

Dear Secretary Blinken and Secretary Mayorkas,

Ensuring the security and dignity of every American citizen and resident – both at home and abroad – is one of the most important responsibilities of the United States and a sacred duty entrusted to our elected officials. With this in mind, we, the undersigned Members of Congress, write to you to express our deep concern regarding continuing reports of discriminatory treatment of American passport holders by the Government of Israel.

In February of this year, Israel's Coordinating Office for Government Affairs in the Territories (COGAT), the Israeli Defense Ministry's military occupation administration responsible for issuing orders and policies concerning entry of foreign nationals to the occupied Palestinian territories, [published a 97-page ordinance](#) entitled **Procedure for Entry and Residence for Foreigners in Judea and Samaria Area** that further complicates and formalizes previous written and unwritten entry restrictions and requirements for Americans wishing to visit, do business, reunite and reside with their Palestinian families, work or volunteer in those parts of the occupied West Bank under Palestinian Authority (PA) civil and security administration, or study or teach at Palestinian academic institutions. The new entry rules represent a clear Israeli intention to restrict the entry of certain American travelers seeking entry to the occupied West Bank and keep data on any vested or non-vested property they may have there. In contrast, Americans seeking to visit, do business, reunite or reside with Israelis residing in illegal settlements in the occupied West Bank do not face similar entry restrictions. Such disparate treatment is particularly perplexing given that Israel is seeking admission to the U.S. Visa Waiver Program (VWP) which requires Israel to extend the same treatment to American passport holders as Israeli nationals receive at U.S. ports of entry.

This is not a new issue. In 2013, 16 Representatives sent then-Israeli Ambassador Michael Oren a letter decrying the fact that Israel is “disproportionately singling out, detaining and denying entry to Arab and Muslim Americans,” and urging Israel to “ensure that all American citizens are treated equally at Israeli ports of entry.”

The Department of State's International Travel Information for Israel and the Occupied Palestinian Territory contains ample documentation of the Israeli government's discriminatory entry regime. It notes that U.S. citizens, especially those on the Palestinian Population Registry, are not allowed to freely enter Israel and/or enter via the primary airport, Ben Gurion Airport. It specifically states that “Individuals registered in the Palestinian Authority population registry, including those whom Israeli authorities believe may have a claim to a Palestinian ID card, are prohibited from entering Israel without advance permission, regardless of other nationality, including U.S. citizenship, or place of residence.” Additionally, “Some have been allowed to enter Israel, but told they cannot depart Israel via Ben Gurion Airport without special permission, which is rarely granted. Some families have been separated as a result, and other travelers have forfeited airline tickets causing great financial hardship.” This is clearly ethnically-based discrimination.

In addition, the State Department's International Travel information notes that Israel also often denies entry to U.S. citizens who refuse to give access to their social media and email accounts for its purpose of attempting to determine their ethnicity, religion, and political viewpoint. Specifically, the State Department says that "Israeli security officials have also on occasion requested access to travelers' personal e-mail accounts or other social media accounts as a condition of entry. In such circumstances, travelers should have no expectation of privacy for any data stored on such devices or in their accounts."

The current government of Israel's discriminatory policies place the country well outside the requirements incumbent on all countries to join the Visa Waiver Program, which include, among other things, having "reciprocal privileges to citizens and nationals of the United States." As Yale law professor Muneer I. Ahmad notes, this language "implies that visa-free travel must also be travel free of discrimination, because citizenship, by its liberal meaning, does not permit differentiation among its members, the language of the statute necessarily requires the extension of reciprocal privileges to all U.S. citizens." In other words, unless the Israeli government ends all ethnically, racially, religiously, and politically based discrimination against American citizens at its borders, it is ineligible for the Visa Waiver Program, regardless of any purported "justification." Israel's inclusion in the program would represent an endorsement of travel discrimination against American citizens by the federal government.

