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ClOSED BORDERS AND CLOSED MINDS: IMMIGRATION POLICY CHANGES AFTER 9/11 AND U.S. HIGHER EDUCATION

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Abstract

Amidst the spectacular losses of 9/11 and the tremendous ongoing ramifications of wars, security overhauls, loss of liberties and freedoms, as well as dire economic consequences, policy shifts affecting U.S. higher education have occurred quietly, largely unnoticed by the popular press or the American public, yet the implications for colleges and universities, and the public they serve, are dramatic and far-reaching. Despite the increasing interconnectedness of our world, evident in politics, economics and the environment, post 9/11 policy changes increasingly isolate U.S. higher education from the outside world, hampering academic freedom, stifling outside viewpoints, and consequently, allowing American hegemony an unchallenged stronghold. This paper will discuss the policy changes affecting nonimmigrant student visas, international research collaborations, and visiting scholar visas within the historical context of American higher education and within the current debate on immigration policy in the U.S. Implications for diversity, academic freedom, and the decreasing potential for diverging views and counter-perspectives within academia will be discussed.

Policy Change

In response to the 9/11 terrorists attacks, President Bush issued a Homeland Security Directive in October of 2001 calling for measures to end “abuse of student visas” and prevention of “certain international students from receiving education and training in sensitive areas” (U. S. Office of the President, 2001, para. 12). This directive came on the heels of the Patriot Act, which had already called for the full implementation, and even expansion, of the controversial Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Together these acts set in motion a complete rewriting of immigration policy regarding international students seeking higher education in the U.S. The terms “certain . . . students” and “abuse of student
visas were broadly interpreted and widely applied. So broadly, in fact, that all of the more than 550,000 international students who annually enter the United States to begin study were affected, in addition to all the millions of students currently in degree-seeking status.

When international students were first classified in U.S. immigration law under the Immigration Act of 1924, they were admitted as non-quota immigrants. Since students come for a temporary sojourn and not for permanent residence, the Immigration Act of 1952 reclassified students as nonimmigrant (Alien Students, 1980). The underlying assumption was that intending immigrants would use student visas as a means to enter the country, or would try to stay in the U.S. after the completion of study. The burden of proof was on each applicant to establish eligibility for this nonimmigrant status by demonstrating significant ties to the home country in the form of residence, employment goals, or family members remaining at home. This burden of proof shifted over time to encompass the political goals of the day. In the Cold War, international students in the U.S. were assumed to be spies. Now, with the recent passage of the intelligence reform act, they are assumed to be terrorists until they can prove otherwise. All applicants to U.S. colleges are currently subject to interviews at U.S. consulates abroad where they will be expected to prove that they are not intending to immigrate and that they are not intending terrorist action while in the U.S. Even after this interview, all of the international students are now tracked and monitored throughout their course of study.

**Student and Exchange Visitor Information System (SEVIS)**

Because of the post 9/11 Presidential directive, the Student and Exchange Visitor Information System (SEVIS) tracking system was quickly implemented, which resulted in a number of drastic changes in the immigration process for international applicants, international students, and American universities. The SEVIS system is an electronic database that universities must use and update, which screens and tracks every international student applicant and every international student enrolled. For example, to admit an international student, the university must enter a few pages of detailed data about the student into the government’s Internet-based database. Then, the university tracks all of the student’s actions for the government, from entry to and exit of the country, course enrollment, address changes, to even personal financial information. To meet the January 2003 deadline, universities had to quickly hire and train employees that could fulfill these secure data entry requirements. Funding and staffing shortages often required complete restructuring of international admissions offices. In a 2002 hearing before the Subcommittee on 21st Century Competitiveness, the American Association of State Colleges and Universities complained of the sudden and ongoing cost to institutions, including “training, software licenses, staffing and other attendant maintenance” (U.S. Congress, 2002a, pp. 107-79,142).

But universities weren’t the only ones scrambling to fulfill the government mandate. The State Department was also caught understaffed and unprepared to implement the new system. Consular offices around the world had to immediately institute numerous changes in processing and phase in the new system. In a 2003 Performance and Accountability Report released by the Bureau of Resource Management, Consular Affairs was found to be deficient in the “fundamental readjustment regarding visa issuance” (U.S. Department of State, 2003, Section 1). The Office of Inspector General recommended, among many other changes, that the department “assess and reallocate consular workloads worldwide” (U.S. Department of State, 2003, Section 2).

