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# Ground Between the Wheels: Political Threats to Overseas Scholars

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Historically, scholars from countries in the grip of authoritarian regimes or those at odds with the United States often find themselves between a rock and a hard place. Their home governments may suspect disloyalty and impose restrictions on them, while the United States may redirect its hostility from their home states to them instead by barring their entries, deporting them, or tapping their phones. Illustrative episodes in the past have involved Nazi Germany, the two Chinese states, and, since 2001, the Middle East. It takes steady nerves to navigate through these minefields.

The implications of this state of affairs transcend the woes of individuals caught between nations, threatening the operations of the world intellectual order. While globalization has induced major advances in the realm of academic interchange through the development of satellite television and the Internet, the physical movement of people is an indispensable part of this process—one that is threatened by the sort of difficulties chronicled here. For every person actually caught between the wheels of exchange, a dozen others are deterred from going abroad as students or teachers. Thus, some scientific organizations have moved their meetings from sites in the United States to places perceived as more welcoming, such as Canada. Ultimately, the vast opportunities for cross-cultural and cross-border scholarship lie dormant and unexplored.

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## HOME COUNTRY OBSTACLES

As students and scholars pursue opportunities abroad, home countries are concerned about the transfer of opinions that may compromise a government's image in U.S. academic circles. Therefore, home countries often carefully scrutinize the past allegiance of prospective exchange scholars.

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Prior to departure, students are interrogated about their intentions and warned not to forget their loyalty to the state. Warnings, subtle or crude, are issued as a reminder about what may befall the family that is left behind, contingent on the scholar's conduct while abroad. Romania during the Cold War is a notable example. Repeatedly, students who had everything, including travel documents, in order for their attendance at the Salzburg Seminar in Austria were prevented from leaving the country and forced to send last minute expressions of regret.

Upon arrival in the United States, such students still feel the vigilant eyes of their home countries upon them. They know that other students may have been recruited to report about them. They may be subject to official monitoring by consular officers. They may have to file reports. Such surveillance can be quite intrusive. For many years, students from Taiwan and mainland China were reluctant to associate with each other for fear of being seen talking to the "enemy." One law student who was sent by the Philippines, his home government, to an LLM program with the purpose of developing a case for his country's claim to a stretch of ocean discovered that, in fact, the case was weak. His supervisor convinced him that his paper need not be published but could be locked away and made unavailable to officials back home. Above all, the sense of being under surveillance is intimidating, as any wrong action can lead to severe consequences, such as the kidnapping of family or seizure of property in the home country. The Nazis even took violent action in foreign countries; they kidnapped individuals from across the border in Czechoslovakia and Switzerland. The Swiss government did succeed in negotiating the release of a kidnapped journalist. Fortunately, German refugees in the U.S. found safety in the distance.

A well-documented illustration of these problems involves my own family. In 1936, my father, a historian and a political refugee from Nazi Germany, was invited to give a lecture at The Fletcher School on the state of

affairs in Germany. His talk was highly critical of the Nazi regime and therefore was treated by the university as confidential. Despite this precaution, a German student took careful notes and handed them to the German consul in Boston. That official in turn passed the notes on to Berlin with remarks about the speaker's disloyalty to the Reich. The file was circulated among the relevant agencies and ultimately to Heinrich Müller of the Gestapo, an action which resulted in the inclusion of my father on a decree terminating the German citizenship of a list of refugees. The authorities took into account that Alfred Vagts had been an officer in the German Army in World War I, that he was a Social Democrat, and that his family, being farmers, could not be Jewish. The decree ordered the confiscation of any property owned by the culprit. For good measure, they denaturalized his American wife, Miriam Beard Vagts, who had acquired German nationality by the act of marrying a German citizen. (U.S. law had already changed so that she retained her U.S. citizenship.) Fortunately, my father was naturalized in the U.S. before World War II broke out and had no property remaining in Germany. After the war, the German government made amends by including the name Alfred Vagts in the memorial to German resisters that is housed in the old general staff headquarters in Berlin.

The tribulations of diaspora scholars venturing back to their countries of origin are not necessarily avoided by dual citizenship. Upon return, such scholars may be subjected to detention, questioning, and arrest if they are suspected of developing and disseminating subversive ideas about their home governments. The case of Haleh Esfandiari illustrates that threat. Esfandiari, an Iranian-American, former professor at Princeton University, and director of the Middle East Program at the Woodrow Wilson International Center for Scholars in Washington, DC, returned to Iran to visit her aging mother in December 2006. Following months of interrogation, Esfandiari was incarcerated in Evin Prison on allegations of endangering Iranian national security. After 105 days of solitary confinement without access to defense lawyers, she was released in September 2007 after emphatic protests from her supporters in Europe, the United States, and the Middle East.

