

**FINAL DRAFT—NOT FOR CITATION OR CIRCULATION**

“What the War on Terrorism Has Meant for United States Colleges and Universities”

Michael A. Olivas, University of Houston

Law Center

A recent blue-ribbon National Academy of Sciences study Committee, involving several authors in this book project, concluded:

“Maintaining and strengthening the [science and engineering] enterprise of the United States, particularly by attracting the best domestic and international graduate students and postdoctoral scholars, will require the cooperation of government, universities, and industry to agree on an appropriate balance between [sic] openness, mobility, and economic and national security. Making choices will not be easy, but the recommendations provided [by the Committee] define priorities, data, and analyses needed to determine substantive steps that will advance the vitality of US research and attract the talented people necessary to perform it. The key is to endow our research institutions and [science and engineering] labor force with the

flexibility needed to respond to rapid changes in the landscape of our nation's [science and engineering] enterprise. (Committee 2005: 11)

A number of the Chapters in this project have directly addressed the perceived decline in attractiveness of graduate and other post-baccalaureate professional education in the United States, offering a number of observations and proposing a number of solutions. As is the case with so many complex problems, virtually all of the diagnoses and prescriptions are correct in their way, and completely wrongheaded in another way. In the crowded Chinese city, a young girl only vaguely senses her possibilities as a chemist, medical researcher, or legal scholar; the young boy in the Mexican *milpa* only understands the study of physics or studying Neruda in the most ethereal sense. As social scientists like to study the “pathways” to degree completion, most of us remember our own path up the mountain trails as accidental, idiosyncratic, and unlikely. Read Ron Ehrenberg's winding road to his own field of study and how it morphed over time, or take my own false starts before I found my niches in higher education law and immigration studies — our studies and most people's arcs of professional searches almost defy description or prediction.(Ehrenberg 1999; 2000; Olivas 2000) The chemist Mario Molina has written modestly that he started

out as a musician before he took fire and encountered his mentor and collaborator Sherry Rowland — only then did he focus on the ozone-depletion research that would later lead them to the 1995 Nobel Prize. His intellectual training journey led him as a young man across several countries, and then, like so many other non-U.S.-born sojourners, the pull of scholarly facilities and opportunities in the United States drew him inexorably and inevitable to these university research labs. (Molina 1995)

But no matter how they come here. The real question is where they land and do their work, and what conditions attract the Mario Molinas, the Henry Kissingers, the Albert Einsteins, the Jill Kerr Conways, the Paul Chus to devote their lives to research agendas in United States labs and higher education institutions. This chapter addresses these issues in three ways, in an attempt to triangulate how the United States regulates entry into college for international students, how anti-terrorism laws have affected these practices, and how the changed ground rules have affected the place of U.S. higher education in the world.

## **Foreign Study in the United States**

Students outside the United States have to apply to college like anyone else, and then some. The “then some” is largely an overlay of international-student requirements on top of the admissions process, and additional paperwork — both of which operationalize the immigration process. Conceptually, the steps are quite simple and transparent, but these mask the complexities that underpin international student admissions.

(Berger and Borene 2005) The purpose of this Chapter is not to parse these immigration requirements, which feed a large industry practice and support network. For example, the NAFSA: Association of International Educators organization [[www.nafsa.org](http://www.nafsa.org)] represents their interests in the United states, organizes the process, and has professionalized the international student advisor network. (Bollag 2006c) A number of NAFSA studies have clearly documented the extent to which there are structural problems in student application processing, consular delays (including 2001 evidence that over a quarter of consular visa applications for intending students are denied), and flaws in the immigration requirements, especially in the domiciliary requirements of intending immigrants. (NAFSA 2003; NAFSA 2006)

Another network, the Institute for International Education [[www.IIE.org](http://www.IIE.org)] fosters exchange programs, evaluates transcripts, and provides technical assistance among world higher education systems. (IIE 2006) Other allied

organizations, governmental agencies, and NGO's also coordinate these functions. As a result, millions of students and scholars travel outside their countries and interact with colleges on a formal basis. (ACLU 2006; ACE 2006; IIE 2006) The amazing truth is that the system works so well, not that it bogs down and fails some participants, although the failures are more evident in recent years.

