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Introduction

Executive Order 13769: *The Protecting the Nation from Foreign Terrorist Entry into the United States* is a policy that was put into place by the President of the United States, Donald J. Trump, in a press release by The White House on January 27, 2017. The order restricts Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen from stepping into the United States since they are considered to be associated with high levels of terrorism. In addition, the number of refugees that can be admitted to the country dropped down to fifty thousand. There has also been a suspension of the United States Refugee admission Program for one hundred and twenty days. The President of the United States said that the reason for all these restrictions was that the immigrants into the country have always been seen as a threat to national security as a whole. However, those who already had the visas for travel into the U.S are exceptions of this policy. Their visas would not be revoked (Exec Order No. 13769).

The Government seeks to protect its citizens from terrorism through the various rigorous processes while allowing the entry of the immigrants. Despite efforts to curb terrorism, this move led to the criticism from various people both in and out of government. Additionally, the members of the public conducted various protests and petitions to have the policy removed. They claimed that the ban targeted a group of religion, that is, Islam. This is because the countries that received a total ban were Islamic countries.

Part II: Purpose

The purpose for the *Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States* is to look at the visa-issuance that dictates who is allowed in the United States (Exec Order No. 13769). The visa application issue became a huge concern after September 11th 2001 attack on the World Trade Center and Pentagon. After September 11th 2001, President Bush passed the Homeland Security Act to oversee Immigration and Customs Enforcement (ICE), United States Citizenship and Immigration Services (USCIS), and United States Customs and Border Protection (Heddon, 2001). President Bush increased the spending on deportation by 3.5 billion dollar and doubling the deportation rates, removed illegal criminals by an astounding 400 percent increase, including those that were not a threat, and turned local police officers into immigration agents requiring them to share fingerprints of arrestees to Homeland security (Heddon, 2017). According to President Trump, even after the scrutinization and amendments of the visa process, there were still foreign nationals admitted into the United States who committed terror attacks that ended up taking many American lives (Exec. Order No. 13769)

Many foreign born individuals who have entered the United States on a employment, student, visitor visas, or even as a refugee have been linked to terrorism related crime (Exec. Order No. 13769). This executive order will ensure those that are approved to enter the United States do not have any ill will towards the country or have any ties to terrorism.

The six countries that this executive order directly affects are Iran, Libya, Somalia, Sudan, Syria and Yemen (Exec. Order No. 13769). According to President Trump these countries have been compromised by terrorist organizations and have become sponsors of terrorism. Due to these governments being compromised, they are unable or unwilling to validate or share significant information about their citizens who are seeking to travel to the United States (Exec. Order No. 13769) It has become hard to decipher those who are terrorist sympathizers or operatives from those who are not. When people who enter the United States,

from the six countries mentioned, have been proven to be terrorist operative or sympathizers, the process of removal from the United States becomes a lengthy and difficult process (Exec. Order No. 13769) President Trump believes that halting entry from these six countries to the United States is the best fitting way to handle terrorist entry.

Part III: Stakeholders and Implementation

Stakeholders

The language of the executive order titled: “Protecting The Nation from Foreign Terrorist Entry into The United States” is very clear on the individuals who are affected by the implementation of the order. The policy immediately affected immigrants and nonimmigrants who were outside of United States borders at the time of the implementation. It suspended the entry of such individuals who were traveling from terrorist prone areas from entering the country for 90 days (Exec. Order No. 13769). But while this policy is aimed to protect Americans, it actually affects the whole world because it severs the ties that the United States has built with other countries.

The policy affects foreign-born visitors, students, and workers because they are in the country with visas, a process that the policy is criticizing and aims to improve. It mentions that those who do not support the American Constitution, have been involved in acts of “honor” killings, committed violence against women, or persecuted individuals with different religious beliefs will not be allowed in the country (Exec. Order No. 13769). While it is important that individuals who intend to harm others are kept away from the nation, the policy allows for stereotyping and violence because it assumes that if one person is being questioned, they all should, including those who have already been in the country for years. The policy also repeatedly mentions the revision of the refugee process. It requires a revision of the refugee process that is in place in the United States and a halt on the admission of more refugees.

