**Reinforcing Failure: The Revised Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States**

**By Anthony H. Cordesman**

The United States and its allies—including virtually every Muslim state in the world—face a very real threat from a small fraction of violent Islamist extremists. This is a threat, however, that must be fought in partnership with our allies, and in the Muslim world, particularly the Middle East. We cannot win it at our borders, or by needlessly alienating most of the world’s Muslims.

There are good reasons for fighting extremism with host country partners in Afghanistan, Iraq, Libya, Somalia, Syria, Yemen. There are still more good reasons for cooperating in this fight with largely Muslim allies like Bahrain, Egypt, Kuwait, Indonesia, Jordan, Malaysia, Morocco, Oman, Qatar, Saudi Arabia, Tunisia, and the UAE. These same reasons make it wise to cooperate in counterterrorism efforts with the governments of African and Asian states with large Muslim populations. This struggle, or "war," will be won or lost at a global level. It is a fight for the hearts and minds of some 1.6 billion Muslims throughout the world—some 23% of the world's population.

This is why U.S. strategy has focused on bringing the world's great religions together, and on partnerships with Muslim governments whose people show—in poll after poll—that the vast majority of Muslims reject extremism and violence. At the same time, it is a global struggle and one that goes far beyond ISIS and Al Qaida. Small Islamist extremist movements exist in virtually every country with large Muslim populations, and much of the Muslim world is in a state of political and economic turmoil and massive social change.

Extremism feeds on these forces. The United States plays a critical role in helping governments to both deal with their own extremist threats and to make the changes and reforms necessary to keep the support of their people. The way the United States engages with the Muslim world is also critical in refuting extremist claims that the United States and the West are the enemies of Islam and deny Islam’s religious legitimacy and the many common values it shares with Christianity and Judaism.

The main fight against extremism is one of Muslims fighting Muslims for control of largely Muslim states. Extremists know that carrying out terrorist attacks in the West, Russia, and China can be used to provoke a different kind of extremism, hostility to Islam, and overreaction to a limited—if all too real—threat.

This also is why the original Executive Order, *Protecting the Nation from Foreign Terrorist Entry into the United States*, was so dangerous. There is a need to improve international cooperation in limiting the movement and operations of extremists, and the vetting process for travel, immigration, and refugees. This did not, however, justify issuing an order that virtually halted all movement for the citizens of seven countries—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—where U.S. intelligence reports saw no greater threat than from many other states, singling out Muslims regardless of their background and beliefs, and making no mention of the fact that the United States had many allies actively supporting it in fighting extremism in the Muslim world.
The revised Executive Order does eliminate one such country—Iraq—from the list of seven. It also tries to correct the broad impression that the original left that the United States saw Islam—not extremism—as a threat. It states that,

"Executive Order 13769 did not provide a basis for discriminating for or against members of any particular religion. While that order allowed for prioritization of refugee claims from members of persecuted religious minority groups, that priority applied to refugees from every nation, including those in which Islam is a minority religion, and it applied to minority sects within a religion. That order was not motivated by animus toward any religion, but was instead intended to protect the ability of religious minorities -- whoever they are and wherever they reside -- to avail themselves of the USRAP in light of their particular challenges and circumstances."

This statement would be far more convincing if several members of the White House team that rushed the original into being were not clearly identified as seeing Islam—and not extremism—as a threat.

The revised Executive Order also now makes some attempt to justify the selection of the given countries, although the U.S. intelligence community has not identified them as special threats. The number of attacks to date does little to indicate they present a special threat in a world where many extremists come from other states, including what may well be a majority of ISIS fighters. It justifies the selection of the remaining six countries as follows,

"(i) Iran. Iran has been designated as a state sponsor of terrorism since 1984 and continues to support various terrorist groups, including Hizballah, Hamas, and terrorist groups in Iraq. Iran has also been linked to support for al-Qa'ida and has permitted al-Qa'ida to transport funds and fighters through Iran to Syria and South Asia. Iran does not cooperate with the United States in counterterrorism efforts.