In the United States, international students travel for the most part on F-1 visas (traditional college attendance) or on M-1 visas (short-term college attendance or language study), while exchange scholars and researchers travel on F-1 visas. Their families and dependents are allowed to follow on related visa-categories. (There are a number of other immigration categories that allow study, but these are the major such vehicles.) Students must be admitted for study and submit timely paperwork that shows requisite financial support, insurance coverage, security clearances, and other eligibility for study. (McMurtrie 1999) As will be noted in Section II, these required documents have grown more complex and time-consuming, and it is not unusual that delays in the processing will affect timing for admissions and travel to the United States. (Kapoor 2005) And, while most international students will have permission to remain in the US for the pendency of their

studies, assuming satisfactory academic progress and no disqualifying behavior, this is not an easy task. In my twenty five years in this kind of work, I have seen students deported or removed for failure to register properly in summer transfer work, for dropping a class that was not offered, for working required overtime in a permitted summer program, and for other minor transgressions that were not properly papered or approved. I had to seek senior political intervention (name omitted for political purposes, in case I need another favor) for a student of mine who returned home for semester break and who missed his flight, rendering him technically inadmissible upon his return. In the usual case, students can extend their studies for many years, can go on for additional studies, and can “work” in limited circumstances. Once they complete their studies, they can apply for and be eligible for employment in the United States. Many do so, especially in academic appointments for which they are qualified. (Berger and Borene 2005; Steiner-Long 2005)

This nutshell covers the many circumstances, and does not refer to the many horrors that can occur. But most of these horrors implicate immigration status and its structural apparatus, and this overlay, with its many technical details, is quite unforgiving and punitive — more so in this post-9/11 world. There is still too much discretion accorded overseas

consular officials, whose judgments concerning intending sojourners is virtually unreviewable. (McMurtrie 1999) Additionally, there has been a surprising amount of litigation involving international students and scholars, ranging from financial aid eligibility, ( *Nyquist v. Mauclet* 1977) employment issues, ability to travel to the US (and its converse, the ability of US citizens to travel on scholarly exchanges to Cuba), (Bollag 2006b; Bollag 2006d; Bollag 2006e) insurance requirements, (*Ahmed v. University of Toledo* 1986) discrimination allegations, (Gott 2005) retaliation for diplomatic reasons, (Bollag and Canevale 2006; Bollag 2006c; Bollag 2006e) and many other dimensions. (Guterman 2006; Jordan 2006; Cooper and Shanker, 2006) While length considerations preclude fuller details, suffice it to say that this is a rich legal literature and substantial practice area. (*Toll v. Moreno* 1982) And the results reveal that international student prevail as well as lose in these cases, particularly when the college actions are thinly-veiled instances of prejudice, as in the example of the actions by New Mexico State University trustees to punish enrolled Iranian NMSU students for the takeover of the US embassy in Tehran, Iran by militants in the late 1970's. (*Tayyari v. NMSU* 1980) Moreover, under shifting norms of national security, there is a longstanding practice in the United States of restricting travel to controversial figures, including intellectuals and

scholars. The recent federal court decision, to which the US government has acceded, to require the government either to issue a visa to Tariq Ramadan, a Muslim scholar from Switzerland, or articulate reasons for not doing so (he had an offer to assume a tenured position at the University of Notre Dame) (Bollag 2006f), gives cause for cheer, only to be offset by the government's refusal to allow US citizens to re-enter the country from Pakistan (Bulwa 2006). After the initial cheer about Professor Ramadan's fate, the U.S. refused him entry, on different grounds. (Shuppy 2006) Such accomplished people who would want to work in the country, as well as those many who simply wish to interact in scholarly forums, have many options and will find refuge elsewhere. (Archibold 2006) Professor Ramadan, after being refused entry into the US, was appointed by British Prime Minister Tony Blair to a working group to advise him on UK terrorism. (Blair 2006; Labi 2006) We have forgotten the lessons of WWII, when the brain drain from Europe brought our country extraordinary academic, humanitarian, and political talents from elsewhere. These flying dutchmen will find regimes willing to allow them to ply their trade, and US colleges and corporations will read about their achievements from abroad and see them recorded in patent offices elsewhere. (Bollag and Neelakantan 2006)



