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Immigration and Refugee Policy in Donald Trump's America

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Introduction by Joshua Rovner, SMU

Donald Trump made immigration and refugee policy central to his presidential campaign. According to Trump, radical Islamic extremism and the massive refugee flows out of the Middle East combined to created unacceptable risks. Following the December 2015 mass shooting in San Bernadino, California, the Trump campaign called for "a total and complete shutdown of Muslims entering the United States until our country's representatives can figure out what is going on."[1] Trump insisted that his proposal would buy time to review and improve the process for screening new arrivals. He mocked the idea that U.S. procedures for vetting refugees were sufficient to stop terrorists from entering U.S. soil, and he promised to take swift action upon entering office.

Trump tried to keep that promise in late January, issuing an executive order that barred immigration from seven mostly-Muslim states, and suspended the refugee program for 120 days. Syrian refugees were banned indefinitely. Intense opposition led to a flurry of legal challenges to the order, and in early February a federal judge blocked implementation. The administration subsequently crafted a new executive order that was released on March 6, but that too has been blocked in court. As of this writing, U.S. policies remain unchanged, though it is clear that the administration is committed to much stricter procedures and that the controversy is far from over.

Questions about immigration and refugees involve politics, economics, and a host of social and cultural issues. This roundtable focuses on the security implications of the Trump administration's policy. This question is particularly important given that the president has explicitly framed his executive orders as necessary to preserve national security. None of the participants agrees.

Terri Givens, an expert on immigration and identity politics, begins the roundtable with an ominous discussion Trump's historical amnesia. The United States spent many years trying to overcome the disastrous legacy of the old quota system that discriminated against certain nationalities and religions. According to Givens, Trump is backtracking for no good reason. There is no obvious need for radical changes to existing policies or procedures, which are sufficiently rigorous to preserve security without sacrificing basic principles of openness to immigrants and sanctuary for those in need. She also goes beyond the objective costs and risks of Trump's proposals, arguing that they violate America's moral and humanitarian obligations.

James Hollifield, a longtime scholar of the politics of immigration, notes that policy choices involve questions about tangible interests (security and economics) and powerful symbols (identity and nationalism). Trump's symbolic rhetoric has energized his core supporters, even though the security and economic arguments are weak, and the resulting policies are counterproductive. They may also prove to be self-defeating, Hollifield writes, because they will make it hard for Trump to grow his constituency beyond the base. This will make it harder to push through the rest of his policy agenda.

Assaf Moghadam, one of the leaders of the new generation of terrorism scholars that emerged after September 11, concludes the roundtable by assessing Trump's policy against the requirements of counterterrorism. An effective strategy would rely on careful efforts to discover real threats without tarring whole populations. Such

[1] "Donald J. Trump Statement on Preventing Muslim Immigration," 7 December 2015; https://www.donaldjtrump.com/press-releases/donald-j.-trump-statement-on-preventing-muslim-immigration

a strategy would also cultivate allies, encouraging their cooperation without increasing their suspicions of U.S. motives. Trump's policy fails on both fronts.

Participants:

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Terri Givens is Provost and Professor at Menlo College in the San Francisco Bay Area. She was previously a Professor in the Government Department at the University of Texas at Austin where she also served as Vice Provost for International Activities and Undergraduate Curriculum. She received her Ph.D. from the University of California, Los Angeles, and her B.A. from Stanford University. Her academic interests include radical right parties, immigration politics, and the politics of race in Europe. She has conducted extensive research in the European Union, particularly in France, Germany, Austria, Denmark and Britain. She is the author/editor of several books on immigration policy, European politics and security, including *Voting Radical Right in Western Europe, Immigration Policy and Security* and *Immigrant Politics: Race and Representation in Western Europe.* Her most recent book is *Legislating Equality: The Politics of Antidiscrimination Policy in Europe* (Oxford University Press, May 2014).