As a consequence of such major internal overhauls within the Consular Affairs offices, international students were forced to endure long delays in visa issuance. Some students were trapped in their home country as consular offices transitioned. Yang Wang’s story is typical: Wang, a doctoral student at Stanford, returned home to China for a three week-visit to his parents in December 2002. He was forced to stay for 11 months while Washington conducted a security check on him before issuing his
return visa (Zhao, 2004). Xiaomei Jiang, a doctoral student in physics at the University of Utah, rushed home to China after her parents were killed in a car accident. She was not allowed to return to the U.S. for nine months, causing her to miss the defense of her thesis (Zhao, 2004). Others waited months and in some cases years for visa approval to come. And then it didn’t. After waiting, students could still be denied, and without explanation. Six months after applying, Jane Wang, admitted to Ohio State, heard that her case had been mysteriously closed, forcing her to reapply and begin the indefinite wait all over again (Zhao, 2004).

**Historical Context**

Although the Chinese represent just 11 percent of foreign students in the United States, 57 percent of serious delays involved Chinese students. Indian and Russian students have also been subject to long waits. Male students from Arab or Muslim countries make up another large group of delayed applications, as they are all subject to additional rounds of security checks. This type of monitoring actually dates back to the 1950’s and escalated throughout the Cold War when the U.S. wanted to prevent the transfer of technology to Communist countries. However, consulates at that time seldom scrutinized the backgrounds of students on the scale that is being done today (Zhao, 2004). Still, foreign students were traditionally viewed as potential agents of espionage throughout the Cold War era.

In April of 1966, former Senator William Benton addressed the American Academy of Political and Social Science on the subject of “Education as an Instrument of Foreign Policy,” and the speech was later submitted to the Senate for the record regarding the International Education Act. Benton delineates the “grim Soviet devotion to education.” The Soviets were accused of a “direct attack” on America by publishing educational texts in chemistry, biology, engineering and even the U.S. itself. Further, the U.S.S.R. was encouraging underdeveloped nations to “follow [the Soviet] educational model” (U.S. Senate, 1966, pp. 503-9).

During the Cold War, foreign students from communist countries were all viewed by sectors of the government as potential, even likely, spies. In a 1988 Department of Defense report, all 15,000 Chinese students in the U.S. at that time were considered potential “hostile intelligence threats.” In addition, the report documents 60 institutions of higher education that the FBI believed were the subject of focused Soviet efforts to gather intelligence (U.S. Department of Defense, 1988).

Perhaps one of the most extreme examples of the politicization of international students occurred during the Carter administration, when U.S. embassy workers were taken hostage in Iran. Iranian students whose visas had lapsed were ordered deported by President Carter from U.S. higher education institutions as a retaliatory gesture. At that time, U.S. higher education responded in the traditionally decentralized manner, with each institution choosing its own response. One institution, Greenville Technical College in Greenville, S.C., took justice into its own hands and suspended all 104 Iranian students and told them they could not return until the American hostages were released (Nunes, 1979). Robert C. Crawford, vice chairman of the state school’s board of regents, boldly stated that the “punitive action” was “intended that way” and further justified his punishment of innocent Iranian students by explaining that “there are some innocent people in the U.S. Embassy, too”. The Greenville Technical College response, however, stands out as an anomaly during the crisis. Most international educators deplored the President’s order and some universities, such as UCLA and USC, prohibited immigration service agents from conducting on-campus interviews with Iranian students (Nunes, 1979).

Though the deportations were intended as retaliatory and punitive, the threat of deporting Iranian
students from the U.S. had no bearing on the final release of the American hostages in Iran. Perhaps the most lasting impact of the ordered deportation was the precedent it set of using international students as leverage against terrorist acts.