## **U.S. Higher Education Responses After September 11, 2001**

Of course, the events of September 11, 2001 changed everything, and predictably, changed them for the worse.<sup>1</sup> Literally dozens of statutes have been enacted or amended by Congress to address terrorism since the attacks against the United States, and several of these either directly implicate higher education institutions or affect colleges in substantial fashion. In addition, new legislative proposals have arisen, in areas that will affect colleges and universities should they become law. Regulations to implement this legislation have cascaded, and many more are in progress. Like an elaborate billiard game, these new statutes cross-reference, compound, and alter existing statutes, including well-established laws.

The primary statutes enacted by Congress to combat terrorism since the 2001 attacks include:

- \*       Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA-PATRIOT Act), P.L. 107-56 (October 26, 2001) [major omnibus anti-terrorism legislation, amending several statutes];

- \* Aviation and Transportation Security Act, P.L. 107-71(November 19, 2001) [affects flight training schools];
  
- \* Enhanced Border Security and Visa Entry Reform Act of 2002, (Border Security Act) P.L. 107-173 (May 13, 2002) [data collection on international students and scholars];
  
- \* Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (BPRA), P.L. 107-188 (June 12, 2002) [controls use and distribution of toxins and other biological agents used in scientific research and instruction].

Other relevant legal initiatives include the Student and Exchange Visitor Information System (SEVIS), a comprehensive computerized system designed to track international students and exchange scholars; the Department of State's Technology Alert List (TAL), an enhanced consular official review process for detecting terrorists who seek to study sensitive technologies; the Visas Mantis, a program intended to increase security clearances for foreign students and scholars in science and engineering fields; the Interagency Panel on Advanced Science Security (IPASS),

designed to screen foreign scholars in security-sensitive scientific areas; the Consumer Lookout and Support System (CLASS), a file-sharing program that incorporates crime data into immigration-screening records; the Interim Student and Exchange Authentication System (ISEAS), a transitional program until SEVIS is fully operational, and replacing the previous Coordinated International Partnership Regulating Act of 1996 (IIRIRA)– the major overhaul of the core Immigration and Nationality Act (INA). In addition, there are many Presidential Directives and other federal statutory/regulatory matters that govern the intersection of immigration, national security, and higher education. (“U.S. Citizens” 2006)

As one careful immigration scholar has noted in this area:

Let us be clear : Immigration law does not revolve around national security or terrorism. As you will see, national security is merely one of many policy ingredients in the mix. Moreover, only the most minute proportion of actual immigration cases present any national security issues at all. Conversely, while many of the policy responses to September 11 have been immigration-specific, most have been generic national security strategies. A full chapter devoted solely to

national security runs the risk, therefore, of lending that subject undue prominence. This must be acknowledged. For two reasons, separate treatment of this material is useful nonetheless. First, in the aftermath of September 11, the inevitable preoccupation with terrorism and war has utterly dominated the public discourse on immigration. Welcome or not, that reality cannot be ignored. Second, Congress and the executive branch have responded with a wave of counterterrorism initiatives. Many of them specifically target either noncitizens or particular classes of noncitizens. Synthesizing these measures makes it easier to describe, digest, and evaluate them in context. (Legomsky 2005: 843)