James F. Hollifield is Professor of Political Science and Director of the Tower Center for Political Studies at SMU. A member of the Council on Foreign Relations and Global Fellow at the Woodrow Wilson International Center in Washington, DC, he has worked as a consultant for a variety of governmental and intergovernmental organizations, and has published widely on international political and economic issues, including *Searching for the New France* (Routledge, 1990) with George Ross, *Immigrants, Markets, and States* (Harvard UP, 1992); *Controlling Immigration* (Stanford UP, 3rd edition) with Philip Martin and Pia Orrenius; *L'immigration et l'Etat-Nation* (L'Harmattan, 1997); *Pathways to Democracy* (Routledge, 1999) with Calvin Jillson; *Migration Theory: Talking Across Disciplines* (Routledge, 3rd edition) with Caroline Brettell; *Herausforderung Migration—Perspektiven der vergleichenden Politikwissenschaft* (Berlin: Lit verlag, 2006) with Sigrid Baringhorst and Uwe Hunger; *Migration, Trade and Development* (Dallas: Federal Reserve Bank of Dallas, 2007) with Pia Orrenius and Thomas Osang, and numerous other books and scientific articles. His active book projects include *The Emerging Migration State*, a study of how states manage international migration for strategic gains, and a textbook on *International Political Economy: History, Theory and Policy (*Cambridge UP, forthcoming) with Thomas Osang.

Assaf Moghadam is Associate Professor at the Interdisciplinary Center (IDC) Herzliya, Israel, and Director of Academic Affairs at the International Institute for Counter-Terrorism (ICT), also at IDC. His book *Nexus of Global Jihad: Understanding Cooperation among Terrorist Actors* (Columbia University Press, 2017) is forthcoming in May. Prof. Moghadam is a non-resident fellow at the Combating Terrorism Center at West Point, where he previously served in a variety of capacities, including Director of Terrorism Studies as well as Assistant Professor at the U.S. Military Academy's Department of Social Sciences. Prof. Moghadam is also a Research Affiliate of the National Consortium for the Study of Terrorism and Responses to Terrorism (START) at the University of Maryland. He is the author or editor of four other books, including *The Globalization of Martyrdom: Al Qaeda, Salafi Jihad, and the Diffusion of Suicide Attacks* (Johns Hopkins University Press, 2008), which won a Choice award for outstanding academic title. He was a pre-doctoral and post-doctoral fellow at Harvard University's Belfer Center for Science and International Affairs, and the Olin

Institute for Strategic Studies at Harvard. He holds a Ph.D. in international relations and a Master of Arts in Law and Diplomacy (MALD), both from The Fletcher School at Tufts University, and a B.A. in political science from The Hebrew University of Jerusalem.

Essay by Terri E. Givens, Menlo College

From Jews to Syrians, America's Long History of Rejecting Refugees

The Trump administration's Executive Order, "Protecting the Nation from Foreign Terrorist Entry into The United States," raised fears about acts of discrimination and potential violence against Muslim migrants and even citizens in the U.S. The first version of the Order, issued in late January 2017, banned Syrian refugees indefinitely.[1] This led to intense criticism, because barring civilians from fleeing a warzone seemed to be a shocking betrayal of America's moral responsibility, not least because U.S. military efforts in the Middle East were partially responsible for the rise of the Islamic State of Iraq and the Levant (ISIS) and the breakdown in regional security. The initial order also ran afoul of U.S. and international law by discriminating between Christian and Muslim refugees. A Federal District Court judge quickly issued a temporary restraining order that blocked implementation, which was subsequently upheld by a panel from the Ninth Circuit Court of Appeals. The administration responded by issuing a new order in early March that removed the exemptions for Christians and changed the status of Syrian refugees, who would face a 120-day suspension rather than an indefinite ban.[2] But these changes have not convinced critics, many of whom suspect that the order is broadly aimed at Muslims, and federal judges blocked the revision as well.

