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MESA's Task Force on Civil and Human Rights

Memo on Executive Order to Limit Entry of Middle Eastern Refugees and Immigrants

President Donald J. Trump signed an Executive Order on January 27th, 2017 which issued new guidance on the admission and vetting of non-citizens to the United States. Key provisions of the Executive Order include a 90-day ban on entry into the United States for all nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen; the indefinite suspension of entry into the United States of all Syrian nationals as refugees; the suspension of all refugee processing for 120 days; the introduction of new screening procedures for all visa applicants; and the suspension of the Visa Interview Waiver Program. The scope of this Executive Order applies to current green card and visa holders, but the full extent of its implementation may be subject to the outcome of impending legal and administrative challenges and changing agency interpretations of its scope.

As currently understood and implemented, the provisions of the January 27th, 2017 Executive Order pose serious challenges and burdens to many members of the Middle East Studies Association (MESA) and the communities upon which MESA focuses. These limitations on entry into the United States and enhanced screening mechanisms threaten the academic community's ability to sustain critical engagement with colleagues from the affected countries. The countries singled out by the Executive Order are all within the Middle East as defined by MESA. Their citizens have suffered enormous violence and dispossession, and the Middle East Studies academic community has both a professional and an ethical responsibility to defend their rights.

MESA's Task Force on Civil and Human Rights was established by the MESA Board in November 2016 to supplement the work of the MESA Committee on Academic Freedom (CAF) by addressing threats to the civil rights, human rights and political freedoms of the Middle East Studies community broadly defined. We condemn this Executive Order, which is discriminatory and does damage to academic institutions in the United States. We believe the Order may constitute unconstitutional discrimination in its application to lawful permanent residents (green card holders) and may violate the immigration framework established by Congress in imposing a blanket ban on entry based on national origin. We call on all branches of the federal government to take every available step to suspend and repeal the Order. We also express our support for relevant legal challenges to the implementation of this Order such as those brought by the American Civil Liberties Union.

The Task Force is issuing this statement to alert the Middle East Studies community to the probable consequences of the Executive Order and to recommend appropriate steps to take in response by individuals and associated institutions.

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The new Executive Order includes the following provisions, among others, that may have consequences for those in the field of Middle East Studies:

- **The suspension of entry to the United States for all nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen for 90 days.** This suspension will make it impossible for students or scholars from these countries to travel to the U.S. for the next three months unless they hold an American passport. These provisions will likely result in the cancelation of travel for academics and students from the listed countries who had already obtained temporary visas, immigrant visas or green cards prior to the Executive Order but had not yet entered the country or happened to be outside of the country when the Order was signed. We have received numerous reports of individuals traveling on valid visas or green cards who were en route to the United States when the Order went into effect and are now stranded at airports unable to gain entry. Despite the issuance of orders by District Courts in New York and Virginia to suspend aspects of the implementation of the Executive Order affecting refugees and green card holders who have been detained at airports, the Order remains in effect for all of those outside of the country and those traveling on non-immigrant visas while legal challenges continue. The Department of Homeland Security has issued conflicting guidance as to the continuing impact of the Order on green card holders. Academic institutions should prepare to make accommodations for students, staff and faculty affected by this suspension of entry and closely follow changes in the interpretation of the Order as legal challenges and agency reinterpretations continue to unfold.
- **Any nationals of the seven listed countries (who are not also U.S. citizens) currently present in the U.S. should avoid foreign travel** as they will not be readmitted to the United States, even if they hold valid visas or green cards (though there is now some question as to whether the government will continue to implement the Order against green card holders). This suspension of entry applies to dual nationals (who are not U.S. citizens) who might seek to travel on an alternate passport into the United States but would be barred from doing so if they are also a national of one of the seven countries listed. Because of the administrative uncertainty surrounding the implementation of the Executive Order, we recommend that nationals of these countries err on the side of caution. Academic institutions should prepare to support faculty, staff and students legally remaining in the United States until the regulations are clarified.
- **Those nationals from the seven listed countries (who are not also U.S. citizens) currently present in the U.S. with valid visas may be affected by the Order when they seek to renew their visas.** The Order refers to suspension of entry of nationals from these countries (rather than suspension of visa processing) in Section 3(c) but

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elsewhere, in Section 3(g), suggests that visas and immigration benefits are also blocked for nationals of these countries. Because the language of the Order is ambiguous, academic institutions should prepare to support affected faculty, staff and students legally in the United States who may be left unable to renew their visas.

