Former Iraqi Ambassador Denounces Controversial Travel Ban

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It was a whirlwind month for America's newly inaugurated president. On the last Friday in January, Donald Trump signed an executive order with the ominous title "PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES" — written like that, in all capital letters. The executive order banned "immigrant and nonimmigrant entry into the United States of aliens" from seven Muslim-majority nations for 90 days and put an immediate four-month pause on the entire U.S. refugee resettlement program until undefined stricter vetting procedures could be put in place. It also put an indefinite hold on all Syrian refugees.

The seven countries that were subject to the 90-day entry ban were Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen. For many Iraqis — especially those who have fought and died alongside U.S. troops since the 2003 U.S.-led invasion — seeing their country on that now-infamous blacklist stuck like a bone in their gullet.

Prime Minister Haider Al-Abadi said in an interview with France 24 that while he respected "any action by any government to provide security to their own nation … there is no right for any country to humiliate other nations."

The travel ban, in fact, caused embarrassment in U.S. foreign policy circles when it ensnared Lukman Faily, the former Iraqi ambassador to Washington. Faily, who retired last year, holds dual British and Iraqi citizenship and continues to work to improve U.S.-Iraqi relations. But Trump's executive order barred him from traveling to the U.S. to participate in a long-planned conference.

Faily told us that not only was he offended as an Iraqi by the executive order, but it was the "wrong way to go about resolving a major global threat of terrorism."

Like many security experts, Faily says the ban is counterproductive and plays straight into the hands of the Islamic State narrative that the West wants to wage a war against Islam.

"It conveys a piece of propaganda to Daesh … that there's a blanket ban against Muslims in the U.S.," Faily said, using a derogatory Arabic acronym for the Islamic State.

"As an Iraqi, I'm offended by the order. I take it as being labeled a terrorist until proven otherwise," the former envoy said. On that note, he pointed out that none of the seven countries named in the order have committed terrorist acts on U.S. soil. "There are no data — none — which we have seen to reflect that Iraqis have engaged in international terrorism on U.S. soil or elsewhere. On the contrary, we are the victims…. For me, this is a betrayal, a sign of a lack of understanding of what Iraqis are going through and aspire to."

Iraq's National Security Council and Parliament both debated the executive order. Lawmakers wanted to impose a reciprocal ban on Americans entering Iraq. But Faily said Prime Minister Abadi intervened to block such a move, which would have created havoc for the thousands of U.S. military contractors and journalists working in the country. "We need to focus on the current threat, which is Daesh. As far as international terrorism is concerned, fighting it is a long-term project that requires long-term, far-sighted cooperation," Faily said.

Nevertheless, the controversial executive order has clearly strained relations with Baghdad and threatened future security counterterrorism cooperation, just as the critical battle to retake the city of Mosul from the Islamic State swings into full gear. Many U.S. officials also saw it as a personal insult to Abadi, a pro-Western leader who has the unenviable task of balancing competing Shiite, Sunni and Kurdish constituencies — all while keeping the Islamic State from slaughtering more of his people.

"Iraqi citizens have been the subject and the victims of terrorism," Abadi said. "There have been many thousands of suicide bombers who have come from all over the world to kill innocent Iraqis inside Iraq. Every country has the right to investigate, to look carefully into would-be immigrants, but to just place a blanket ban on a nation, I don't agree with it."

Legal and PR Nightmare

Nor did many Americans, who took to airports, social media and the courts to voice their opposition to the temporary travel ban that they say is un-American.

The executive order — hastily written with scant input from Congress or relevant U.S. government agencies — immediately threw U.S. airports into chaos. Men and women who had undergone the long and arduous vetting process to enter the United States were detained or sent back to their countries of origin, even though that meant a possible death sentence for those returning to warzones.

Protesters mobilized and descended en masse on airports from New York to Los Angeles, while lawyers offered pro bono services to families waiting for hours for their loved ones to arrive. Media outlets ran heartrending personal stories of lives disrupted by the ban — husbands and wives separated, family members kept from visiting critically ill relatives, an elderly Iraqi mother stopped from joining her Army son in the U.S. after five years apart, an Iranian doctoral student unable to return to defend his dissertation. Meanwhile, the confusion created Kafkaesque scenes at airports as customs officials struggled to interpret the order, which initially included green card holders (the administration later backtracked on that restriction).

The fiasco became a PR nightmare for the new administration. White House press secretary Sean Spicer defended the order, pointing out that only about 100 people out of some 325,000 travelers who enter the U.S. on a typical day were detained.