(ii) Libya. Libya is an active combat zone, with hostilities between the internationally recognized government and its rivals. In many parts of the country, security and law enforcement functions are provided by armed militias rather than state institutions. Violent extremist groups, including the Islamic State of Iraq and Syria (ISIS), have exploited these conditions to expand their presence in the country. The Libyan government provides some cooperation with the United States' counterterrorism efforts, but it is unable to secure thousands of miles of its land and maritime borders, enabling the illicit flow of weapons, migrants, and foreign terrorist fighters. The United States Embassy in Libya suspended its operations in 2014.

(iii) Somalia. Portions of Somalia have been terrorist safe havens. Al-Shabaab, an al-Qa'ida-affiliated terrorist group, has operated in the country for years and continues to plan and mount operations within Somalia and in neighboring countries. Somalia has porous borders, and most countries do not recognize Somali identity documents. The Somali government cooperates with the United States in some counterterrorism operations but does not have the capacity to sustain military pressure on or to investigate suspected terrorists.

(iv) Sudan. Sudan has been designated as a state sponsor of terrorism since 1993 because of its support for international terrorist groups, including Hizballah and Hamas. Historically, Sudan provided safe havens for al-Qa'ida and other terrorist groups to meet and train. Although Sudan's support to al-Qa'ida has ceased and it provides some cooperation with the United States' counterterrorism efforts, elements of core al-Qa'ida and ISIS-linked terrorist groups remain active in the country.

(v) Syria. Syria has been designated as a state sponsor of terrorism since 1979. The Syrian government is engaged in an ongoing military conflict against ISIS and others for control of portions of the country. At the same time, Syria continues to support other terrorist groups. It has allowed or encouraged extremists to pass through its territory to enter Iraq. ISIS continues to attract foreign fighters to Syria and to use its base in Syria to plot or encourage attacks around the globe, including in the United States. The United States Embassy in Syria suspended its operations in 2012. Syria does not cooperate with the United States' counterterrorism efforts.
(vi) Yemen. Yemen is the site of an ongoing conflict between the incumbent government and the Houthi-led opposition. Both ISIS and a second group, al-Qaeda in the Arabian Peninsula (AQAP), have exploited this conflict to expand their presence in Yemen and to carry out hundreds of attacks. Weapons and other materials smuggled across Yemen's porous borders are used to finance AQAP and other terrorist activities. In 2015, the United States Embassy in Yemen suspended its operations, and embassy staff were relocated out of the country. Yemen has been supportive of, but has not been able to cooperate fully with, the United States in counterterrorism efforts.

(f) In light of the conditions in these six countries, until the assessment of current screening and vetting procedures required by section 2 of this order is completed, the risk of erroneously permitting entry of a national of one of these countries who intends to commit terrorist acts or otherwise harm the national security of the United States is unacceptably high. Accordingly, while that assessment is ongoing, I am imposing a temporary pause on the entry of nationals subject to final determination and earned enduring respect as they battle an armed group that is the common enemy of Iraq and the United States. In addition, since Executive Order 13769 was issued, the Iraqi government has expressly undertaken steps to enhance travel documentation, information sharing, and the return of Iraqi nationals subject to final orders of removal. Decisions about issuance of visas or granting admission to Iraqi nationals should be subjected to additional scrutiny to determine if applicants have connections with ISIS or other terrorist organizations, or otherwise pose a risk to either national security or public safety.

The revised Executive Order also, however, exempts Iraq on grounds that could equally apply to the vetted citizens of the other six states where travel to the United States and offering refugees sanctuary can play a critical role in winning popular support in those states and showing that the United States is not the enemy of Islam:

"(g) Iraq presents a special case. Portions of Iraq remain active combat zones. Since 2014, ISIS has had dominant influence over significant territory in northern and central Iraq. Although that influence has been significantly reduced due to the efforts and sacrifices of the Iraqi government and armed forces, working along with a United States-led coalition, the ongoing conflict has impacted the Iraqi government's capacity to secure its borders and to identify fraudulent travel documents. Nevertheless, the close cooperative relationship between the United States and the democratically elected Iraqi government, the strong United States diplomatic presence in Iraq, the significant presence of United States forces in Iraq, and Iraq's commitment to combat ISIS justify different treatment for Iraq. In particular, those Iraqi government forces that have fought to regain more than half of the territory previously dominated by ISIS have shown steadfast determination and earned enduring respect as they battle an armed group that is the common enemy of Iraq and the United States. In addition, since Executive Order 13769 was issued, the Iraqi government has expressly undertaken steps to enhance travel documentation, information sharing, and the return of Iraqi nationals subject to final orders of removal. Decisions about issuance of visas or granting admission to Iraqi nationals should be subjected to additional scrutiny to determine if applicants have connections with ISIS or other terrorist organizations, or otherwise pose a risk to either national security or public safety."

Furthermore, the revised Executive Order dodges around the lack of evidence for singling out such states and the fact that there is virtually no evidence that they present special threats. It cites all of three cases, none of which are tied to ISIS or recent developments in the six countries still included in the revised Executive Order:

“(h) Recent history shows that some of those who have entered the United States through our immigration system have proved to be threats to our national security. Since 2001, hundreds of persons born abroad have been convicted of terrorism-related crimes in the United States. They have included not just persons who came here legally on visas but also individuals who first entered the country as refugees. For example, in January 2013, two Iraqi nationals admitted to the United States as refugees in 2009 were sentenced to 40 years and to life in prison, respectively, for multiple terrorism-related offenses. And in October 2014, a native of Somalia who had been brought to the United States as a child refugee and later became a naturalized United States citizen was sentenced to 30 years in prison for attempting to use a weapon of mass destruction as part of a plot to detonate a bomb at a crowded Christmas-tree-lighting ceremony in Portland, Oregon. The Attorney General has reported to me that more than 300 persons who entered the United States as refugees are currently the subjects of counterterrorism investigations by the Federal Bureau of Investigation.”

The revised order does avoid the problems of blocking the return or movement of people with green cards and legitimate visas, calls for added staff to carry out vetting activity, and allows the admission of refugees on a case by case basis. It focuses on less intrusive measures like the
expedited completion of the Biometric Entry-Exit Tracking System, and other useful improvements in the U.S. vetting system—all of which could have been be accomplished without alienating a good part of the Islamic world.

It also calls for uniform standards for vetting and admission. If these are applied in ways that do not discriminate against Muslims or the citizens of Muslim countries, they could do much to correct the impression that the United States is singling out a given religion or set of countries:

"Implementing Uniform Screening and Vetting Standards for All Immigration Programs. (a) The Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Director of National Intelligence shall implement a program, as part of the process for adjudications, to identify individuals who seek to enter the United States on a fraudulent basis, who support terrorism, violent extremism, acts of violence toward any group or class of people within the United States, or who present a risk of causing harm subsequent to their entry. This program shall include the development of a uniform baseline for screening and vetting standards and procedures, such as in-person interviews; a database of identity documents proffered by applicants to ensure that duplicate documents are not used by multiple applicants; amended application forms that include questions aimed at identifying fraudulent answers and malicious intent; a mechanism to ensure that applicants are who they claim to be; a mechanism to assess whether applicants may commit, aid, or support any kind of violent, criminal, or terrorist acts after entering the United States; and any other appropriate means for ensuring the proper collection of all information necessary for a rigorous evaluation of all grounds of inadmissibility or grounds for the denial of other immigration benefits."

At the same time, the tone of the revised Executive Order remains almost totally negative. Aside from Iraq, it does not mention a single Muslim strategic partner in the fight against terrorism. It does not make any mention of the fact that the vast majority of Muslims and largely Muslim states oppose violent extremism. It does not focus on the fact that the majority of foreign fighters and extremists come from countries outside the six still listed in the Executive Order.