Unfortunately, there are many historical precedents for discriminatory immigration restrictions that focus on particular ethnic, racial, and religious minorities. Immigration flows into the U.S. were relatively open, particularly those coming from Western Europe, until the late nineteenth century. Between the Civil War and WWI, the United States shifted from a relatively open country of immigration, to one with restrictions, particularly on immigrants from countries that were considered undesirable. Immigration policy shifted from the state level to the federal level, making national level politics paramount in determining the direction of policy. In New York and the East Coast the focus was on Irish, and Southern and Eastern European immigrants. However, the main impetus for immigration restriction would truly begin on the West Coast of the United States. California became the focal point for immigration restrictions as Chinese immigrant laborers came to fill jobs in the gold fields and mines, as well as building the Trans-continental railway. A coalition of unions, Southern Democrats, exclusionists (i.e., nativists) like the Anti-coolie clubs, and pragmatic Republicans supported Chinese exclusion. After many years of political wrangling and rewriting of the Burlingame treaty[3] with China, the Chinese Exclusion Acts of 1882,1888, and 1892 effectively suspended

[1] Donald J. Trump, "Executive Order: Protecting The Nation From Foreign Terrorist Entry Into The United States," The White House, Office of the Press Secretary, 27 January 2017, https://www.whitehouse.gov/the-press-office/2017/01/27/executive-order-protecting-nation-foreign-terrorist-entry-united-states.

[2] Donald J. Trump, "Executive Order Protecting The Nation From Foreign Terrorist Entry Into The United States," The White House, Office of the Press Secretary, 6 March 2017, https://www.whitehouse.gov/the-press-office/2017/03/06/executive-order-protecting-nation-foreign-terrorist-entry-united-states.

[3] A treaty which ensured a flow of low-wage workers while protecting China from external influence. See State Department, Office of the Historian, "The Burlingame-Seward Treaty, 1868," n.d., https://history.state.gov/milestones/1866-1898/burlingame-seward-treaty.

the flow of Chinese immigrants, consolidated federal control of policy (particularly through the Immigration Act of 1875), and would ultimately lead to broader restrictions at the beginning of the twentieth century.[4]

Nativism was also growing beyond the West coast. Increased flows from Southern and Eastern Europe raised concerns that these immigrants from mostly Catholic backgrounds were less intelligent and would be difficult to assimilate. Many of these immigrants were considered to be of ethnic stock that was not desirable, hallmarks of early 1900s eugenicist thought that there was a hierarchy of races. Similar efforts occurred to restrict the number of Asian immigrants to California. Nativist groups fought for literacy tests and other restrictions that would keep these immigrants from being able to enter the country.[5]

After World War I, a war weary and isolationist Congress passed the Immigration Act of 1921 and the Reed-Johnson Act of 1924, which established a system of quotas based on national origins. The 1921 Act created quotas based on the 1910 census that limited immigration to 3% per year of each European nationality already residing in the U.S. Some felt that this still allowed too many Southern and Eastern Europeans. The 1924 Act limited immigration to 2% per year of each nationality, based on a decades-old census conducted at a time when there were fewer immigrants coming from Southern and Eastern Europe. The predictable effect was a sharp reduction in the number of new entries from targeted countries. The annual ceiling from the 1921 act of 387,803 was reduced to 186,437. This was a huge reduction in levels of immigration, which previously stood at approximately 700,000 per year. By 1925, Japanese exclusion was also phased in along with the already existing Chinese exclusion policies[6]

These decisions institutionalized racial bias in U.S. immigration policy, which had a major impact on refugees, particularly Jewish refugees, during World War II. The refugee issue became a particularly poignant one for the U.S. during the early years of WWII. As the Nazi government began to persecute Jews in Germany, many tried to escape to other countries, including the United States. Unfortunately, the restrictive policies implemented during the 1920s and anti-Semitic personnel in the State Department kept many Jews from getting the papers they needed to leave Germany and other parts of occupied Europe. As Daniel Gross recently noted, "Most notoriously, in June 1939, the German ocean liner St. Louis and its 937 passengers, almost all Jewish, were turned away from the port of Miami, forcing the ship to return to Europe; more than a quarter died in the Holocaust."[7]These refugees were not only turned away by the U.S., however. Other

[4] Daniel J. Tichenor, *Dividing Lines: The Politics of Immigration Control in America* (Princeton: Princeton University Press, 2002).

[5] Tichenor, 2002. See also, Aristide Zolberg. *A Nation by Design: Immigration Policy in the Fashioning of America* (New York: Harvard University Press, 2006).