Specifically, the policy impacts Syrian refugees because it suspends Syrians from entering the country as refugees as it is “detrimental to the country” (Exec. Order No. 13769).

Lastly, the policy affects the American people. Even though the policy is aimed to protect and be in benefit of the American people, that can have both negative and positive consequences for Americans. It can be positive for the American people because those who do not feel safe since the attacks on September 11, 2001, can finally feel safe. However, this policy is more harmful than helpful because it impacts all individuals who have ties with immigrants from the countries targeted. It also allows for hate and violence to occur within the United States borders because it gives individuals a reason to discriminate against individuals who are ethnically tied to these nations.

Implementation:

The implementation of the policy has to be done through a collaboration of The Secretary of Homeland Security, the Secretary of State, and the Director of National Intelligence who will be conducting a review of information that each country is required to give to the United States (Exec. Order No. 13769). The policy also requires that the Director of the Federal Bureau of Investigations participates in the implementation of the policy through a program that will develop uniform screening standards and procedures to ensure documents are not falsified and individuals lack malicious intent (Exec. Order No. 13769). It requires that other countries participate as they are the ones who will be providing the required information to the United States (Exec. Order No. 13769). However, as it was seen post the posting of the executive order, in order for this policy to be implemented properly, it required the legislative and judicial branches to approve of the explicit language of the order.

Part IV: Strategic Analysis

Public Value

It is still too soon to accurately and fairly measure the results of the executive order since its implementation in January. To make a fair assessment on whether or not this executive order is substantively valuable, perhaps a better way to answer it would be to ask if the policy was warranted based on the national security needs of the country. The President enacted an executive order to temporarily halt immigration into the United States if the person was from one of the seven countries on the list that prohibited immigrants coming from said country. As stated in the order, the purpose of temporarily halting immigration was to reassess the vetting process, and to possibly make it stricter for the purpose of ensuring national security from terrorist attacks.

The data that would support that terrorists came from one of the seven countries on the list was gathered from a study compiled by a Senate sub-committee in 2016 (Vaughan, J., 2017).

This study reveals that seventy-two individuals from the seven countries covered in President Trump's vetting executive order have been convicted in terror cases since the 9/11 attacks. When further analyzed, twenty eight of the seventy two were convicted directly of terror attacks and/or a plotting terrorist activities. The Center of Immigration Studies further expanded on this data by elaborating from which country each of the seventy two convicted was from; Somalia: 20, Yemen: 19, Iraq: 19, Syria: 7, Iran: 4, Libya: 2, Sudan: 1. This totalled seventy-two in all. According to the report, at least seventeen individuals entered as refugees from these countries. Three came in on student visas and one arrived on a diplomatic visa (Vaughan, J., 2017). However, according to the New America Foundation ("Who are the Terrorists?", 2017), 82% of all terrorism incidents since 2001 were conducted by citizens and permanent residents. Given this data, one must ask if the executive order really does have substantive value. In other words, does this order fulfill its purpose and is it of any benefit to the population that it seeks to protect (i.e. Americans)?

To begin answering this question, we must look at the seven countries listed above. There is no mention of Saudi Arabia, Egypt, Lebanon, or Kuwait. This is important because the the majority of the 9/11 hijackers were from Saudi Arabia and Egypt (“September 11th Hijackers Fast Facts”, 2016).One has to wonder why those countries are not also on the list if the data is going to go as far back as 2001. Upon further research one finds that the President’s order was almost exactly a carbon copy of another order that was given during the Obama administration in 2015. To elaborate, the seven Muslim-majority countries named in the order were already listed as “countries of concern” when Congress passed the “Terrorist Travel Prevention Act” (Birnbaum, S., 2017). Therefore, one can conclude that the Trump administration simply replicated the list. Furthermore, the executive order does essentially fulfill its purpose for re-assessing the vetting process. Despite this, the policy makers should most definitely re-evaluate the list of countries in the travel ban. Additionally, because the majority of terrorist attacks are orchestrated by citizens and residents, this executive order may be targeting the wrong issue in preventing terrorism. Consequently, the executive order is not substantively valuable. Perhaps if it is revised it may hold more value, but as it stands now the only value it has is in re-assessing the vetting process, not in keeping out terrorism.

