

ARAB AMERICAN INSTITUTE

ADMITTING ISRAEL INTO THE U.S. VISA WAIVER PROGRAM

Background

The Visa Waiver Program (VWP) authorizes the Attorney General and Secretary of State to allow temporary visitors from certain countries to come to the United States without nonimmigrant visas. Central to the Visa Waiver Program is a provision that guarantees reciprocal travel privileges for American citizens seeking to visit that country.

Currently, there is both a congressional and joint Department of Homeland Security and Department of State efforts to admit Israel into the Visa Waiver Program. There are a total of three pieces of legislation (S. 462, S. 266 and H.R. 300) in Congress serving either as stand-alone bills or that include provisions which would authorize Israel's admission into the program: Section 9 of S. 462 "United States-Israel Strategic Partnership Act of 2013," Section 2(c)5 of H.R. 300 "Visa Waiver for Israel Act of 2013," and Section 3(2) of S. 266 "Visa Waiver for Israel Act of 2013."

Most recently, the U.S.-Israel Strategic Partnership Act (H.R. 938) coauthored by Reps. Ileana Ros-Lehtinen (R-FL) and Ted Deutch (D-FL) passed the House on March 5, 2014 without an authorization admitting Israel into the Visa Waiver Program, while the Senate version that currently includes Israel's authorization is stalled. The Department of State recently committed to creating a joint U.S.-Israeli working group with DHS to help Israel move toward eligibility for the Visa Waiver Program.

The Department of State also announced the creation of a joint U.S.-Israeli working group to address refusal rates of young Israelis seeking U.S. visas. According to the State Department, the working group would work to "help Israel move toward eligibility for the Visa Waiver Program."

The Problem

We oppose this legislation given Israel's recognized discriminatory practices against Arab Americans and advocates for Palestinian rights at its borders and checkpoints. In particular, three of the bills (S. 462, S. 266, and H.R. 300) include what is known as exemption language. This language in the bills exempts Israel from the waiver requirement by lessening the reciprocity requirement for Israel to be designated as a country in the "Visa Waiver Program" under Section 217 of the Immigration and Nationality Act, 8 U.S.C. § 1187. Given Israel's long-held practice of detaining and denying entry to American citizens predominantly of Arab descent at the border - a practice acknowledged by the U.S. Department of State - this exemption will implicitly sanction the discriminatory treatment of U.S. citizens traveling to Israel and Palestine.

Instead of insisting on strict reciprocity, Israel would be admitted into the waiver program when the Secretary of Homeland Security certifies that the Israeli government has made "every reasonable effort, without jeopardizing [Israel's security] to ensure that reciprocal travel privileges are extended to all United States citizens." This is a stark departure from the general principle of reciprocity in travel privileges, which we apply to all other nations: the notion that we will make it easy for nationals of other countries to visit the United States if those other countries extend that same privilege, and properly respect the rights, of American citizens traveling to those countries. Instead of requiring Israel to actually respect those rights, we simply would require them to make a reasonable effort.

Moving Forward

- Given Israel's discriminatory practices, do not admit Israel into the U.S. Visa Waiver Program.
- Press Congressional leaders to echo the Department of State and Department of Homeland Security's condemnations of unequal treatment of Arab Americans and other Americans at Israel's border and checkpoints.
- Ensure that recent State Department proposals initiated by Congress to address refusal rates of U.S. visas for young Israelis, including the creation of a joint U.S.-Israeli working group, prioritize ending Israel's discriminatory practices against American citizens.
- Continue to educate Members of Congress and their staff on this important issue and express deep concern over any legislation that prioritizes the interests of a foreign government over their own constituents