[6] Tichenor, 145.

[7] Daniel A. Gross, "The U.S. Government Turned Away Thousands of Jewish Refugees, Fearing That They Were Nazi Spies," *Smithsonian Magazine*, 18 November 2015; http://www.smithsonianmag.com/history/us-government-turned-away-thousands-jewish-refugees-fearing-they-were-nazi-spies-180957324/#62sLBayG6F63ExTh.99.

countries also turned away Jewish refugees, many of whom perished in concentration camps during the Holocaust [8]

It is important to note that the U.S. diplomatic corps was a key player in keeping Jews from gaining visas to leave Germany. After an investigation by Treasury officials in 1943, the "Report to the Secretary on the Acquiescence of This Government to the Murder of the Jews" found "the State Department guilty of 'willful attempts to prevent action from being taken to rescue Jews from Hitler'."[9] Even these highly trained professionals allowed their own racial biases to taint their role in processing visa applications. Today, airlines and border officials play a role along with diplomats in the processes which allow or limit the movement of immigrants into the country. As more people become involved in these processes, particularly airline employees who may not be trained to read the appropriate documents, it is possible that there will be greater reliance on racial and ethnic profiling as people travel across international borders. In fact, the Executive Order may encourage that profiling by targeting specific countries and groups.

The good news, however, is that U.S. allies have not yet followed the U.S. example. Germany has taken the lead in welcoming Syrian refugees in Europe, and Canada has continued to accept Syrian refugees. Both German Chancellor Angela Merkel and Canadian Prime Minister Justin Trudeau have urged continued support of those fleeing violence in the states covered in Trump's Executive Order, and from other parts of the world. Apparently the lessons of history have not been lost on all countries, even if the United States is suffering from temporary amnesia.

Even after the devastating terror attack on 9/11, the country did not turn its back on its Muslim citizens and allies. More recently it welcomed Syrian refugees, though in comparatively smaller numbers. These individuals have not been a source of terrorism; U.S. vetting processes have so far proven to be robust. In order to avoid potential negative impacts on the security of the United States it is imperative that the U.S. maintains strong relations with its Muslim allies. Doing so will reduce opportunities for groups like ISIS to recruit new followers. It is thus a security interest and a humanitarian imperative that we avoid the mistakes of the past.

[8] See David S. Wyman, 1984. *Abandonment of the Jews: America and the Holocaust 1941-1945* (New York, Pantheon Books), see also Tichenor, 2002.

[9] Quoted in Tichenot 2002, 167, see also David Wyman, ed., 1990, *America and the Holocaust: Showdown in Wasington* (New York: Garland).

Essay by James F. Hollifield, SMU

Back to the Future: Trump's Executive Orders on Migration and Refugees

The United States has a long history of excluding foreigners on the basis of race and religion, and Americans always have been profoundly ambivalent about immigration. At times they have been comfortable with diversity and confident in their ability to assimilate newcomers, while at other times they have worried about national unity and frightened of foreigners almost to the point of paranoia.[1]

George Washington described the new nation a place of refuge: "the bosom of America is open to receive not only the Opulent and respectable Stranger, but the oppressed and persecuted of all Nations and Religions; whom we shall welcome to a participation of all our rights and privileges."[2] But U.S. history is replete with episodes of nativist and racial politics. Today's nativist outbreak is similar to the anti-Catholic agitation of the Know-Nothings in the 1850s—directed largely at the Germans and the Irish—as well as the 'yellow peril' of the 1870s and 1880s that resulted in the passage of the first truly federal immigration policy, the Chinese Exclusion Act of 1882. The 'Red Scare' in the aftermath of the Russian Revolution reinforced anti-East European and anti-Semitic sentiments. It also gave impetus to the passage of the National Origins Quota Act of 1924 whereby future immigrants would be selected based on racially desirable traits. Nativism also infected the White House, notwithstanding Washington's optimism. In a furious note in 1930 to Representative Fiorella LaGuardia, for example, President Herbert Hoover wrote, "the Italians are predominantly murderers and bootleggers [and you and your Italian supporters] should go back to where you belong [because] like a lot of other foreign spawn, you do not appreciate this country which supports you and tolerates you."[3]