- **Applications for admission to American universities** at the undergraduate and graduate level will be disrupted by the Executive Order. During the period that it is in force, this entry ban will adversely impact U.S. universities by depriving them of the opportunity to admit students from these countries and by denying them the benefits of scholarly contributions from academic visitors and faculty who would have presented research or taken up teaching positions on their campuses. We advise academic institutions to avoid compromising their admissions standards in anticipation of new immigration policies and to continue to solicit and process applications from the affected countries. We also advise academic institutions to maintain their hiring standards and consider qualified scholars and researchers from the affected countries as candidates in competitive application processes for faculty hiring and selection of post-doctoral scholars.
- **The suspension of all refugee admissions to the United States for 120 days (and the significant reduction in refugee admissions that will go into effect thereafter)** will undermine the ability of refugee students to study and refugee scholars to serve as faculty and researchers at American universities during a period of four months (which may be further extended). This will affect efforts by many academic institutions to assist scholars at risk through temporary academic appointments. The Executive Order appears to offer the possibility for review of applicants on a case-by-case basis. We advise academic institutions to anticipate such appeals in order to continue their important efforts to assist scholars fleeing dangerous conditions.
- **The indefinite suspension of the admission of Syrian refugees** cuts U.S. universities off from the valuable benefits to intellectual life, research, teaching and scholarship that Syrian refugee students and academics have contributed to American campuses. The suspension further undermines the educational and professional prospects of Syrians who have escaped the violence in their home country. It also threatens the efforts by multiple institutions to provide academic opportunities for Syrian refugees. We advise academic institutions to develop alternative ways to assist Syrian refugees for the duration of the ban and to create academic opportunities for this population.
- **The new criteria by which to screen individuals seeking admission to the United States** include prohibiting entry to those who: “would place violent ideologies over American

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law; engage in acts of bigotry or hatred or those who would oppress Americans of any race, gender or sexual orientation.” An earlier draft of the Order listed “violent religious edicts” rather than “violent ideologies” and a proposal from an advisor to the then-President-elect in November 2016 explicitly referenced “jihad” and “Shariah.” Under the circumstances, there is reason to fear that these new screening criteria may be applied disproportionately to Muslim visa applicants, which may affect the ability of students and scholars from any of the Muslim-majority countries of the Middle East to travel to the United States to take up positions as students, researchers, visiting scholars or faculty members at U.S. universities. The difficulty of establishing the nature of beliefs or attitudes through the visa screening process makes it likely that the screening will be applied widely with possible draconian effects. It also raises concern that misinformed understandings of the Islamic faith will be used against Muslims. As the nature of the implementation become clear, academic institutions should work to prepare applicants for the screening process.

- **The indefinite suspension of the Visa Interview Waiver Program**, which previously exempted some visa renewal applicants from in-person consular interviews, applies to all U.S. visa applicants regardless of nationality or citizenship. This change will likely result in a significant increase in wait times for visa processing, which may affect the ability of current international students to renew their visas within a timeframe that would enable them to continue their studies uninterrupted. This change may also affect some visa renewals for foreign nationals on temporary or immigrant visas currently teaching at U.S. universities. These delays will likely be further exacerbated due to a federal government hiring freeze that will constrain resources available for visa processing and other immigration services, and the introduction of new, as yet unspecified screening standards for visa processing that are now required under the Order. Academic institutions should anticipate such turbulence and delays and offer all needed support to students and faculty going through the process.
- **The impact of the Executive Order on campuses across the country can be somewhat mitigated** by university administrators who adopt measures to support affected faculty, staff and students. We advise university administrators to maintain firm commitment to the privacy of personal records, including immigration information, of students and personnel. Under federal law, the enforcement of immigration law rests with federal immigration authorities. Accordingly, campus police may be directed not to participate in immigration enforcement and we advise universities to adopt guidelines to this effect. Finally, the Order may limit the ability of affected individuals to comply with campus procedures and deadlines as they grapple with visa status and entry obstacles. We advise university administrators to interpret all relevant requirements flexibly to

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maximize the ability of affected individuals to continue their studies and/or employment despite the implementation of the Order.

- **The provision for the possible addition of further countries to the list of those banned from entry** is contingent on determinations by the Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, as to individual countries' cooperation with U.S. requirements for screening visa applicants. The addition of further countries to the entry ban would occur within 90 days (that is, after a 30-day period during which the U.S. government will determine what additional information is required and a 60-day period during which governments that do not supply such information will be given an opportunity to comply). This provision adds further uncertainty to the ability of universities to admit foreign students or invite foreign scholars to their campuses. In light of the apparent priority given to entry restrictions applicable to the countries of the Middle East, this uncertainty may disproportionately affect the field of Middle East studies. It may be prudent for academic institutions to advise all students, visitors and faculty from Muslim-majority countries who are currently in the United States on valid visas or green cards to avoid unnecessary foreign travel until there is more clarity concerning the likelihood of entry bans against additional countries.

The MESA Task Force on Civil and Human Rights will closely follow the interpretation and application of the January 27th, 2017 Executive Order and provide updated information and guidance as they become available.

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