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## MESA's Task Force on Civil and Human Rights

### **Memo on Executive Order to Restrict Entry of Individuals from Designated Middle Eastern Countries**

On Monday, March 6, 2017, President Donald J. Trump signed a [new Executive Order](#) (EO) that restricts entry into the United States for 90 days for all nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen. The new EO revokes the previous executive order (Executive Order 13769) issued on January 27, 2017, and makes several significant changes to the previous order's restrictions on travel and entry into the United States. The new Executive Order, written to "expressly exclude from the suspensions categories of aliens that have prompted judicial concerns" and to terminate ongoing litigation that led federal courts to suspend the operation of the January 27<sup>th</sup> Order, will become effective on March 16, 2017.

**The provisions of the March 6<sup>th</sup>, 2017 Executive Order continue to pose serious challenges and burdens to many members of the Middle East Studies Association (MESA) and the communities upon which MESA focuses.** These restrictions 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 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 in line with the ongoing challenges to the previous order, such as those brought by the American Civil Liberties Union.

The Task Force is issuing this updated statement, which revises our earlier [statement of January 29<sup>th</sup>](#), 2017, to alert the Middle East Studies community to the probable consequences of the March 6<sup>th</sup>, 2017 Executive Order and to recommend appropriate steps to take in response by individuals and associated institutions.

The new EO applies to foreign nationals from the designated countries who are: outside of the U.S. when the order becomes effective, did not have a valid visa at 5pm EST on January 27, 2017 and do not have a valid visa on March 16, 2017. The new EO also suspends all travel of refugees into the United States for 120 days beginning March 16, 2017.

Unlike the earlier EO, the new executive order does not apply to green card holders (lawful permanent residents) or to dual nationals from one of the designated countries traveling on a passport from a non-designated country or to nationals of Iraq. In addition, unlike the earlier

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executive order, the new EO does not revoke visas issued before March 16, 2017. Further, anyone whose visa was revoked or canceled as a result of the previous executive order is now entitled to a travel document confirming that they are permitted to travel to the U.S. and seek entry.

The new EO also authorizes a case-by-case waiver process after it goes into effect for individuals in a variety of circumstances. One basis for seeking such a waiver that may be especially important for MESA members is the potential eligibility of a foreign national who had previously been admitted for work or study in the U.S. and now seeks to reenter to resume that activity. There are several other circumstances contemplated (in Section 3(c) of the new EO) that may also be applicable to MESA members. However, there is no guarantee that a waiver will be issued for an individual in any of the enumerated circumstances for which a waiver may be considered.

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

- **The restriction of entry to the United States for all nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen for 90 days.** This restriction 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 or green card, are a dual national (with a second nationality from a non-designated country), or have a valid visa that was issued prior to March 16, 2017. 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 interpretations begin to unfold.
- **Any nationals of the six listed countries (who are not also U.S. citizens, green card holders or dual nationals) currently present in the U.S. on valid visas should avoid foreign travel** as they may face challenges to readmission to the United States. 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 more is learned about the treatment of valid visa holders who seek readmission during the period of entry restriction.
- **Those nationals from the six listed countries (who are not also U.S. citizens, green card holders or dual nationals) 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 restriction of entry and travel of nationals from these countries (rather than suspension of visa processing) but there is no provision to suggest that nationals of these countries will be able to seek visa renewals during the period of restriction of entry. 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.

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- **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 Order will adversely impact U.S. universities by restricting their 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 may also 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 new criteria by which to screen individuals seeking admission to the United States** include identifying individuals who: "support terrorism, violent extremism, acts of violence toward any group or class of people within the United States, or who present a risk of causing harm subsequent to their entry." This language replaces the screening language contained in the previous order that would have prohibited entry to those who "would place violent ideologies over American law; engage in acts of bigotry or hatred or those who would oppress Americans of any race, gender or sexual orientation." A leaked draft of the January order had earlier 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." In light of this background, there is reason to fear that these new screening criteria may be applied disproportionately to Muslim visa applicants, which may affect their ability 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 broadly with possible draconian effects. It also raises concern that misinformed understandings of the Islamic faith will be used to restrict the entry of Muslims into the United States. As the nature of the implementation of the new screening procedures becomes clear, academic institutions should work to prepare applicants for the screening process.

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- **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 (carried over from the earlier order) 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. 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 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 70 days (that is, after a 20-day period during which the U.S. government will determine what additional information is required and a 50-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 to avoid unnecessary foreign travel until there is more clarity concerning the likelihood of entry bans against additional countries.

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The MESA Task Force on Civil and Human Rights will closely follow the interpretation and application of the March 6<sup>th</sup>, 2017 Executive Order and provide updated information and guidance as they become available.

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