President Donald Trump's rhetoric is not so surprising in light of this history. During the campaign, Trump called for "a total and complete shutdown of Muslims entering the United States." He also asserted that "Mexicans are rapists, killers and drug traffickers," that the US should build a "big beautiful wall" along the entire southern border to keep them out, and that greater efforts should be made to apprehend and remove irregular and undesirable migrants.[4]

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[1] For more on the importance of race in the making of U.S. immigration policy, see Desmond King, *Making Americans: Immigration, Race and the Diverse Democracy* (Cambridge: Harvard University Press, 2000) and David Scott Fitzgerald and David Cook-Martín, *Culling the Masses: The Democratic Origins of Racist Immigration Policy in the Americas* (Cambridge: Harvard University Press, 2014).

[2] Papers of George Washington, "From George Washington to Joshua Holmes, 2 December 1783," *The National Archives*, Founders Online, Early Access Link: https://founders.archives.gov/documents/Washington/99-01-02-12127.

[3] E. Digby Baltzell, *The Protestant Establishment: Aristocracy and Caste in America* (New York: Random House, 1964), 30.

[4] Jenna Johnson, "Trump calls for 'total and complete shutdown of Muslims entering the United States'," *The Washington Post*, 7 December 2015, https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/?utm_term=.7ceef694220c; Michelle Ye Hee Lee, "Donald Trump's false comments connecting Mexican immigrants and crime," *The Washington*

Trump made good on his promises in the first month of his administration, issuing executive orders relating to border security, public safety, and terrorism. One order suspended the U.S. Refugee Admissions Program for 120 days, banned refugees from Syria indefinitely, and placed a 90-day stop on entry of all nationals from seven countries: Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen, originally including dual nationals and legal permanent residents (green card holders). The administration insisted that these actions did not target any specific religion, but its claims were unconvincing to Muslim-Americans and among the international Muslim community. As chaos at U.S. airports ensued, the federal courts issued a stay of the Executive Order pending further review of its legality and constitutionality. The administration issued a revised Order, but the courts put that on hold as well. How can we assess the purpose of these executive orders, their impact on American politics and society, and specifically their effect on U.S. foreign and national security policy?

Immigration policy provides answers to questions about markets, rights, security, and symbolism. In normal times, the debate about immigration revolves around markets—how many migrants should be admitted and with what skills?—and rights—what status should the migrants have and how quickly should they be allowed to naturalize? These questions become more complex during periods of perceived insecurity. During the Cold War, for example, ideological tests of loyalty for gaining entry to the U.S. were common, and refugees were screened in ways that gave preference to those fleeing communism. In the aftermath of the 9-11 terrorist attacks, a registry was created for male nationals of 25 countries (the National Security Entry-Exit Registration System) and all countries affected except North Korea were Muslim-majority.[5]

If insecurity is cultural as well as physical, debates about markets and rights can be quickly overwhelmed by symbolic politics that paint immigrant groups as existential threats. Shifting the immigration debate from interests (economic and security) and law (process and policy) to values and culture accentuates ideology and intensifies the symbolic dimension of politics. This is what has happened in the first weeks of the Trump administration.

Opponents of Trump insist that migrants and refugees pose little threat. The chance of being killed by a refugee in the U.S. is one in 3.6 billion; refugees on American soil have committed only three acts of terrorism since 1975.[6] Moreover, migrants have made a net positive contribution to the U.S. economy, taking jobs that Americans do not want or cannot do and creating new businesses through higher levels of self-employment, investment, and entrepreneurial activity. Economics notwithstanding, the battleground over immigration has moved into the courts.[7] For the Trump administration, rolling back the rights of immigrants

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Post, 8 July 2015, https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and-crime/?utm_term=.007c91529749.

[5] LII, *8 U.S. Code § 1182 - Inadmissible aliens*, current through Pub. L. 114-38, https://www.law.cornell.edu/uscode/text/8/1182; INS Form M-526 (09/11/02), „Special Registration Procedures" [Text Version], https://www.ice.gov/doclib/nseers/SRProc.pdf.

