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National Identity And 3 Of The Most Damaging Directives in President Trump's Executive Orders On Immigration And Refugees

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President Trump's "shock and awe" strategy in the form of multiple executive orders on immigration and refugees creates three major risks: first, that many of the most damaging provisions will evade scrutiny in the glare of more high profile issues like building an unnecessary and unsustainable 2,000 mile border wall; second, that the cynical rationale for the orders (security and safety) will actually stick, if repeated enough times, and; third, that some portion of this agenda may actually be implemented at permanent cost to our nation's well-being, core values and identity.

The Threat of Mass Deportation

The executive order, titled "Enhancing Public Safety in the Interior of the United States," sets enforcement priorities that are so broad as to be virtually meaningless. The order prioritizes the removal of serious criminals and national security risks, but also a large percentage of the 11 million US undocumented immigrants. As a result, it effectively sets no priorities and, thus, raises the specter of a mass deportation program. The raids carried out by Immigration and Customs Enforcement in recent days likewise fail to reflect principled enforcement priorities. Despite its billing, if implemented the order will undermine public safety and devastate US families, communities and the economy.

Earlier this month, the Center for Migration Studies (CMS) released a [report](#) that described the impact of a mass deportation policy on the nation's three million "mixed-status" households, i.e., those with a US-born child and an undocumented person, most often the child's parent. Living in these households are 6.6 million US citizens by birth, 5.7 million of them children. Removing the undocumented residents would cut the median income of these households nearly in half — from \$41,300 to \$22,000—and, thus, would relegate millions of US families to lives of poverty. To assess the cost of raising the US-citizen children left behind, CMS assumed that only one-third of these children would remain in the United States following the deportation of a parent and that the undocumented parents contribute 50 percent of the financial support for the children. By these conservative estimates, the cost of raising these children would total \$118 billion.

Mass deportation would be disastrous for other reasons as well. A high percentage of the 2.4 million mortgages held by households with undocumented immigrants, for example, would be at risk of default. To put this figure in context, at the peak of the housing crisis in 2009 a record 2.8 million properties received mortgage foreclosure notices. Moreover, an industry and state-level analysis of the impact of mass deportation by economists Ryan Edwards and Francesc Ortega concluded that US gross domestic product (GDP) would be reduced by 1.4 percent in the first year; cumulative GDP would be reduced by \$4.7 trillion over 10 years; the federal debt would increase by \$982 billion over 10 years; and the agricultural, construction, leisure and hospitality industries would experience workforce reductions of 10 to 18 percent. Another study found that it would cost \$400 to \$600 billion in immigration enforcement spending over a 20-year period to deport the undocumented and prevent further illegal entries. The obvious solution would be to keep mixed-status families intact and essential workers in place, preferably through a legalization program, but the executive orders fail to acknowledge that need.

Refugees and National Security

It is difficult to imagine how the greatest crisis in refugee protection since World War II - a crisis that cries out for broad responsibility-sharing by states - can be successfully resolved without the United States playing at least a supportive, if not a leadership role. Yet, the executive orders work to diminish US commitments to refugees, asylum-seekers, and the relevant international institutions that provide life-saving support to them.

The mistitled order, “Protecting the Nation from Terrorist Attacks by Foreign Nationals,” grossly exaggerates the security threat to the United States from refugees. Yes, it is conceivable that a terrorist could successfully impersonate a refugee and commit an attack on US soil. There have also been occasional breaches of this program, including by two insurgents who fought US troops in Iraq and Afghanistan, entered the United States as refugees in 2009, and were subsequently arrested in a sting operation in Bowling Green, Ohio.

That said, the chances of dying in a terrorist attack by a refugee are extraordinarily low. A Cato Institute study by Alex Nowrasteh found that between 1975 and 2015 - a period in which 3.25 million refugees were resettled in the United States - there were three terrorist attacks by refugees, killing three people. The risk of dying in a terrorist attack by a refugee during this 41-year period was one in 3.64 billion. All three attacks were committed by Cuban nationals in the 1970s. Since then, particularly since 9/11, extraordinary efforts have been made to strengthen US intelligence, establish the identity of all non-citizens seeking admission, and screen would-be immigrants and refugees against multiple databases and through in-person interviews. At present, refugees undergo the most rigorous and exhaustive vetting of any candidates for admission. This is particularly true for Syrian refugees who are overwhelmingly women and children with no other viable options and who the order indefinitely bars.

More importantly, the order obscures the fact that the failure to anticipate and to respond in a coordinated, pro-active way to refugee situations can *undermine* security and, conversely, that timely, effectively-managed interventions invariably *contribute* to security. This may be most obvious in the case of the prevention and mitigation of refugee-producing conditions. However, support for the communities in developing states that host 86 percent of the world’s refugees also manifestly promotes security, as does the safe and voluntary repatriation of refugees and the

resettlement of well-vetted refugees in third countries. By contrast, as the European experience illustrates, shortfalls in essential aid to refugees, lack of education and work opportunities, and the inability of refugees to migrate through normal channels or to secure legal status in host communities can lead to large-scale, unregulated migration. Ultimately, it is the failure of states to address refugee crises that undermines security, not refugee protection. The executive order gets the analysis exactly backwards.