Even before 9/11, research conducted by and with foreign students and scholars had become the subject of scrutiny. In fact, by March of 2000, Congress moved the oversight of satellite technology from the Commerce Department to the State Department, causing all basic research in scientific satellites, related data, software, and components to be considered military munitions so that universities were required to apply for export licenses if they wanted to include foreign students or researchers in related projects. The Association of American Universities lobbied President Clinton against the change, explaining that the regulations were “having an adverse impact on university research” (Abel, 2000, para. 11). Eugene Skolnikoff, an MIT professor specializing in technology transfers complained of the resulting “climate of fear,” for academics, many who feared “prosecution for even the unintentional transfer of unclassified data, such as in a phone conversation, with scientists from blacklisted countries, including China, Taiwan, Israel, Pakistan, and India” (Abel, 2000, para. 9).

The climate of fear surrounding international students and academic exchange that lingered in the post-Cold War era greatly intensified after the policy changes made after 9/11. Of course, the 9/11 attacks were in no way precipitated by communists or in any way linked to Communism. Moreover, none of the drastic measures taken to monitor students in the post-9/11 era would have had any deterring effect.

To illustrate, only one of the 19 9/11 hijackers entered the country on a student visa. Hani Hasan Hanjour, a 26-year-old Saudi national, entered the U.S. on a nonimmigrant student visa. He did not, however, seek an advanced degree at a higher education institution, but instead, entered the country ostensibly to study English at an ESL Language Center in California (Borjas, 2002). Even if the SEVIS system had been operable at the time, Hanjour would have presumably been able to do so, though perhaps with some delay. Since the State Department had no previous record of him in their database check system, he would likely have been approved for study. He was not currently enrolled in classes at the time of the attack, so he would have been noted in the SEVIS database as out-of-status for non-attendance, but that would not likely have resulted in any immediate action. In fact, in February of 2003, the Office of the Inspector General (OIG) found that while the INS removed 92 percent of deported aliens who were detained, it removed only 13 percent of aliens who were not detained (i.e., incarcerated). Moreover, the INS removed only six percent of non-detained aliens with final deportation papers from countries identified by the U.S. Department of State as sponsors of terrorism (i.e., Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria) (U.S. Department of Justice, 2003). Saudi Arabia, the home country for 15 of the 19 9/11 hijackers is not on the list. None of the other 18 hijackers of 9/11 entered the country on student visas, so the SEVIS system would not have tracked them at all.

Nonimmigrant Student and Exchange Visas within the Immigration Debate

Student visas actually make up a small percentage of people entering the United States every year. For example, in 2001, only 8.2% of nonimmigrant visas were given to students. Visitors for tourism and business comprised the largest group of nonimmigrant visa holders. The Department of Homeland Security Yearbook of Immigration Statistics reports over 32.8 million entries into the U.S. in 2001 (U.S. Department of Homeland Security, 2003). An estimated 32.5 million foreign-born people reside in the U.S., with one million more achieving legal permanent resident status every year. In addition, between seven and eight million enter the U.S. illegally each year (Wasem, 2003). Clearly, the
550,000 entering International students in higher education are by far the most monitored and screened group of aliens in the country, though they are also one of the smallest groups.

If the implementation of SEVIS could not prevent the “abuse of student visas,” by terrorists, could it prevent “certain international students from receiving education and training in sensitive areas”? In May 2002, the State Department sent a memo to all American visa officers, asking them to watch for applicants whose area of study appeared on the “technology alert list,” or the “sensitive major list” (Zhao, 2004). The list is another remnant of the Cold War era, in which over 150 concentrations appear. Again, broad interpretation led to sweeping effects, as “sensitive areas” is expanded to include topics as seemingly innocuous as urban planning and landscape design. Students from other parts of the world who have backgrounds in the social sciences or the humanities are not subject to the same scrutiny, nor are most undergraduate students who have yet to declare majors. Theoretically, then, anyone could pursue sensitive technology if the study began at the undergraduate level, or if he or she changed majors after arrival. Again, this would be noted in SEVIS, but not likely acted on by the Department of Homeland Security.