#### **OBSTACLES TO U.S. ENTRY**

On the other side, the United States creates obstacles for scholars from unfriendly countries. To begin with, entry into the United States has been made more difficult. The Immigration and Naturalization Service (INS) was notoriously dysfunctional, and its offshoot, the U.S. Bureau of Citizenship

and Immigration Service, has been overwhelmed by the sheer numbers of immigrant cases in the last five years. In the 1930s, most refugees from Nazi Germany had to seek immigrant status since they obviously were not going back to Germany. That is not to say that there were not some German students, like the student informant who incriminated my father, who were content to return to Germany. There was the dramatic case of Dietrich Bonhoeffer, the Protestant theologian of the resistance, who felt morally required to return to his fatherland, where he was later executed after the attempt on Hitler's life. During the 1930s, immigration to the United States was constricted by the application of a national quota system. Access to non-immigrant status was subject to tightening bureaucratic controls, and the concept of political asylum had not yet been codified in international law.

Even more recently, a writer whose work is deemed threatening to U.S. security may be excluded from entry altogether. This happened to the Belgian Marxist theoretician Ernest Mandel in 1969 when he attempted to come to the U.S. to participate in a conference at Stanford University. This exclusion took place despite a U.S. Department of State request for waiver and the appeals of eight American professors who wanted to hear him present his ideas. Although the statute involved in the Mandel case is no longer in effect, the post-September 11 Patriot Act allows for exclusion on political grounds. Recently an Arab scholar, Tariq Ramadan, after accepting a tenured position at the University of Notre Dame, had his visa revoked. He subsequently resubmitted his application twice, only to have it rejected on the grounds that he had supported terrorist organizations. He is now a visiting fellow at Oxford University. Other recent exclusion cases include the Nicaraguan historian and Sandinista activist Dora Maria Tellez who had been invited to occupy a post at the Harvard Divinity School; the roughly 60 Cuban scholars who wanted to participate in a Latin American Studies Association seminar in Las Vegas; and an Iraqi epidemiologist, Riyadh Lafta, who was refused a visa, apparently because his estimates of death tolls among Iraqi civilians were far in excess of statistics published by the Bush administration.

Even when a student visa is theoretically available, the proceedings for obtaining it may be made much more difficult. It is well known that after September 11, 2001, visa procedures were tightened in general but also with specific application to Middle Easterners. Delays of four to five months were common. Students seeking to return to their home countries during vacations found that added delays in the re-entry process prevented them from continuing their studies in the United States on schedule. One such student at Harvard Law School was forced to create a joint program with

the London School of Economics so that he would not lose the semester that he could not spend studying in Massachusetts. Admissions officers at various types of institutions recorded significant drops in applications and enrollment among international students who feared that they would not gain admission or who simply recoiled from the hostility they felt emanating from American officials. Canadian and Australian universities, already claiming a competitive advantage thanks to lower tuition rates, gained an edge on their American rivals. Yet it seems that the U.S. has regained some ground, with the number of international students enrolled in American colleges and universities up by 3.2 percent in the 2006-2007 academic year—the first significant increase since 2001.

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Even after admission to the United States, difficulties persist. After the 1979 Iranian hostage crisis, Iranian students in the U.S. found themselves confronted by a special requirement that they report to American authorities. Their attempt to challenge those regulations as unconstitutional and discriminatory succeeded in the district court but lost on appeal. The court of appeals found that the discrimination had “a rational basis.” One consequence of this episode was the creation of new reporting requirements, because the authorities realized they lacked an accurate inventory of the number of students of foreign nationalities. These reports have been a burden to academic administrators, due mostly to technical difficulties. At times the consequences of these reports have been dire; a student spent two days in jail after the INS discovered that he had not maintained the minimum 12 hours of classes per week required under his visa. After the events of September 11, there were numerous cases of Arab students and scholars being handled in ways that reflected a suspicion that they were a security threat.