After the planes crashed, some of these changes would have been enacted, even if some of the hijackers had never been students, enrolled in U.S. flight schools. (Kobach 2005) The resultant revisions have been accelerated, and breathed life into dormant statutes. For example, the SEVIS initiative had been mandated by IIRIRA in 1996, but had never been implemented. Concerned generally about overstays, Congress had ordered that an automated entry-exit system be developed, and when it was not developed, enacted two additional statutes in 1998 and 2000 to deal with this

issue. Following September 1, 2001, the USA PATRIOT Act was signed into law, including Section 414, which lent additional urgency. In 2002, Congress once again acted on this subject, enacting the Enhanced Border Security and Visa Entry Reform Act of 2002. In June, 2002, the Department of Justice announced the creation of the National Security Entry-Exit Registration System (NSEERS). The postsecondary corollary is the Student and Exchange Visitor Information Program (SEVIS), a web-based student tracking system, which has been delayed and vexing for colleges required to use it. Both NSEERS and SEVIS will be rolled into a more comprehensive data base called the U.S. Visitor and Immigration Status Indication Technology System (U.S. VISIT), once the technical, legal, and system problems have been resolved. In the meantime, campus officials have had to spend countless hours tracking and identifying international students and scholars, in an immigration regime that is extraordinarily complex and detailed. (Berger & Borene 2005) The delays have been responsible for disrupting the flow in international students and researchers to U.S. institutions, and the lags in processing the paperwork and technical requirements can require a year in advance of enrollment.

One area that mixes domestic and international issues has been the rise of residency statutes and regulations for undocumented college students,

or those whose parents brought them into the country by evading inspection. With regard to residency, the most important development has been the introduction and consideration of federal legislation to deal with the confusion of Sec. 505 of IIRIRA, the Development , Relief, and Education for Alien Minors (DREAM) Act. Senators Orrin Hatch (R-UT) and Richard Durbin (D-IL) reintroduced the DREAM Act, S. 1545, on July 31, 2003. By Fall, 2003, it had 35 Senate co-sponsors, including a majority of the membership of the Judiciary Committee, and in November, 2003, was passed out of Committee. In the House, Representatives Chris Cannon (R-3<sup>rd</sup> UT), Lucille Roybal-Allard (D-34<sup>th</sup> CA), and Howard Berman (D-28<sup>th</sup> CA) reintroduced the Student Adjustment Act, H.R. 1684, on April 9, 2003, which mirrors the DREAM Act, but has different provisions. (NILC 2006) In early 2006, an essentially-similar version was reintroduced into Congress, where it lies untouched in Fall, 2006. If the DREAM Act were passed in its present form, it would have the following effect: 1) it would repeal Section 505 of IIRIRA, which has come to discourage some states from offering in-state, resident tuition to all students who graduate from their high schools. The repeal would be retroactive, as if Section 505 never existed. 2) It would allow eligible undocumented students to begin the path toward legalization through a two-step process. In addition, there are special protections,

including protection from deportation and work authorization, for certain young students (over the age of 12) who have not yet graduated from high school. Once a student completes high school, Step One of the process would give the student conditional status lasting between 6-8 years. In Step Two, upon completion of college, military service, or community service, an immigrant would apply to remove the conditional status and receive permanent resident status. They could immediately begin to naturalize because the time under conditional status and permanent status would be credited toward the five-year wait for citizenship. However, this legislation has stalled, and while state legislation has been enacted in a number of key states, only federal relief can comprehensively address this immigration/higher education issue. (Olivas 2004)

## **Developments in Other Countries**

Of course, while terrorism is by definition a worldwide phenomenon, other countries have benefited by the excessive legalization that has resulted in the US response to terrorism. While higher education remains a US success story, a number of other countries and regions have capitalized upon