[6] Alex Nowrasteh, "Terrorism and Immigration: A Risk Analysis," *CATO Institute* Policy Analysis 798, 13 September 2016, https://www.cato.org/publications/policy-analysis/terrorism-immigration-risk-analysis.

[7] On the rise of 'rights-based politics' in immigrant-receiving democracies, see James F. Hollifield, Philip L. Martin and Pia M. Orrenius, eds., *Controlling Immigration: A Global Perspective***.** (Stanford: Stanford University Press,

and refugees is seen as the best way to protect the country from subversion and terrorism. But individual rights are deeply embedded in U.S. law, and judicial review constrains executive action. Rights codified by legal precedent have a very long half-life, and it is difficult for executive authorities simply to revoke or suspend them. The array of factors influencing immigration policy is complicated by the tug-of-war between the executive and the judiciary.

Making matters even more complex is that debates take place at the local, national, and international level. At the state and local level there is great variation. States like Arizona favor restrictive legislation and have filed lawsuits against what they see as lax federal policies. Other states, particularly Washington and Minnesota, support sanctuary cites and have gone to court in defense of immigrant and refugee rights. At the national level interest groups pursue radically different interests on these issues. How the government responds affects not only national policy, but also demarcates the scope of possible international coordination on migration. Privileging groups favoring stricter controls may have adverse diplomatic consequences. President Trump seems to have ignored the fact that his executive orders, while popular among his base, have major implications for foreign and national security policy.

Trump's policy is couched in civilizational terms, pitting Christians and Jews against Muslims, and whites and blacks against Mexicans/Hispanics. In so doing, the President has created a perfect storm of domestic opposition to his policies at the national, state, and local levels. Many of the 3.3 million Muslim-Americans (roughly 1 percent of the population) feel threatened by Trump's executive orders, which may contribute to an environment of intolerance and intimidation in which hate crimes have been increasing.[8] At the international level, the policies have alienated allies in the Muslim world and given succor to extremists. Closer to home, heated rhetoric led the Mexican President, Enrique Peña Nieto, to cancel a planned meeting with Trump. This diplomatic breakdown might make security cooperation more difficult, and it may also have serious economic consequences, especially for border states like Texas that rely heavily on U.S.-Mexico trade.

It is hard to see how these policies will allow Trump to expand his domestic support; or how they align with U.S. foreign policy and national security interests. By opting to pursue policies defined almost exclusively in symbolic and ideological terms, Trump is setting up his administration for significant opposition from domestic interests that will coalesce to maintain access to much-needed foreign labor, to defend the rights of immigrants and refugees, and to protect minorities from prejudice and discrimination. Nativism is shaky ground upon which to build a political consensus. In the 1990s, for example, Governor Pete Wilson of California rallied temporary support by pursuing anti-immigration policies, but his career stalled soon after.[9]

2014) and on the specific role of courts in the U.S. see Anna O. Law, *The Immigration Battle in American Courts*. (New York: Cambridge University Press, 2013).

[8] FBI Uniform Crime Reporting (UCR) Program, "FBI Releases 2015 Hate Crime Statistics" (press release), 14 November 2016, https://ucr.fbi.gov/hate-crime/2015/resource-pages/hate-crime-2015-_summary_final.

[9] Alex Nowrasteh, "Proposition 187 Turned California Blue," *CATO Institute*, *CATO At Liberty* (blog), 20 July 2016, https://www.cato.org/blog/proposition-187-turned-california-blue

Politicians may score short-term gains by using nativist rhetoric to energize their core supporters, but they also provoke intense opposition.

Likewise, the intricate demands of foreign and security policy cannot be met simply by warning of a clash of civilizations. While symbolic politics scapegoating migrants and refugees may win the approval of some of Trump's supporters, banning refugees will not make the country safer. Long-term foreign policy and security interests require U.S. allies in the Muslim world in order to build the kind of intelligence relationships needed to stop terrorists before they strike. Similar international efforts offer the only practical solutions to ongoing refugee crises in Africa, the Middle East, Europe, and Central America. Finally, bi-national work to encourage a stable, friendly, prosperous, and democratic regime in Mexico must outweigh the short-term electoral high that comes from nativism and symbolic politics.