Legitimacy and Political Sustainability

The issuance of Executive Order 13769 was met with an immediate surge of legal challenges and political protests which threatened the legitimacy and political sustainability of the Order. Some of the legal issues include being in conflict with a 1965 federal statute that specifically outlaws preferences and discriminations based on “nationality, place of birth, or place of residence,” when considering visa applications (Mulroy, S., 2017). Also, dozens of lawsuits filed by people affected by the ban claimed that they were denied the constitutional guarantees of due process and/or equal protection under the law (Kaleem, J., 2017) These assertions were grounds enough for several federal judges to halt enforcement of the new

Order. However, the violation of these rights may have been caused by the hasty and chaotic implementation of the ban, rather than its legality, and therefore could be corrected. And while the rights to due process and equal protection do apply to immigrants and green card holders, they are applicable only to those who are physically in the United States (Mulroy, S., 2017). The essential question at the legal core of the Order is, can the president block entry of immigrants based on nationality and/or, is the policy using nationality as a proxy marker for religion? Mulroy, in his Newsweek piece, points to three interwoven components to the Order: first, the moratorium specifying predominantly Muslim countries, secondly, it's instructions "to prioritize refugee claims made by individuals... [of] a minority religion" (Exec. Order No. 13769). And thirdly, President Trump's public statements about intending to prioritize Christian immigrants. These three points, as a combination, may cause the Order to run afoul of the Establishment Clause within the First Amendment. Mulroy concludes that if the courts find that the Order privileges one religion over others, then "it could be struck down in its entirety." And while the text of the Order is not explicit in its religious discrimination, the lawsuit filed against it by the state of Washington minces no words in criticizing the motives and logic: "Even if the Order did not make suspect classifications, it would be illegal because 'its sheer breadth is so discontinuous with the reasons offered for it that the [Order] seems inexplicable by anything but animus toward the class it affects.'" (Dolan, M., Lauter, D., 2017)

Some of the additional arguments and actions against this first iteration of the Executive Order provide an understanding of the political vulnerability of Trump's effort to restrict immigration in this manner. Arguments against it lay out its negative effects in pragmatic down-to-earth terms that are, in some ways, more understandable to the public than the abstraction of constitutional rights. States argued that the moratorium negatively impacts public health by impeding the ability to fill medical residencies, that it causes financial and

academic harm to universities whose students and professors are blocked from entry, and there is loss of tax revenue from travel and tourism, and disruption of key industries who rely on immigrant talent (McGreevy, P., 2017) Ninety-seven companies filed a brief in support of halting the Order, stating intellectual and economic costs. A number of national security and intelligence professionals claim the Order threatens the safety of troops and “will disrupt key counterterrorism, foreign policy, and national security partnerships that are critical to our obtaining the necessary information-sharing and collaboration in intelligence, law enforcement, military, and diplomatic channels to address the threat posed by terrorist groups such as ISIL” (Dolan, M., Lauter, D., 2017) The protests that sprung up in airports across the country have also had the effect of galvanizing resistance to the Trump administration. Activists and organizers working on disparate issues such as immigration, racial justice, climate change, LGBT and women’s rights, are finding common cause in challenging Trump’s policies and are forming national coalitions to protect the wide swath of people and places affected by them (Bouie, J., 2017). The executive order has received direct and indirect international scorn as well. Given the breadth of dissent and the force the arguments against the Order, it’s no wonder that the Trump administration is avoiding facing these challenges head on, and have chosen instead to go back to the drawing board and rework the policy. This action alone attests to the illegitimacy and unsustainability of Executive Order 13769.

Operational and Administrative Feasibility

In order to implement Executive Order 13769, the policy itself must be both operationally and administratively feasible in that the authorized valuable activities can actually be accomplished. According to a press release through the Department of Homeland Security, the department will be provided with “additional resources, tools and personnel to carry out the critical work of securing our borders, enforcing our immigration laws, and ensuring that individuals who pose a threat to national security or public safety cannot enter or

remain in our country.” (DHS.gov) Along with the Department of the Homeland Security, both the Department of Justice and Department of State are needed to operate and implement “President Trump’s executive order on protecting the nation from foreign terrorist entry into the United States.” (DHS.gov)