If the policy shifts could not prevent terrorism, what then, could have been their purpose? If we review the highly publicized current debate on immigration policy affecting both legal and illegal immigrants, the contrast of relative silence with regard to nonimmigrant visa policy is striking. By contrasting the two groups, several key differences emerge. First, nonimmigrant students applying to U.S. universities must begin the process months and even many years in advance. As anyone who has applied to universities in the U.S. knows, several tests must be taken, numerous forms must be completed, and fees must be paid. The applicants, then, are a self-selected group who are willing to take on the arduous tasks assigned to them by what is often a large bureaucracy, a university admissions office. Furthermore, they are a group that is as a whole, financially well-off, considering the continually escalating costs of higher education. Even if the student has received a scholarship or fellowship, the costs associated with travel and relocation are not insignificant. In short, non-immigrant student visa holders are by and large a rule-abiding, financially well-off group willing to jump through bureaucratic hoops to achieve a long-term goal. Therefore, policing them is merely a matter of making rules that they will then follow. University applicants’ tendency towards compliance makes them an easy target for regulation.

Moreover, as mentioned earlier, they are a small group, hailing from all over the world. They speak countless languages and come from numerous cultural backgrounds. These variances make it less likely that they can unite in a voice of protest over changes in immigration policy. Further, as non-immigrants, problems with U.S. visas are a temporary problem for them. They do not expect to struggle with student visa problems for more than a few years, making the situation one that they tend to wait out rather than work to change.

For all the above reasons, it is unlikely, then, that students themselves will protest the policy changes, but what about the universities who have admitted and in many cases, recruited these students from around the world? Unlike previous government attempts at intervention with international students on campuses, administrators and educators did not, or could not, resist policy changes. In fact, after 9/11, the entire landscape of international education in the U.S. shifted dramatically from a posture of recruitment, to one of determent, from receptive to suspicious, from hospitable to hostile.

Post-9/11, university educators and administrators became far more compliant with government surveillance of international students than they were with past attempts at governmental interference on campus. Even professional higher education organizations in international education that had formerly resisted legislation hindering international students submitted to the fear and paranoia of the immediate post-9/11 arena and in some cases, actually came out in tempered support of legislation they had spent
the previous five years battling.

For example, in April of 2001, The American Council on Education (ACE), a membership organization of college presidents of 1,800 institutions and 76 other educational and exchange visitor organizations, sent a letter to the INS rejecting CIPRIS, an earlier prototype of SEVIS, calling its potential implementation a “looming disaster” for higher education (Southwick, 2001). Terry W. Hartle, senior vice president for government and public affairs for the ACE, claimed that the program would “have the effect of closing off options for many foreign students who might want to study in the U.S.” (Southwick, 2001). College lobbyists accurately predicted that the database, and the fee collected from students to finance it, would “hurt the enrollment of international students and be an unfair hardship to those from the poorest countries” (Southwick, 2001). But by September 24, 2002, in a Joint House Subcommittee hearing, David Ward, President of ACE, called SEVIS “the single most important step that the federal government can take,” and went on to state that “we strongly support SEVIS and would like to see it implemented as soon as possible.” Regarding the fee, he complained that the amount and collection procedure were still unsettled, but did not take issue with the fee itself or the burden it would create for students (U.S. Congress, 2002b). This dramatic shift in stance characterizes the post-9/11 era in higher education policy and distinguishes it from past attempts to limit “certain students from receiving higher education.”

Impact of the Policy Change

Now, several years after the sweeping post-9/11 immigration changes, U.S. higher education institutions are down an average of over 30% in international applications (Council of Graduate Schools, 2004). The decrease spans regions of the world and disciplines within the institutions themselves, showing a dramatic overall, worldwide decrease in international student interest toward U.S. colleges and universities (Council of Graduate Schools, 2004). In addition, the number of foreign students on American campuses “declined [in 2003] by 2.4 percent – the first drop in foreign enrollment since the 1971-1972 academic year” (Bollag, 2004). A survey of major graduate institutions, conducted by the Council of Graduate Schools, found a six percent decline in new foreign enrollments for the fall semester of 2004, making it the third year in a row with a substantial drop in new students (Bollag, 2004).

Experts tend to agree on the reasons for the decline, “chiefly the real and perceived difficulties in obtaining student visas, especially in scientific and technical fields” (Bollag, 2004). According to Nils Hasselmo, president of the Association of American Universities, "the major factors are U.S. visa policy, increased international competition and perceptions that the United States is no longer a welcoming country" (Foreign Grad Students in U.S. Down, 2004).