Essay by Assaf Moghadam, Interdisciplinary Center, Herzliya

Terrorism poses a security threat that few countries can afford to ignore. But how should states targeted by terrorism defend themselves against this insidious form of political violence? Judging from the Executive Order reissued by President Donald J. Trump on 6 March 2017, the current administration seems to believe that one important way to protect the U.S. homeland from terrorist attacks is by restricting or banning individuals from six Muslim-majority countries from entering the United States. Unfortunately, these steps will not only fail to protect the United States from terrorist violence, but will likely weaken U.S. national security over time. The Order misidentifies the contemporary threat of terrorism and it harms effective counterterrorism measures already in place, while undermining the principles and values upon which these measures are based.

There are several important reasons why the Executive Order, "Protecting the Nation from Foreign Terrorist Entry into the United States,"[1] will fail to live up to its title. The order implies that the main terrorist threat to the United States emanates from the six countries included in the ban--Iran, Libya, Somalia, Sudan, Syria, and Yemen--even though immigrants from these countries were not involved in any lethal acts of terrorism on U.S. soil after the 9/11 attacks.[2] Curiously, it does not apply to other countries such as Pakistan and Afghanistan that host a large number of jihadi militants. More importantly, the notion that terrorism in the United States is an imported problem is misguided because the vast majority of plots and attacks in the United States since 9/11 have been carried out by U.S. citizens or permanent residents.[3] The main terrorist threat the United States faces is homegrown. Finally, there is no evidence that the United States currently has a border protection or refugee vetting problem. While the Executive Order states that it is U.S. policy "to improve the screening and vetting protocols and procedures associated with the visa-issuance process and the [United States Refugee Admissions Program]," there are no indications that existing vetting procedures are ineffective.

The Executive Order will not only fail to protect the United States, it is likely to exacerbate the terrorism problem and weaken U.S. national security as a result. The letter and spirit of the Order erodes some of the very principles that have helped keep the United States safe. One of these principles is that counterterrorism must discriminate between those who seek to harm the U.S. and those who do not. Both of President's Trump's predecessors have gone to great lengths to distinguish the minority of violence-prone jihadis from Muslims in general. By placing all citizens from six Muslim-majority countries under "general suspicion," to

[1] The White House, "Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States," 6 March 2017, https://www.whitehouse.gov/the-press-office/2017/03/06/executive-order-protecting-nation-foreign-terrorist-entry-united-states.

[2] Scott Shane, "Immigration Ban is Unlikely to Reduce Terrorist Threat, Experts Say," *New York Times*, 28 January 2017.

[3] According to Brian Jenkins, for example, 85 % of plots and attacks in the United States since the attacks of 9/11 have been carried out by U.S. citizens and permanent residents of the United States. Brian Michael Jenkins, "Why a Travel Restriction Won't Stop Terrorism at Home," *RAND Blog*, 10 February 2017, http://www.rand.org/blog/2017/02/why-a-travel-restriction-wont-stop-terrorism-at-home.html.

use the words of German Chancellor Angela Merkel in reference to the original version of the EO issued in January 2017,[4] Trump's order assumes guilt by association, thereby offending Muslims at large.

