



Center for Immigration Studies

Student, Asylee, Terrorist: The Administration's Immigration Policy Flaws in a Nutshell

By Dan Cadman on April 11, 2014

The FBI announced this week that it had arrested and charged a Moroccan, El Mehdi Semlali Fathi, with lying on his application for asylum (incorrectly referred to as an "application for refugee status" in some media reports). But the underlying cause of the investigation was that Fathi intended to commit acts of terror, according to the Bureau; specifically, that he intended to use a remote-controlled aircraft to bomb a federal building and an unnamed university, as is obvious from the affidavit filed by the FBI case agent.

Other than clearly showing the bugs in the high-gloss finish our administration wants the public to see in its immigration policies, there are a number of troubling things about this case.

First, there is the continuing serious issue of foreign students who either enroll in visa mills because their sole intent is to enter the U.S., or after enrollment in a genuine institute of learning simply drop out and disappear. The most recent DHS statistics tell us that in 2012 alone, there were 1,584,415 admissions of academic and vocational students, and 421,425 exchange visitor admissions. Note that admissions don't always add up to individuals, as some persons depart the U.S. temporarily and then are readmitted to continue their studies, but even if the figure is split in half, the number of foreign students and exchange visitors here at any point in time is huge.

And yet, as noted by my colleague David North, the Student and Exchange Visitors Program (SEVP) – administered by Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security – has submitted a budget request that would reduce the amount of money available for compliance activities. There is poignant irony in this, because (according to some media reports, such as that linked above, by the *Hartford Courant*), the government office that Fathi wished to blow up was one which houses ICE's Hartford investigative office.

Next there is the issue of why a man who had dropped out of his prescribed course of study and been arrested by police was served with a notice to appear in immigration court, but not detained. This is undoubtedly because, under the administration's current minimal-to-no-enforcement policy, being a student out of status or an alien arrested for a "minor" crime does not suffice to keep the person in custody. Fathi is Exhibit A in why such a policy is not only foolhardy, but puts the American people at risk. Saying, after the fact, that "we didn't know he was a terrorist" is *exactly* why the immigration laws should be enforced across the board. After-the-fact is often too late.

Then there is the issue of the man's application for asylum during the course of an immigration hearing – a request which was apparently fraudulent, based on the wiretap evidence and the statements of his own father. Senator Jeff Sessions noted, when commenting on the instant case, that:

[[It would appear from initial news reports that the terror suspect was here on a student visa and was illegally present in the country beginning in 2009 when that visa was revoked. It also appears he had multiple run-ins with the law and yet was allowed to remain unlawfully in the country. It would further appear he made blatantly fraudulent claims in order to successfully obtain relief from deportation in 2013.

The flaws plaguing the asylum program, as presently administered, are many. This case typifies the kind of significant national security threat that those flaws engender. The U.S. asylum program is in serious need of rehabilitation and revision, as I reported in my March backgrounder for the Center, "Asylum in the United States: How a finely tuned system of checks and balances has been effectively dismantled". U.S. Citizenship and Immigration Services (USCIS), the Homeland Security component responsible for administering asylum, has announced a quarterly "stakeholders' meeting" to be held on April 23 to discuss the program. Let us hope that they use the meeting productively, and not as an opportunity to circle the wagons and rally support among immigrant advocacy groups and the private bar in order to oppose meaningful and responsible change.

In addition, this case brings to mind the administration's recent, flagrant weakening of the terrorism bars established by Congress and embedded into the law. The bars were intended to prevent individuals who represent a national security threat from seeking safe haven in the United States through applications for asylum. They have been substantially reduced by another example of legally questionable "executive action," in this case jointly perpetrated by the secretaries of State and Homeland Security.

Finally, as the media has reported, Fathi intended to create his mayhem "using remote-controlled airplanes". Think *drone* here. It seems likely he intended it as a political statement to protest U.S. use of drones in Pakistan, Yemen, or elsewhere to kill terrorists. But it is disturbing in the extreme, because of the easy access to – and as yet minimal regulation of – drones in the country. They aren't particularly expensive, and are fast becoming ubiquitous. Several magazines have published articles on the rapidly expanding circle of drone owners and users in this country, which I recommend that one read with just such cases as Fathi's in mind. (See, for instance, here and here.)

An ironic lagniappe: because I often surf the internet for immigration-related items, and Google earns a hefty profit from "personalizing" its ads, when I clicked on the link to the website of the *Hartford Courant*, buried in the middle of the story on Fathi was another link encouraging me to "pass immigration reform", meaning of course, amnesty for the multitudes. I wonder do the sponsors of that ad have any idea exactly how foolishly naked that emperor looks when juxtaposed against the article? No, probably not. Many of the "amnesty now" types seem a cheerless, humorless bunch. As for me, I got a good laugh.

Topics: Education and Foreign Students, Foreign Students, National Security, Refugees and Asylum, Asylum