It tacitly admits that no serious study took place of the requirement for additional vetting and targeting of potential terrorists before the first Executive Order was issued, and calls for the kind of serious study that should have preceded any such Executive Order in the first place:

"Sec. 11. Transparency and Data Collection. (a) To be more transparent with the American people and to implement more effectively policies and practices that serve the national interest, the Secretary of Homeland Security, in consultation with the Attorney General, shall, consistent with applicable law and national security, collect and make publicly available the following information:

(i) information regarding the number of foreign nationals in the United States who have been charged with terrorism-related offenses while in the United States; convicted of terrorism-related offenses while in the United States; or removed from the United States based on terrorism-related activity, affiliation with or provision of material support to a terrorism-related organization, or any other national-security-related reasons;

(ii) information regarding the number of foreign nationals in the United States who have been radicalized after entry into the United States and who have engaged in terrorism-related acts, or who have provided material support to terrorism-related organizations in countries that pose a threat to the United States;

(iii) information regarding the number and types of acts of gender-based violence against women, including so-called "honor killings," in the United States by foreign nationals; and

(iv) any other information relevant to public safety and security as determined by the Secretary of Homeland Security or the Attorney General, including information on the immigration status of foreign nationals charged with major offenses.

(b) The Secretary of Homeland Security shall release the initial report under subsection (a) of this section within 180 days of the effective date of this order and shall include information for the period from September 11, 2001, until the date of the initial report. Subsequent reports shall be issued every 180 days thereafter and reflect the period since the previous report."
It leaves the issue open of adding an unknown number of additional states to the list of six once
the study of real world requirements is completed,

"After the period described in subsection (d) of this section expires, the Secretary of Homeland Security, in
consultation with the Secretary of State and the Attorney General, shall submit to the President a list of
countries recommended for inclusion in a Presidential proclamation that would prohibit the entry of
appropriate categories of foreign nationals of countries that have not provided the information requested until
they do so or until the Secretary of Homeland Security certifies that the country has an adequate plan to do
so, or has adequately shared information through other means. The Secretary of State, the Attorney General,
or the Secretary of Homeland Security may also submit to the President the names of additional countries for
which any of them recommends other lawful restrictions or limitations deemed necessary for the security or
welfare of the United States."

And, it fails to address the critical role that allowing entry into the United States plays in fighting
Islamist extremism. The flow back and forth between the Islamic world and the United States of
trader and businessmen, of journalists and media, and experts and academics is a critical part of
building understanding between the United States and the Islamic world. It shows Muslims
throughout the world that the United States is not the enemy of Islam and is a trustworthy strategic
and economic partner. Admission to the United States is not some kind of luxury or privilege; it is
a critical part of U.S. relations with the Islamic world, and building trust and credibility.

Providing refugees with admission to the United States is a critical demonstration of the ethical
and moral values of the United States. It demonstrates that the United States does not discriminate
by faith or on any ethnic or racial level. Tying the admission of refugees to the provision of aid to
refugees in foreign countries and the nations that host them is equally critical. Issuing the revised
Executive Order at a time when the Administration may follow limits to admission with massive
cuts in foreign aid creates the risk the United States may be seen as having rejected one of the most
critical roles it plays in helping nations like Syria.

The flow of foreign students to the United States is one of the most important single ways of
influencing the hearts and minds of other states, of communicating U.S. values and goals overseas,
and building tolerance and understanding. This is particularly true in the case of a nation like Iran,
where students and young men and women have played a critical role in resisting the more extreme
measures of the regime and showing that many—if not most—Iranians do not accept the hardline
values of the Supreme Leader and Revolutionary Guard.

There were 12,269 Iranian students in the United States in 2016. This was an increase of about 8% over 2015 and the highest U.S. number in three decades. Iranian students also helped build a pattern that helped lay the groundwork for the Green Movement in Iran in 2009-2010. Iran had led all foreign countries in sending students to the United States during 1974-1983, and some 51,000 came to the United States during the Iranian Revolution in 1979-1980. The role students from countries like Saudi Arabia play in building mutual understanding is equally important. As is the kind of academic freedom of movement that is building U.S. led universities in several of the Gulf states and American colleges and universities in nations like Egypt and in the Levant.

In short, the revised Executive Order may be better than its poorly drafted, rushed, and incoherent
initial version. It still, however, is a critical failure in both strategic terms and in terms of American
values.

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