Additionally, in the newly announced regulations mentioned above, the Israeli government has explicitly placed a quota on the number of visas it would provide to U.S. (or other foreign) professors to teach at Palestinian universities, limits on the subjects that the professors are able to teach, and requires explicit Israeli consulate approval of their visa to teach. The Israeli government has also set quotas for how many foreign students and international volunteers with non-governmental organizations (NGOs) will be admitted as well as their explicit political orientations as determined by the Israeli government. The continued enforcement of these measures with regards to U.S. citizens also clearly disqualifies Israel for participation in the Visa Waiver Program pursuant to the reciprocal privileges requirement.

In 2014, Congress passed the United States-Israel Strategic Partnership Act of 2014, which states that Israel can only gain entry to the Visa Waiver Program "when Israel satisfies, and as long as Israel continues to satisfy, the requirements for inclusion in such program specified in such section." The clear legislative intent of this law is to protect U.S. Citizens from discrimination by ensuring that Israel is not singled out for special treatment and allowed to join the Visa Waiver Program while continuing its discriminatory policies.

Despite the above-mentioned Congressional letter and law, Israel's denial of entry policies continue, and have even extended to Congress members. In 2016, Israel denied entry to the besieged Gaza Strip to three Members of Congress. In 2019, Israel barred two Members of Congress from entering any part of Israel or the OPT. Israel's policies denying entry even to Congress members on official business make it more difficult, if not practically impossible, for Congress to provide effective oversight of its appropriations.

In light of the facts that: 1) Israel pursues discriminatory and racist entry policies toward U.S. citizens based on their ethnicity, religion, and/or freedoms of expression and association; 2) Israel routinely denies entry to U.S. citizens as acknowledged by the State Department; and 3) Congress has passed a law stating that Israel may be admitted to the Visa Waiver Program only by meeting and maintaining program requirements, we request the following information from you before any decision is made to admit Israel into the Visa Waiver Program and no later than May __ 2022:

1. In the State Department's assessment, does Israel currently meet the legal requirements for inclusion in the Visa Waiver Program, yes or no? Please explain the rationale for this assessment.
2. In the Department of Homeland Security's assessment, does Israel currently meet the legal requirements for inclusion in the Visa Waiver Program, yes or no? Please explain the rationale for this assessment.
3. Has the State Department and/or DHS advised Israel on how it might meet the reciprocity requirement for admission to the Visa Waiver Program? Has that advice addressed its discriminatory entry policies towards U.S. citizens based on their ethnicity, religion and/or freedoms of expression and association? If so, what measures has State and/or DHS recommended that the Israeli government take?
4. Does the United States vet or in any way restrict the academic materials or curricula of J1 visa applicants wishing to teach in the U.S.? If so, please describe the nature of any vetting or restrictions.
5. Does the Israeli government provide the U.S. with information on the number of Americans it has denied visas to each year? If so, what is the total number of visa denials desegregated by point of entry, what is the overall rate of the visa denials and on what basis does Israel deny visas to American citizens?
6. What steps are the Department of State taking to ensure compliance with the requirements of the United States-Israel Strategic Partnership Act of 2014 regarding Israel's eligibility for the Visa Waiver Program?
7. What benchmarks will be/are being used to determine whether the Israeli government is treating all U.S. citizens regardless of race, ethnicity, religion, national origin, political beliefs or registration in the Palestinian population registry equally before the law at Israeli-controlled ports of entry?
8. What types of information about American citizens and permanent residents will be shared with the government of Israel under the new information sharing agreement and under what circumstances is the U.S. required to provide such information to Israel?
9. If Israel manages to lower its rate of rejection for entry for its citizens to meet the requirements laid out for the Visa Waiver Program, but continues to prevent Americans on the Palestinian population registry from using Ben Gurion Airport or require special conditions for their use, would the Department of State and Department of Homeland Security support its inclusion in the Visa Waiver Program, yes or no?

Thank you for your consideration of these important issues. We look forward to your response.

Sincerely,

[NAME]

Member of Congress