the US responses and have moved aggressively to attract international students and scholars. (Hebel 2006) Britain's Prime Minister has made increasing foreign students a centerpiece of his administration, targeting 100,000 more in five years. (This is a reasonable target, as the number increased by almost 125,00 from 1999-2005, beating his estimates of 75,000.) (Blair 2006; Ramsden 2006) The European Union (EU) has eased mobility restrictions and created mechanisms to improve the ability of member nation residents to attend colleges in the confederation and transfer social benefits; there will be winners and losers in this scheme, and there have been several European Court of Justice decisions addressing benefits issues, including those of college students and scholars. (Kochenov 2003; Davies 2005; Dougan 2005; Lambert and Butler 2006; Landler 2006; Van der Mei 2003a; 2003b) Australia has been a major beneficiary of increased US restrictions, and has targeted Southeast Asian students in particular. (Cohen 2006) Singapore and Hong Kong have actively recruited biomedical and stem-cell researchers from all over the world, especially from the United States — where federal restrictions and religious reservations on developing stem-cell lines have slowed the rush to such basic research-- and have developed deep infrastructural mechanisms to develop these fields of study and the resulting commercial applications. (Altbach and Postiglione 2006;



Blythe 2006) Promising sub-national, state efforts in the US to fund these efforts have not been entirely successful in countering the competing country initiatives, although Korean and Taiwanese progress has been stalled by national humiliation over fraud and deception in highly-publicized scientific results. (Miller and Hersen 1992) To be sure, all these efforts will ebb and flow, and the advantage held by the United States and Western Europe will not be conceded, even in the face of terrorism. (Abraham 2006) Of course, the interaction of science and terrorism is most evident in the issues surrounding Pakistani nuclear science and Iranian nuclear initiatives, which also reveal the interplay of European industry and import laws. (Langewiesche 2005; Cooper and Shanker, 2006) Fraud killed a Philippine prepaid college tuition program, showing the extent to which corporate perfidy exists. (Overland 2006)

US and other countries' institutions—collegiate and corporate alike-- have also sought to increase their enrollments and influence by migrating to other countries. This very Cornell University has a major development in Qatar, as do Texas A&M University and three other major US universities; the World Bank has tracked more than 700 foreign colleges operating programs in China (the late Kermit Hall characterized this development as “clearly the Klondike of higher education”) (Mooney 2006a: A46) ; and

companies have bought existing colleges (Laureate Education, Inc. buying Anhembi Morumbi University in Sao Paulo) and built new ones (Rochester Institute of Technology's new American University in Kosovo). Given these developments, and the fragility of some countries (various programs in Israel, Lebanon, PRC, and elsewhere have closed due to political instability), I am not certain what to make of this phenomenon. (McClure 2006) I am have been surprised by how many of these enterprises have been undertaken by public institutions, which are traditionally either bound by legislatures or by local/state politics to serve more narrow state interests. For example, I cannot help but wonder how much (or even if) Texas legislators know about the Aggie campus in Qatar, given enrollment pressures in College Station. (If I were a cynic, which I am not, I would note that as long as the TAMU football team goes to a bowl in the US, the alums and legislators would be satisfied and would not care, unless they could not get tickets to a Kyle Field game.) I understand the presence of Troy University, a public Alabama college, which has a dozen foreign branch campuses, as it has a longstanding mission of serving US military personnel serving overseas, but exactly why is Oklahoma City University operating a campus in Canada and the University of Texas at Arlington operating a program in China? State institutions in particular should have a very clear justification for operating

overseas, especially when there are underserved populations in the US, especially low income and minority communities. For example, an under-enrolled public college in Kansas has found virtual students in rural China, and offers extensive distance-learning in conjunction with a private college in Xinzheng. (Mooney 2006b; Bollag 2006a)

I directed and taught for seven years in the University of Houston Law Center's Mexican Legal Studies Program, a summer program in Guadalajara and then Mexico City; this program was the first ABA-approved study abroad program, and it lasted over thirty years, until it simply ran out of steam. I did not want to spend 4-6 weeks in Mexico every summer, and four or five others on my faculty who also were involved eventually felt the same way, so we closed it. But what will the staying power of these programs be, and what infrastructure will be built in the host countries when the inevitable enrollment fluctuations occur or local conditions change? For-profit, proprietary institutions have stockholders and balance sheets, unlike collegiate public and private colleges. What will their endurance be? Even law schools in the US now include proprietary members, and I have seen their leadership and corporate ownership controls change rapidly, implicating accreditation standards and threatening their stability. (*Western State University v. ABA* 2004)