But that did not take into account the tens of thousands of people who were prevented from traveling. The State Department has said that up to 60,000 visas were canceled shortly after the ban was imposed, although to put that number into perspective, it also pointed out that in the 2015 fiscal year, over 11 million immigrant and nonimmigrant visas were issued.

As protests and dissent roiled the country, the order became mired in a flurry of lawsuits. Washington state and Minnesota filed one of the primary challenges, alleging that the order would damage individuals, businesses and universities, and that it unconstitutionally barred entry based on religion. On Feb. 9, a three-judge federal appeals court for the 9th Circuit unanimously sided with a lower court ruling to suspend the ban on seven Muslim-majority nations, saying that the government had presented no evidence that the ban was needed to protect the country's security.

The ruling gets to the most glaring flaw in Trump's ban: It tackles a seemingly nonexistent threat. No one from those seven nations — Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen — has committed terrorist acts in the U.S. In fact, despite Trump's dire warnings about America's shoddy immigration system, the U.S. has instituted some of the most rigorous screening procedures in the world, and there has not been a single terrorism-related death caused by a foreign operative since 9/11. Recent attacks such as the Orlando mass shooting were carried out not by refugees but by American-born U.S. citizens (that includes not only radicalized converts, but also right-wing extremists such as white supremacists). In addition, the executive order notably excludes nations that have funneled jihadists around the world, including Saudi Arabia, Pakistan, Egypt and Turkey.

Trump denied that his order was arbitrary or that it was aimed at all Muslims, noting that the seven countries listed in the ban were flagged by former President Obama's administration as sources of terrorism.

The court did not explicitly rule on whether Trump's executive order constituted a blanket ban on Muslims, although the administration will have to defend itself against charges of religious discrimination moving forward. Trump hasn't helped his cause by repeatedly calling for a Muslim registry and a total shutdown on Muslims entering the U.S. — campaign rhetoric that can now be used against him in court.

Despite the backlash, the president remains defiant. Shortly after the federal appeals verdict, Trump tweeted "SEE YOU IN COURT," to which Washington state Gov. Jay Inslee retorted, "We just saw you in court and we beat you."

Dozens of separate legal challenges have been filed across the country, so the litigation will not end any time soon. An expanded version of the 9th Circuit court could rehear the case, but Trump has asked the court to wait until he issues a "brand new order," which would preserve the core elements of the original directive. He said the new order would eliminate the judges' concerns,

but at the same pledged to impose "extreme vetting." Thus, any new or reworked executive order would likely trigger a fresh round of lawsuits.

The issue could eventually wind up before the Supreme Court. But because the Supreme Court is short one judge and ideologically split 4 to 4, the result could be a tie, which would keep the lower court suspension intact. (Trump's Supreme Court nominee, Neil Gorsuch, will begin his confirmation hearings March 20.)

Despite the uphill climb Trump faces, legal experts say the president has wide latitude to set immigration policy, including limiting refugee admissions and the issuance of visas to specific countries. Indeed, if it had not been for its sloppy rollout or if it had been more narrowly tailored, Trump's executive order may have withstood legal scrutiny.

Even the federal appeals court that refused to reinstate Trump's travel ban did not strike down the part of the order that capped the number of refugees admitted in the 2017 fiscal year to 50,000 — down from the 110,000 ceiling Obama set.

Polls have also found sizable support for Trump's actions. A Reuters/Ipsos opinion poll in late January found that over 30 percent of people said the ban made them feel "more safe," while 26 percent said they felt "less safe." Another 33 percent said it wouldn't make any difference. The poll also reported that 49 percent of Americans agreed with the order, while 41 percent disagreed with it.

Trump's supporters say he has the right to impose reasonable measures to keep the country safe, and that the economic impact of curbing travel from the seven countries is negligible. They also point out that the president is simply fulfilling his campaign promises to curb immigration and put "America first."

And like Trump, they say the media is overhyping a situation that people outside the Beltway don't care about. One worker in Dearborn, Mich., told Steve Friess and William Wan of the Washington Post that he "doesn't understand what the big hubbub is. The media cares more about letting Iranians in than about the fact that GM just announced [hundreds of] job cuts. That's what I want them and Trump to do something about."

