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Three Things Trump's Ban Gets Wrong

Here's Why Donald Trump's Immigration Executive Order Misses the Mark

By Jared Genser

President Donald Trump ignited a firestorm of criticism worldwide Friday after he signed an executive order banning citizens from seven majority-Muslim countries from entering the United States for the next 90 days.

While he's right that the nation's immigration system needs to be tightened up, his order seriously misses the policy mark because it is built on three faulty assumptions about the immigration policy and the terrorist groups that threaten us.

Trump's ban, which follows up on a pledge he made during his campaign to institute "extreme vetting" to weed out potential terrorists from visa applicants, initially covers some 134 million people who are citizens of Iran, Iraq, Libya, Somalia, Syria, Sudan and Yemen, but a further review is expected to expand this list. The order also indefinitely banned the admission of Syrian refugees, stopped admissions of all refugees to the United States for four months as the application and screening process is reviewed, and reduced the 2017 cap on refugee admissions to 50,000 from the 110,000 cap previously established by then-President Barack Obama. And it mandated the establishment of new anti-terrorism screening process to be developed across all immigration programs.

The order wreaked havoc worldwide on Saturday as airlines, U.S. law enforcement, and foreign capitals sought to understand and respond to the new policies, which banned citizens of all these countries from entering the United States, even if they had a valid immigration status. Trump vociferously rejected criticism of the order insisting it did not amount to a "Muslim ban" like the one he had called for in December 2015. One federal judge in New York issued a nationwide order blocking the deportation of people who landed after the order came into effect and judges in Virginia and Massachusetts issued restraining orders regarding the executive order.

Like all sovereign nations, the United States has a right to control its borders. Immigration is a privilege and not a right and our government has the legal authority to define the requirements for admission to the United States, providing it is consistent with our Constitution. In signing his order, Trump stated its purpose is to "protect the American people from terrorist attacks by foreign nationals admitted to the United States." Not only is this a legitimate goal, but in the oath he just swore on Inauguration Day, Trump swore to defend the Constitution "against all enemies foreign and domestic."

Nevertheless, this new policy fails to do that because of three underlying erroneous assumptions.

First, according to an analysis by the Cato Institute, between 1975 and 2015, foreign nationals from the seven banned countries killed exactly zero Americans on U.S. soil. Yet none of the four countries from which the 9/11 terrorists originated – Saudi Arabia, Egypt, United Arab Emirates, and Lebanon – are subjected to travel ban. That is ironic given that the order cites the serious mistakes that led to visas being given to the 9/11 attackers as the primary justification for this new order. In fact, it turns out, every lethal terrorist attack on U.S. soil in the last 15 years has been carried out by either American citizens or green card holders.

Second, the focus on stopping refugee flows as a means to protect the United States from terrorist attacks is deeply misplaced. Among the more than 750,000 refugees resettled in the United States since 9/11, the number that have been implicated in terrorist-related activities can be counted on one hand. This is because refugees already undergo intensive vetting that often takes two or more years before being admitted to the United States. It is important to remember that refugees are people who have demonstrated a well-founded fear of persecution if they were to be return to their home countries. For the U.S. to offer protection to such people speaks to our values as Americans. But the U.S. is far from generous in its refugee admissions. In 2016, the United States admitted 85,000 refugees, which was less than 0.4 percent of the some 21.3 million refugees worldwide. Of these, about 12,500 came from Syria, which was less than 0.2 percent of the 4.8 million Syrian refugees outside of Syria. Importantly, there is no evidence whatsoever that there are any terrorists among the very small number of Syrian refugees permitted into this country.

And third, although Trump said his new policy was going to "keep radical Islamic terrorists out of the United States," Secretary of Defense James Mattis previously expressed serious concern about overbroad targeting of Muslim immigration, saying during the campaign that Trump's talk prompted U.S. allies to think "we have lost faith in reason" and is "sending shockwaves through this international system." Although the entry ban is focused on seven Muslim-majority nations rather than all Muslims, as a practical matter it is fanning the flames of xenophobia and Islamophobia both at home and abroad. It remains to be seen if the ban will be found to be constitutional. And there will undoubtedly be unintended consequences of this policy for

relations with these governments, for U.S. visa holders and for how the policy may be used by terrorist groups.

Despite the uproar over Trump's order, our country actually does need improved visa security and the implementation of national screening procedures.

Although the State Department makes decisions on visa issuance, the Department of Homeland Security shares responsibility for completing security vetting for applications. This has created a natural tension given that the State Department seeks to facilitate tourism and commerce, and so is not solely focused on protecting our country. In addition, visa security procedures are actually applied neither to all types of visa categories nor to citizens of the 38 countries where the United States doesn't require a visa, except for those on watch lists.

While there has been deep and serious consternation over Trump's order, with the benefit of hindsight, some good advice from Mattis, and a desire to achieve results, when the 90-day review is completed hopefully the president will change course.

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