In terms of administrative feasibility, the policy in the Executive Order 13769 would have to consider financial and managerial factors, and the degree of ease of implementation including cost effectiveness. According to an annotation of the executive order through National Public Radio (NPR) the current procedure states that, “Refugees attempting to enter and settle in the U.S. are already subject to a vetting process that can take up to two years. First, they’re screened by the U.N. High Commission on Refugees. Those who are selected for possible entry to the U.S. are then subject to vetting by the National Counterterrorism Center, the FBI’s Terrorist Screening Center and the departments of State, Defense and Homeland Security. Their biometric information is checked and they undergo personal interviews with DHS officials.” (Naylor, B., 2017).

The U.S. Customs and Border Protection states that, “The Department of Homeland Security will faithfully execute the immigration laws, and we will treat all of those we encounter humanely and with professionalism. No foreign national in a foreign land, without ties to the United States, has any unfettered right to demand entry into the United States or to demand immigration benefits in the United States. The Department of Homeland Security will comply with judicial orders; faithfully enforce our immigration laws, and implement President Trump’s Executive Orders to ensure that those entering the United States do not pose a threat to our country or the American people.” (CBP.gov)

The cost effectiveness of Executive Order 13769, as reported by Newsweek states that, “If widespread, the direct loss of spending due to restrictions on travel from Muslim countries could range from \$14 billion to \$30 billion per annum. Adding in indirect

(multiplier) effects that take into account the broader spillover effects on the economy increases this range to \$31 billion to \$66 billion.” (Kahn, R., 2017). In long-term financial costs, “One economic study forecast that deporting unauthorized immigrants would cost the U.S. economy about \$5 trillion in GDP over a decade.” (Picchi, A., 2017). These costs include tourism, imported and exported goods, and education for international students. The education system in the United States would see a decrease of “\$700 million in annual revenue if Mr. Trump permanently extends his ban on immigration and visitors from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen” (Picchi, A., 2017). The annual loss in educational revenue increases because it is estimated that, “the loss to education spending to be about 15 percent of the total foreign student spending, or \$4.6 billion. (Kahn, R., 2017).

For Executive Order 13769 to be operationally feasible, the policy must fulfill a need required by the American people, and must also have the ability to utilize, support and perform the necessary tasks of the policy, including those who creates, operates or is affected by policy. In a claim through The Center for Strategic and International Studies, it is stated that while “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- 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.” (Cordesman, A., 2017).

The policy addresses that “The Departments of Homeland Security and State will conduct interviews as appropriate and consistent with the Executive Order. However, the Executive Order suspends decisions on applications for refugee status, unless the Secretary of Homeland Security and the Secretary of State jointly determine, on a case-by-case basis, that

the entry of an individual as a refugee is in the national interest and would not pose a threat to the security or welfare of the United States." Through this procedure, BBC reports that, "Mr Trump's order violates the Administrative Procedure Act, which says a government action can't be "arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law" or "unsupported by substantial evidence"."(Zurcher, A., 2017)

Though the policy is able to have operational and administrative procedures, it fails to be feasible and could incur substantial costs for the american government. "In general, there are important security benefits from an efficient vetting system for foreign travelers, but President Trump's unprecedeted executive order fails to meet the test." (Kahn, R., 2017). When the policy is examined for operational and administrative feasibility, it questions if the policy works as envisioned. Since initial Executive Order 13769 was halted and overturned, it can be argued that the policy is not administratively or operationally feasible. This argument is largely due to the fact that the implementation and tasks assigned to each department had not been clearly stated in the executive order, violated laws, created negative impact on the economy to maintain and was poorly constructed without the consent of the judicial departments.

Conclusion

the draft outline for the conclusion

1-According to Trump, 7 countries have been compromised by terrorist organizations and have become sponsors of terrorism, and foreign nationals are terrorists. Need a ban to review and improve immigration process

2-Stakeholders include foreign born seeking legal entry into the country, as well as other countries we need cooperation from. It also affects Americans- ties to immigrants and made unsafe by acts of violence and harassment

3- The policy may be valuable in re-assessing the vetting process, but not in keeping out terrorism.

4-Legal challenges that blocked the order claimed it violated individual rights and had negative effects on states and even national security



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