



**Middle  
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31 July 2023

Mr. Alejandro Mayorkas  
Secretary  
Department of Homeland Security  
Washington DC  
alejandro.mayorkas@hq.dhs.gov

Mr. Anthony Blinken  
Secretary  
Department of State  
Washington DC  
secretary@state.gov

Dear Secretary Mayorkas and Secretary Blinken:

We write on behalf of the Middle East Studies Association of North America (MESA) and its Committee on Academic Freedom in order to express our concern regarding the Memorandum of Understanding (MOU) recently concluded between the United States and Israel concerning Israel's admission to the U.S. Visa Waiver Program (VWP). Many MESA members conduct research or engage in scholarship and study that requires travel to Israel and the Occupied Palestinian Territory (OPT). We therefore write out of concern that these members, whether students, faculty or researchers, may face discrimination and exclusion under the terms of the MOU.

We have reviewed the version of the MOU dated 19 July 2023, recognizing that an official version is yet to be published, together with the voluntary reporting portal and the Israeli government website containing instructions on how to apply for entry to Israel and the OPT. We are deeply concerned that the provisions of the MOU may negatively impact U.S. citizens and nationals seeking entry to Israel or the OPT, especially Palestinian-Americans, Arab-Americans and Muslim-Americans, as well as Americans of other backgrounds who wish to travel to Israel or the OPT for study or research. There is good reason to expect that, on illegitimate grounds that the U.S. government will be unable to adequately assess, review or challenge, U.S. citizens and nationals may be denied entry because of their ethnic, national or religious identity, or because they have expressed certain views regarding Israeli policies. Such grounds may include alleged Israeli security concerns and alleged violation of Israeli laws against advocacy of the Boycott, Divestment and Sanctions (BDS) campaign. Tolerating such denials of entry would constitute a violation of the constitutional right of US citizens and nationals to freedom of speech and expression, and would also infringe the principles of academic freedom.

MESA was founded in 1966 to promote scholarship and teaching on the Middle East and North Africa. The preeminent organization in the field, the Association publishes the *International Journal of Middle East Studies* and has nearly 3000



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members worldwide. MESA is committed to ensuring academic freedom and freedom of expression, both within the region and in connection with the study of the region in North America and elsewhere.

We are most concerned about the following four issues with the MOU and the initiation of a trial period for a VWP with Israel:

First, the MOU adopts existing Israeli policy for differential treatment of certain categories of U.S. citizen travelers, subjecting those who hold a Palestinian Authority identity card to a variety of separate requirements and permissions while U.S. citizens not on the Palestinian population registry will benefit from a standard waiver of such restrictions to entry. This means that, by definition under the MOU, Israel will be entitled to impose additional conditions on the entry of some American students and scholars to Israel for short-term visits, whereas no comparable restrictions are imposed on Israeli citizens' access to the U.S. These discriminatory restrictions will adversely affect opportunities for access to Israel for research and scholarly exchange from which our members ought to be entitled to benefit. We therefore believe that the MOU should be revised to explicitly rule out exclusion on such grounds.

Second, the MOU allows a discriminatory regime to govern access to Gaza in ways that would adversely impact our members. The arbitrary restrictions on U.S. citizens' access to Gaza under the MOU make it nearly impossible for students and scholars to travel to that territory, impeding ordinary scholarly exchanges and conduct of short-term research typically made possible under a VWP. Given that access to Gaza is directly controlled by Israel, whose citizens will benefit under the MOU from unfettered access to the United States, restrictions and exclusion from Gaza should be lifted as a condition of reciprocity. Moreover, access to Gaza is also subject to restriction and regulation based on the national origin or religion of U.S. citizen academics and students seeking to travel. We are deeply concerned that these restrictions will impede the academic freedom of a subset of students and scholars seeking to study and conduct research in a territory administered by Israel, with no reciprocal restrictions on Israeli academics in their access to territories controlled by the U.S. We urge the Biden administration to address the non-reciprocal character of the MOU by requiring that Israel lift the provisions pertaining to access to Gaza as well as access to Israel for American citizens with family ties to Gaza.

Third, we are concerned that the MOU applies only to Israeli citizens, rather than to nationals as provided under federal statute. We believe that this amounts to excluding scholars and students who are Palestinian residents of East Jerusalem – and who are issued Israeli travel documents and should qualify as nationals as defined by the VWP statute – from benefitting from VWP access to the United States. Given the clear language of the relevant statute, the omission of the term “nationals,” which would encompass East Jerusalem’s Palestinian



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residents, imposes arbitrary, discriminatory and impermissible restrictions on members of MESA and other scholars and students who wish to access the United States to benefit from scholarly exchanges and short-term research visits, including attendance of MESA's annual meeting, the largest international gathering of scholars in the field of Middle East studies.

Finally, and perhaps most importantly, given Israel's long and well-documented record of excluding Palestinian-Americans, Arab-Americans, Muslim-Americans and other American citizens based on suspected pro-Palestinian sympathies or activism on alleged "security" grounds, we are deeply concerned that the academic freedom of many American scholars in the field of Middle East studies will be adversely impacted by the ongoing imposition of arbitrary exclusion from Israel under the terms of the MOU.

As it stands, the MOU does not explicitly require as part of the agreement on reciprocity that arbitrary use of "security" as a basis for exclusion be ended. While legitimate and evidence-based security concerns, matched with due process, may be a permissible basis for both countries to retain rights of exclusion, Israel's practice of exclusion without either evidentiary basis or procedural protections must be terminated. The practice of using national or religious origin or protected speech as a proxy for exclusion amounts to impermissible discrimination and violations of the right to free speech, which adversely impacts the academic freedom of U.S. students and scholars.

We note that Israel currently treats human rights scrutiny of its practices – including by leading human rights organizations internationally and within Israel – or activism on behalf of Palestinian rights as a "security" threat or evidence of antisemitism. With the potential admission of Israel to the VWP, there is every risk that Israeli officials will deny American scholars and students entry to Israel on the basis of spurious allegations of antisemitism, which will result not only in arbitrary restrictions on scholarly travel but also taint those accused. We therefore urge the Biden administration to clarify that the U.S. National Strategy to Counter Antisemitism does not extend the definition of antisemitism to criticism of Israeli state policies or actions. The MOU must also make it clear that criticism of Israeli state practices or actions is protected by the rights to freedom of speech, freedom of expression and academic freedom, and cannot serve as a basis to exclude U.S. citizens from the VWP.

In light of our concerns, we ask that you immediately suspend the initiation of a trial period for the admission of Israel to the VWP and revise the MOU to explicitly provide for protections against discrimination based on national or religious origin or protected speech activities. We further urge you to take measures to ensure that all U.S. citizens and nationals are given equal access to the benefits of visa-free travel to Israel and the OPT before taking any additional steps towards the inclusion of Israel in the VWP program.



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We look forward to your response.

Sincerely,

A handwritten signature in black ink that reads 'Eve M. Troutt Powell'.

Eve Troutt Powell

MESA President

Professor, University of Pennsylvania

A handwritten signature in black ink that reads 'Laurie A. Brand'.

Laurie Brand

Chair, Committee on Academic Freedom

Professor Emerita, University of Southern California

cc:

Senator Gary Peters

Chair, Homeland Security and Governmental Affairs Committee

United States Senate

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