us, so thank you very much.



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