High Costs

Experts say that kind of thinking is short-sighted, and the wide-ranging economic costs of the ban — on U.S. tourism and education — are not worth the infinitesimal chance of catching a potential terrorist. As the Cato Institute's David Bier pointed out in a recent blog, "the likelihood of being killed by any refugee from any country is just 1 in 3.64 billion a year." Meanwhile, Robert Kahn of the Council on Foreign Relations estimated that a full Muslim travel ban could cost the U.S. economy $31 billion to $66 billion and threaten 50,000 to 132,000 jobs.

Many business leaders, including Silicon Valley tech giants, say Trump's anti-immigrant agenda would hinder the innovation for which the U.S. economy is renowned.

"Immigrants or their children founded more than 200 of the companies on the Fortune 500 list, including Apple, Kraft, Ford, General Electric, AT&T, Google, McDonald's, Boeing, and

Disney," an amicus brief filed by companies such Apple, Facebook, Microsoft and Uber said. "Long-term, this instability [caused by the executive order] will make it far more difficult and expensive for U.S. companies to hire the world's best talent — and impede them from competing in the global marketplace."

On a broader level, a diverse cross-section of the country — from religious groups to Nobel laureates — warn that the order tarnishes America's reputation as a nation of immigrants that welcomes people of all races and ethnicities.

That not only damages America's standing in the world, but it could also compromise its safety. "Turning away legitimate asylum seekers at the border and requiring mandatory detention of families and children will do nothing to make America safer," Sen. Ben Cardin (D-Md.) said during a Feb. 6 appearance with faith-based nonprofits in Baltimore, Md. "Such cruel actions will inevitably bring harm and potentially death to survivors of violence and torture, while undermining America's values and damaging our relationships with our allies."

A slew of high-ranking national security officials agree that the ban is counterproductive and will make the country less, not more, safe. They worry it could undermine counterterrorism cooperation with allies such as Jordan, hampering intelligence-sharing, for instance, or efforts to recruit spies. Even close Arab partners could be forced to pull back on security cooperation if public resentment of the U.S. becomes too high.

The anti-American sentiment fueled by the ban could also endanger U.S. troops abroad, including the 6,000 stationed in Iraq. "[W]e risk placing our military efforts at risk by sending an insulting message" to Iraqis working with American forces, warned a group of prominent Democrats in a legal filing against the order.

On the domestic front, experts fear it could needlessly alienate America's Muslim community, whose cooperation with local police has at times been vital in identifying radicalized individuals and thwarting potential attacks. "American Muslims are 81 percent first or second generation Americans who came from among the most socially illiberal countries in the world," Bier of the Cato Institute wrote. "Yet, they comprise the most socially liberal and tolerant Muslim in the world."

Sens. John McCain (R-Ariz.) and Lindsey Graham (R-S.C.) derided the executive order as a "self-inflicted wound in the fight against terrorism" — one that feeds into Islamic State propaganda and could become a recruitment tool for the group as it loses territory and seeks to groom converts capable of carrying out brazen lone-wolf attacks.

The fact that Trump said persecuted religious minorities such as Christians in Muslim countries would receive preferential treatment — even though Muslims have been killed in vastly greater numbers in Iraq, Syria and elsewhere — further bolstered the Islamic State's claim that the Christian West is indifferent to the plight of Muslims.

"It's exactly al-Qaeda's original narrative from the '90s, when they said that, 'They don't want you beyond oil. They are not open to Islam. They don't respect it. It's a Christian country that has a bias toward Christianity,'" Clint Watts, a former FBI counterterrorism special

agent, told Time magazine's Jared Malsin. "We're talking about winning the war on ideas. How do we win the war on ideas when we just confirmed their idea is correct?"

"The over-simplification that equates Islam to terrorism and assumes that entire populations are necessarily dangerous to America is a marketing campaign, not a step toward peace," wrote Iraqi-born Zainab Salbi in an opinion piece in the New York Times. "It is lazy to demonize entire countries and religions. Unfortunately, though, many Americans do not distinguish between ISIS [Islamic State] and Islam, do not realize that ISIS members are targeting Muslims first and foremost."

Losing the Bigger Fight

A tough-talking Trump vowed during the campaign to step up the fight against the Islamic State, which had been steadily losing ground in both Syria and Iraq, in part thanks to a U.S.-led bombing campaign and an Iraqi military offensive. Yet his travel ban has infuriated Baghdad just as Iraqi troops are working alongside their American counterparts in northern Iraq to slowly but surely push the terrorist group out of the key city of Mosul.

"At the very moment that Trump has sought to up the game against the Islamic State, his words and actions treat Iraq and Iraqis as though they're irrelevant to the defeat of this organization," Brookings Institution senior fellow Gen. John Allen, who led the international coalition against the Islamic State from 2014 to 2015, wrote in an opinion piece co-authored with another Brookings senior fellow, Michael O'Hanlon.