The world is not facing a refugee crisis, but a crisis in refugee protection, which the executive orders will exacerbate. The “security” ramifications of suspension of the refugee program, as well as the (judicially stayed) bar on admission of legal immigrants from seven “terror prone” states - which, as widely reported, do not include states whose nationals have committed terrorist acts in the United States in recent decades — are all negative. The orders will return refugees to situations of great insecurity. They also present a potent recruiting tool for ISIL and other terrorist groups and make it far less likely that allied states, foreign intelligence sources, and targeted immigrant communities will cooperate with US counter-terror initiatives. As former CIA director Michael Hayden put it, the refugee order has already “inarguably has made us less safe. “

The refugee order also raises concerns related to the United States’ adherence to the values which it presumably seeks to secure. While the order would drastically cut refugee admissions, it prioritizes the religious persecution claims of minority populations. Certainly, the United States should admit far more persecuted religious minorities from the Middle-East and elsewhere. Yet, this proposal comes on the heels of Trump’s campaign pledge to ban Muslim immigration and as part of a package that seeks to suspend immigration from Muslim-majority nations, that were selected without any apparent input from US intelligence agencies. In combination, these measures seem to represent a retreat from the nation’s historic commitment to religious liberty and pluralism, and constitute a self-inflicted wound in the global battle for hearts and minds, which may not matter to their authors, but should matter to those who care about US standing and security.

Deportation and Due Process

The executive order on “Border Security and Immigration Enforcement Improvements” would extend the expedited removal process — which now applies to persons within 100 miles of a land or sea border, who appear to have arrived within 14 days — to persons who cannot produce sufficient immigration documents and cannot “affirmatively” show that they have lived in the United States for more than two years. Expedited removal is a process in which immigration enforcement officials act as police, prosecutors and judges, all rolled into one. As a result, it not infrequently leads to the deportation of lawful permanent residents (LPRs) and US citizens.

In theory, however, this process at least allows those fleeing for their lives to have their asylum claims heard. The statute provides that immigration officers “shall refer” persons who request asylum or express a fear of persecution to a “credible fear” interview by an asylum officer. Those found to have a credible fear can then seek asylum before an Immigration Judge in removal proceedings, which is a very daunting process, but an important safety valve nonetheless.

Yet, immigration officials consistently refuse to refer qualified persons to credible fear interviews. Instead, they resort to all manner of deception and falsehoods. They tell desperate asylum-seekers that people with legal status in Mexico cannot apply for asylum in the United States. They say the country is full. They tell them that the United States does not accept asylum claims from countries that are not at war, like violence-plagued Honduras, El Salvador or Guatemala. They say there is no more room in the United States. They tell families that, if they admit them, they will have to detain and separate them. They violate the law even in front of delegations, like the International Commission on Religious Freedom, that have come to monitor their compliance with the law. The expedited removal process should long ago have been reformed and, at the very least, limited in scope. The scofflaw behavior of federal officials, who are sworn to uphold the law, makes its expansion particularly problematic. If the United States enforces its immigration laws, which it should do and which it does very aggressively, then it also needs to honor due process and its legal commitments to refugees and asylum-seekers.

Final Thoughts

In June 2002, the George W. Bush administration announced the creation of the National Security Entry-Exit Registration System (NSEERS). The program screened persons arriving at ports-of-entry (POEs), both those from designated nations and individuals thought to present a heightened security risk. Federal officials fingerprinted, photographed, and extensively interviewed targeted immigrants on their background and on the purpose and details of their visits. It also required them to report at 30 days and annually thereafter, to exit at designated POEs, and to submit to pre-departure interviews.

NSEERS also included a “special” or “call-in” registration program that applied to males age 16 and over, from 25 nations, who had already entered the United States, typically on non-immigrant (temporary) visas. All but one of the designated nations (North Korea) had Muslim majorities. Between November 2002 and December 2003, 83,519 persons came forward to register and 2,870 of them, including LPRs, were arrested and detained. Removal proceedings were initiated against nearly 14,000, mostly for overstaying visas.

The “call in” groups were summoned by nationality in four stages. As their interview deadlines neared, hundreds of families - in buses, cars and caravans of taxis packed with their belongings - fled to the US northern border to seek refugee status in Canada. They stayed in shelters and hotels, waiting to cross for their scheduled refugee interviews. Others were detained. Many were terrified by the prospect of deportation. Some believed that they would be persecuted and tortured if forced to return home. Others never learned of the registration requirements, which were announced in the *Federal Register*, and have since faced negative immigration and criminal consequences as a result.

At the time, the author was researching a report on the US-Canada border for a committee of the American Bar Association. Although it may seem counter-intuitive, refugees and asylum-seekers often speak openly and candidly to attorneys, researchers and visiting delegations. But in the shelters along the US northern border, the migrants would not respond to the most basic of questions: they were palpably fearful, distrusting, and simply wanted to leave the country.

Today, asylum-seekers have begun to brave sub-freezing temperatures to cross the US-Canada border without authorization in order to seek asylum in Canada. They do not believe they can

obtain a fair hearing in the United States. The executive orders are far broader in scope and less excusable than NSEERs, which came into being at a time when the nation feared additional, 9/11-like terrorist attacks and did not enjoy the benefit of the strengthened intelligence, information sharing and screening systems that have been built since 9/11.

The orders will work untold damage on families, refugees, asylum-seekers and the legal norms and systems that safeguard them. Despite their billing, they will also undermine public safety and national security. More than that, they are a frontal assault on the idea of the United States as a creedal nation, a pro-family nation, and a haven for the persecuted and dispossessed. If in doubt, ask the US citizen children in fear that their parents will be deported, the desperate refugees stranded in dangerous camps and urban settings, or the asylum-seekers now crossing into Canada.