A second principle guiding counterterrorism is the need for alliances. Unfortunately, the immigration order damages U.S. alliances at the local, regional, and global levels while driving up support for al-Qaeda, the Islamic State, and other jihadi groups. At the local level, the Executive Order undermines relations of trust with Muslim communities in the United States, making them less likely to cooperate with law enforcement in providing early warning on potential militants in their midst.[5] At worst, such policies can lead individual Muslims to buy the jihadis' argument that the United States is indeed waging war on Islam. At the regional level, the Order harms U.S. alliances with its Western partners, who see the United States distancing itself from core democratic values of justice and tolerance. The EO also hurts U.S. relationships with partners in the Middle East, including members of the military and security services that have cooperated with the United States. Fortunately, Iraq, which has cooperated with the United States in the struggle against the Islamic State, and which was included in the list of countries affected by the travel ban, was removed from this list in the revised Order issued on March 6. Muslims from the countries included in the travel ban have offered crucial support to the United States as translators, interpreters, or analysts. The Executive Order amounts to a clear breach of trust with these individuals and, no less importantly, sends a problematic message to future potential partners that the price of cooperation with the United States far exceeds any benefits derived from such a collusion. At the global level, the Order is likely to increase negative attitudes vis-à-vis Americans among the Muslim community writ large. As Daniel Byman put it, Trump's message to Muslims across the board is that "America does not like you."[6] This could support a jihadi recruiting drive by pushing Muslim fence-sitters--those stuck in the "gray zone" between the West and 'true' Islam--to join the side of the jihadis.[7]

By focusing on immigration, both the original and the revised orders also divert attention and resources away from more critical domains. Instead of travel bans, counterterrorism should set priorities in different areas, such as de-radicalization, prevention, the de-escalation of existing insurgencies and civil wars, counter-narratives, intelligence-gathering, and the physical disruption of terrorist networks. Problematically, the order not only ignores, but effectively undermines some of these crucial elements of counterterrorism, thereby

[4] Anton Troianovski Jason Douglas, "Merkel, May Criticize Trump's Refugee Ban," *Wall Street Journal*, 29 January 2017.

[5] For a recent bipartisan study highlighting both the critical role of Muslim communities in the fight against extremism, as well as the importance of trust in fostering the relationship between Western governments and these communities, see Matthew Levitt, ed., "Defeating Ideologically Inspired Violent Extremism: A Strategy to Build Strong Communities and Protect the U.S. Homeland. Report of a Bipartisan Washington Institute Study Group" (Washington, DC: Washington Institute for Near East Policy, March 2017).

[6] Daniel Byman, "Why Trump's Policies Will Increase Terrorism—And Why Trump Might Benefit as a Result," *Lawfare*, 30 January 2017.

[7] "The Extinction of the Gray Zone," *Dabiq*, Issue 7 (1436/2015): 54-66. Available at https://azelin.files.wordpress.com/2015/02/the-islamic-state-e2809cdc481biq-magazine-722.pdf.

running the risk of becoming what Senators John McCain and Lindsay Graham called a "self-inflicted wound in the fight against terrorism."[8]

Effective counterterrorism must begin with the appreciation that terrorism is deeply complex, multifaceted, context-dependent, dynamic, and evolving—with no silver-bullet solution that will make it disappear. Instead of quick fixes, terrorism requires a comprehensive strategy that involves a carefully calibrated exercise of political, military, economic, social, diplomatic, and ideational measures. Most counterterrorism scholars and practitioners agree that fighting terrorism requires, addressing both symptoms and causes of the problem; building alliances on the local, regional, and global levels to counter a threat of transnational scope; and having a deep understanding of who the enemy is (and who it is not).[9] Most terrorism scholars intuitively recognize that fighting terrorism requires determination but, no less important, nuance. Most critically, perhaps, effective counterterrorism should approach terrorism much like doctors should approach their patients—with the maxim of first, do no harm. The immigration order issued by President Trump undermines these longstanding principles. The result is not only an ineffective strategy, but an exacerbation of the very threat that these policies were designed to tackle.

[8] Statement by Senators McCain and Graham on Executive Order on Immigration, 29 January 2017, http://www.mccain.senate.gov/public/index.cfm/2017/1/statement-by-senators-mccain-graham-on-executive-order-on-immigration

[9] See, for example, Audrey Kurth Cronin and James M. Ludes, eds., *Attacking Terrorism: Elements of a Grand Strategy* (Washington, DC: Georgetown University Press, 2004); and Daniel Byman, *The Five Front War: The Better Way to Fight Global Jihad* (Washington, DC: Wiley & Sons, 2008). See also "The Jihadi Threat: ISIS, al-Qaeda and Beyond" (Washington, DC: United States Institute of Peace and Woodrow Wilson Center, 2016/2017).