As if surveillance by agents of the home country were not enough, the United States also listens in on émigrés. Since September 11, electronic surveillance programs have been in full swing, as have FBI programs to obtain financial records without court warrants. Due to the secrecy surrounding these programs, it is not at all clear how much of them are aimed at students and scholars from abroad. More is known about an earlier period of surveillance. Under J. Edgar Hoover, the FBI—as well as the Office of Strategic Services—listened in on German refugees in the years before World War II. Hoover found it difficult to decide whether the larger problem lay in

their connections with Nazi Germany or their connections with the socialist and communist groups that sought to oppose Nazism and influence a post-Hitler Germany—hence, the term “communazis.” Included in the list of those who were the subjects of this eavesdropping scheme were prominent figures in the arts and sciences, such as Thomas Mann and Bertold Brecht, as well as poverty-stricken refugees. As matter of law, persons in the United States who retained their German citizenship were subject to detention under the rules pertaining to enemy aliens. Ironically, after 1941 quite a few of these refugees found themselves in sensitive positions helping the United States to defeat Germany and then to rebuild the defeated society. Sergeant Henry Kissinger, before becoming a professor, served in the Counter Intelligence Corps weeding out German policemen who could not be trusted and putting the others back on the streets. Senior academics such as Carl Friedrich and Arnold Wolfers prepared briefing materials for government military officers and took a hand in the framing of the new constitution for the Federal Republic of Germany.

Another set of rules that impinges upon academics overseas is that limiting the export of sensitive technological information. To understand these rules, one must adapt to the idea that putting information into the head of somebody likely to return to a particular country is akin to sending drawings and specifications by courier service to that country. The countries in question and types of information considered sensitive change from time to time as the political posture of the U.S. shifts. A recent example of the implications of these policies on academia was the U.S. Department of

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Defense demand that university laboratories require international scientists to wear badges and stay out of high security areas.

Additionally, U.S. currency controls aimed at disfavored states can make it hard for students from targeted countries to obtain funds from home, either from their governments or from families and other private sources. Even if the money ultimately comes through, the delays can cause severe hardship. These controls have also underpinned U.S. limitations on American students going to Cuba to pursue their academic interests. While Americans cannot lawfully be forbidden to travel to areas that are not active war zones, they can be prevented from spending money there. These rules have been applied inconsistently over time so that some academic visits have been licensed and others denied approval.

## CONCLUSION

The United States should adjust its policies vis-à-vis students from Muslim-majority countries, so as to minimize the impact on them and on educational institutions in this country in what is likely to be a long-standing condition of tension. The costs to the United States of excluding talented students are in the long run far-reaching and substantial. It deprives us of badly needed human resources, particularly in such fields as engineering and the natural sciences. It raises tensions between this country and other nations, particularly in the Muslim world, where approval ratings of the United States have fallen drastically.

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We can all make contributions to the alleviation of these difficulties. We should deal with international students with sensitivity towards their anxieties and the difficulties they may face. We should exert whatever influence we have on a presidential administration and Congress to overcome individual injustices and adjust the system so that it works more effectively and humanely. We can act both individually and through professional and scientific organizations to which we belong. ■

## ENDNOTES

- 1 Herbert Tutas, *Nazionalsozialismus und Exil: die Politik des Dritten Reiches gegenüber die deutsche Politische Emigration, 1933-1939* (Munich: Hauser, 1975).
- 2 The original file is at the German Federal Archives in Koblenz, and a copy is in the author's possession.
- 3 Eberhard Bethge, *Dietrich Bonhoeffer: Theologe-Christ-Zeitgenosse* (Munich: Kaiser, 1967), 734-737.
- 4 *Kleindienst v. Mandel*, 498 U.S. 753 (1972).
- 5 See Gwendolyn Bradley and Rachel Levinson, "Scholars Excluded from the United States," *Academe* 93 (5) (September/October 2007): 12. The American Civil Liberties Union has filed a lawsuit on behalf of the American Academy of Religion, the American Association of University Professors, PEN American Center, and Mr. Ramadan.
- 6 Eugene McCormack, "Number of Foreign Students Bounces Back to Near-Record High," *The Chronicle of Higher Education* 54 (12) (November 16, 2007): A1.
- 7 *Narenji v. Civiletti*, 617 F.2d 745 (DC Cir. 1979).
- 8 "Foreign Students Jailed for Light Course Loads," *Academe* 89 (2) (March/April 2003): 7.
- 9 See Alexander Stephan, *"Communazis:" FBI Surveillance of German Émigrés Writers* (New Haven: Yale University Press, 2000).
- 10 Walter Isaacson, *Kissinger: A Biography* (New York: Simon & Schuster, 1992), Chapter 3.