"Indeed, the worst blows potentially preventing the defeat of the Islamic State have been landed by Trump himself and could lead to the end of the U.S. mission and American influence there. For all the ups and downs in Iraq over the past 14 years, we do currently have a friendly government of national unity (more or less) in Iraq right now, and it is controlling most of its own territory against various extremist forces while gradually restoring stability to the nation. All of that is now at new acute risk not from the Islamic State, Syria or Moscow, but from Washington," the pair wrote in the piece, published in the Washington Post.

Michael Knights of the Washington Institute for Near East Policy echoed that sentiment in a Feb. 13 piece in Foreign Policy, noting that the travel ban stands to empower hardline, anti-American Shiites and their allies in Iran.

"If moderates like Prime Minister Abadi are undermined by these Iranian proxies, Iraq will slowly slide back into a Syria-like civil war," Knights predicted. "The Islamic State or a successor will fill this vacuum … and the United States will be driven out of Iraq by Iranian proxies — thus losing the ability to directly prevent the re-emergence of a new terrorist safe haven in the heart of the Middle East."

That's why Knights argues that Iraq is too big to fail. "Iraq is the fourth-most populous state in the Middle East," he said, noting that it is also home to the world's fifth-largest oil reserves. "If you are sickened by the suffering of Syria's 23 million people … try to imagine how much worse the situation would be with an added 36 million Iraqis thrown into the mix."

Knights noted that tens of thousands of Islamic State fighters have been killed in Iraq, with Iraqi forces — not Americans — bearing the brunt of the casualties. "Trump should understand that the U.S.-Iraqi partnership is, put simply, a great deal," he concluded. "If he is looking for a partner that supports U.S. objectives but carries most of the costs itself, he should look no further than Iraq over the last two years."

"U.S. blood has been spilled alongside Iraqi blood," Faily told us. "I would be surprised if the U.S. military agreed with the executive order, which doesn't enhance the U.S. moral, virtuous stance in the Middle East, but instead expands the widening gulf between the U.S. as a society."

The proposal was particularly seen as an affront to the thousands of Iraqis who risked their lives to help American troops, many of whom have urged the U.S. government to honor its promise to resettle their Iraqi comrades.

"For some U.S. military veterans, the move to ban Iraqis is a betrayal of brothers-in-arms — one they take personally," wrote Gayle Tzemach Lemmon of the Council on Foreign Relations in a Jan. 26 op-ed for the LA Times.

She noted that these Iraqis have already been subjected to years of extensive vetting (which includes being personally vouched for by a member of the U.S. military). Thousands of Afghans and Iraqis have been let into the U.S. under a special visa program, all without incident. If anything, critics say the system is too slow. Now, Trump's order could cement the impression that foreigners help the U.S. at their own peril.

"What will the next Iraqi or Syrian interpreter say when his American colleagues ask him to risk his life?" Lemmon asked.

Trump called Iraq's prime minister the night after the 9th Circuit upheld the restraining order on his travel ban. According to Abadi's office, the Iraqi prime minister "stressed the importance of a review of the decision on the right of Iraqis to travel to the United States and lift Iraq from the list of countries mentioned in the executive order. Mr. Trump stressed the importance of coordination to find a solution to this issue as soon as possible and that he will direct the U.S. State Department in this regard." The U.S. president is also reported to have invited Abadi to visit him at the White House, but it was unclear if the Iraqi prime minister accepted.

Meanwhile, the legal wrangling continues. As of press time, White House lawyers were reportedly rewriting the executive order, hoping to produce a version that would win federal court approval. An administration official told the Reuters news agency that the White House "would like to win the case in court."

Trump could take the battle all the way to the Supreme Court or throw out the original order and tweak the policy to address legal concerns, such as clarifying that the order won't affect legal permanent residents who want to leave the country and then return. The White House could also exempt students or other categories of people in an effort to negate arguments from states that the order hurts their residents.

It remains to be seen whether tailoring his refugee policy will be enough to quell lingering public outrage or put it on more firm legal footing. The administration would still have to show the

courts why the seven targeted countries pose a national security threat — and demonstrate that the order does not violate the constitution by discriminating against one religion.

Winning over skeptical judges is one thing. Convincing Iraqis and millions of Muslims around the world that Trump doesn't harbor an anti-Islamic agenda is going to be a much tougher sell.