In fact, at the same moment that the U.S. began to implement the immigration policy changes, other English speaking countries or nations with English language higher education programs stepped up their efforts to recruit international students. "Many countries, like the United Kingdom, South Africa, Germany and Australia are recruiting the same students we are after, and some students are finding these places more attractive," says Terry W. Hartle, a senior vice president of the ACE (Foreign grad students in U.S. down, 2004). Indeed, the enrollment of students from China in Australian colleges grew by 25 percent and students from India by 31 percent last fall, compared with a year ago. In England, the number of Chinese students grew by 36 percent and Indian students, by 16 percent. “Not surprisingly, universities in Australia, Britain, France and elsewhere are taking advantage of our barriers and are aggressively recruiting these students,” writes Robert M. Gates, former director of Central Intelligence and current President of Texas A&M (2004).
While it is tempting to blame all of the decline in international applications to U.S. higher education institutions on SEVIS and its regulations, researchers had noted that the U.S. has been “losing market share” since the 1980’s. While the total number of foreign students at U.S. institutions grew throughout the 1980s and 1990s, the U.S. continued to slip from about 40 percent of market share in the 1980s to just 32 percent by 1998 (Panel to Study Whether U.S. Laws and Regulations are Deterring Foreign Students, 1999). In contrast, other nations were expanding their hold on the international education market. As early as 1998, Great Britain announced an aggressive, well funded marketing plan, backed by changes in visa regulations that would make it easier for foreign students to enter and work in the U.K. The strategy’s stated goal was to attract 75,000 more foreign students (Panel to Study Whether U.S. Laws and Regulations are Deterring Foreign Students, 1999). This plan is in sharp contrast to the U.S., where international students were traditionally viewed as a “problem” for the faculty and institutions (Jenkins, 1983). In fact, “instead of being seen as individuals, foreign students in United States colleges and universities tended to become identified by their problems and classified under the generic term ‘foreign student’” (Jenkins, 1983).

Before 9/11, educators within higher education fought this tendency and organized to protect and encourage foreign students on campuses across the country. As early as the 1980s, experts in the field of international education bragged that

> the persons involved in foreign student affairs are much more effective in dealing with their responsibilities. Thus, foreign students . . . find that they are no longer treated as a stereotype . . . but greeted as individuals who bring with them their own cultural heritage, have their own capabilities, and pursue their own particular goals. (Jenkins, 1983)

After 9/11, however, all international students were again being lumped into one category: terrorists.

The economic implications for the loss of international students to the United States are extensive. International education ranks as the nation’s fifth largest service sector export, and represents a 13 billion dollar annual industry (Foreign Graduate Students in U.S. Down, 2004). But the economic impact is only one measure of the loss for the United States. More difficult to quantify, but also more significant, is the loss in diversity at the student and even the faculty level.

The State Department has expanded its focus on students outward to encompass foreign faculty as well, most notably in a case in August, 2004, in which Tariq Ramadan, a prominent Muslim scholar from Switzerland, had his visa revoked just before he was to begin teaching at Notre Dame. The State Department cited a legal provision that bans anyone “likely to engage in any terrorist activity,” but scholars at Notre Dame feared instead that it was Mr. Ramadan’s views, “not an extremist discourse but one that is critical of U.S. policy,” which lead to the decision (Kinzer, 2004). The director of the Joan B. Kroc Institute for International Peace Studies, Scott Appleby, said that he “wor[ied] about the implications for academic freedom and more generally for freedom of speech . . .” (Kinzer, 2004). Mr. Ramadan’s case is not unique. Academic and civil-liberties groups assert that during the last year or so, the Bush administration has increased its use of security measures to keep out foreign scholars whose politics or ideas it does not want the American public to hear: The government typically does not give a reason for denying the visas, making it nearly impossible to challenge the decision (Bollag, 2007).

Because of the difficulty in obtaining visas to the U.S., international collaborations are being driven overseas. Research and academic-based conferences, which include, for example, “75 national academies and 27 scientific unions” from the International Council for Science, are holding their conferences outside the U.S. to avoid visa delays for participants (Kinzer, 2004). Among the U.S.-based collaborations that have already suffered “is the particle physics project at the Fermi Lab—many
team members, especially Chinese and Russians, cannot enter the country” (Kinzer, 2004). In one notable case, Russian physicists enrolled in a training program on safeguarding nuclear weapons were unable to get visas to attend the class (Chul, 2003).

The resulting isolation for American students and scholars creates a disconnected environment where it becomes increasingly difficult to clearly view, teach, debate or scrutinize American global dominance from inside American academic culture. With a limited presence of international students in the classroom, and with participation in international academic and research-based collaborations limited, the dominant American culture is free to fix a common worldview that does not problematize the role of American culture globally, or consider the global effects of U.S. government policies. As Peter McLaren points out, “Americans are generally positioned as subjects by dominant discourse” (Darder, Boltadano & Torres, p. 77). Indeed, he goes on to explain that,

Most Americans would be aghast at hearing a description of their country as a terrorist regime exercising covert acts of war against Latin American countries such as Nicaragua. The prevailing image of America that the schools . . . have promulgated is a benevolent one in which the interests of the dominant classes supposedly represent the interests of all groups. (78)

Such limited viewpoints can rest unchallenged when students from other nations, Nicaragua for example, are not in the classroom and cannot submit their own experience as a counter-perspective. Moreover, when educators, scientists and researchers are hampered in efforts to work collaboratively internationally, the international impact of their work is less likely to be fully understood, or in some cases, even considered.

Recently, struggling with these limitations, U.S. educators have renewed their call to Congress and the administration to address this issue. The National Association of Foreign Student Advisors (NAFSA) has called on President Bush to convene a White House conference of senior officials from the government, higher education, and the private sector to elaborate a national strategy on international education” (Bollag, 2004). Indeed, NAFSA is calling for a government-wide recruitment policy for international students, a removal of government barriers for student visas, a program of loans to assist with tuition costs, and a central Web portal explaining the complexities of the U.S. higher education system (Bollag, 2004). “All of our competitors have long since implemented strategies to recruit foreign students,” according to Victor C. Johnson, associate executive director for public policy at NAFSA. “It’s time for us to enter the race” (Bollag, 2004).

The alarming declines in applications reported by CGS-member graduate schools are in areas critical to maintaining the scientific enterprise and economic competitiveness of our country as well as the cultural and intellectual diversity that contributes to the international renown of U.S. graduate education. (Council of Graduate Schools [CGS] (2004), president, Debra Stewart)

For their part, the current administration claims their goal is “to remain a welcoming nation to foreign scholars and scientists. . . “ (Schemo, 2003). In a written statement responding to the recent drop in International students on U.S. campuses, Patricia S. Harrison, the U.S. assistant secretary of state for educational and cultural affairs, said she was confident, “that both the situation and numbers will improve” (Bollag, 2004). Asa Hutchinson, under-secretary for border and transportation security at the Department of Homeland Security, said they “recognize the need for greater cooperation and were taking steps to reduce the [visa processing] delays” (Shemo, 2003).

Even with the practical issues of visa delays aside, the prevailing negative image of the U.S. itself is a great deterrent to students. According to Johnson of NAFSA, “The word is out on the street in China: You can’t get a visa to study in the United States” (Bollag, 2004). Many students and their parents may
not want to risk money or time by taking a chance on the United States’ system, particularly when other nations are so accommodating.

**Conclusion**

When terrorists destroyed the Twin Towers in New York, no one could have predicted all the ramifications of such a tragic act of violence. Though the attack on a powerful symbol of American hegemonic global dominance might have signaled a need for communication among and understanding of other cultures, the Bush administration, engulfed in an atmosphere of fear and chaos, restricted and increasingly isolated U.S. higher education from the rest of the world. In the shadow of these policies, will higher education allow American hegemony to flourish? As Congress continues to struggle with immigration issues, academia will have to fight for the continued enrollment of international students. Scholars and students must demand access for international students, scholars and international research collaboration. Otherwise, academic and intellectual freedom, as well as the potential for counter-perspectives, may also be destroyed.

**References**