## **Conclusion**

There is no doubt that the United States was the prime beneficiary of worldwide scientific and academic mobility in the 20<sup>th</sup> century, and remains so. But just as the United States developed basketball and presided over its worldwide popularity, and benefits by the NBA's prominence and its attractiveness to superb athletes from all over the world, so the country can lose in international competition in and the Olympics. Not only have other countries organized themselves to attract worldwide enrollments, a number have strategically targeted higher education and scientific research as important diplomatic, nation-building initiatives. To be sure, any reasonable assessment of this industry will reveal that the United States retains its natural advantages, developed over many years, including the preeminence of English as the language of academic discourse. But these are not carved in stone and certainly not permanent, especially as China and other Eastern countries hit their stride and find their own places in the sun. The confederated EU could become greater than the sum of its parts, especially in those fields where European scholars have historically left their home countries to come to the US. If the United States continues its more recent

trend of isolating critical ideas, placing geographic restrictions, and continuing ideological barriers, impressionable students and scholars will seek their places elsewhere.

This country has both cultivated its advantages and built upon those that exist, such as the clear advantage that speaking English provides in academic discourse. But these investments will not renew themselves if the world views the US as an undesirable place to engage in discourse and study, and if we continue to restrict fields of study on the basis of residence and make it more difficult and time-consuming for international students to navigate the admissions and immigration process. In a flattened world, the more international students who interact with our institutions, students, and faculty, the more likely they are to appreciate the academic and civic virtues of US society. The Jesuits understood this, and the Soviets did so as well, however imperfectly. As the Spanish-born George Santayana (educated at Harvard and employed by Harvard for many years) suggested, “the American Will inhabits the sky-scraper; the American Intellect inhabits the colonial mansion.” (Santayana 1937: 129) Both the American Will and the American Intellect thrive because of the many Santayanas who take root in this soil and bloom here. As with any other garden, left to their own they will not thrive or blossom.

\* \* \* \* \*

Michael A. Olivas is William B. Bates Distinguished Chair in Law at the University of Houston Law Center, and Director of the Institute for Higher Education Law and Governance (IHELG) at the UHLC. The author wishes to acknowledge the assistance of Dr. Augustina H. Reyes, Dr. Ronald G. Ehrenberg, and Deborah Jones Ogbechie. Of course, all errors are mine, and I hereby indemnify all these colleagues.

## References

Abraham, Yvonne. 2006. "Delay on Visa Could Scuttle Cancer Grant, Harvard Scientist's \$750,000 at Stake." Boston Globe, October 16, 2006: A-1.

Altbach, Philip G. and Gerard Postiglione. 2006. "Can Hong Kong Keep its Lead in the Brain Race?" 45 International Higher Education (Fall): 24-26.

American Civil Liberties Union. 2006. "Groups Condemn State Department's Decision to Deny Visa to Oxford University Professor Who Criticized U.S. Policies." (ACLU Press Release, 9/25/2006) reprinted at: <http://www.aclu.org/safefree/general/26851prs20060925.html>

American Council on Education [ACE]. 2006. Students on the Move: The Future of International Students in the United States. Washington, DC: ACE [Issue Brief].

Archibold, Randal C. 2006. "Wait Ends for Father and Son Exiled by F.B.I. Terror Inquiry." New York Times, October 2, 2006: A1

Berger, Dan H. and Scott M. Borene, eds. 2005. Immigration Options for Academics and Researchers. Washington, DC: American Immigration Lawyers Association.

Blair, Tony. 2006. "Why We Must Attract More Students From Overseas." The Guardian, April, 2006: A1

Blythe, Stephen E. 2006. "The Tiger of the Peninsula is Digitized: Korean E-Commerce Law as a Driving Force in the World's Most Computer-Savvy Nation." Houston Journal of International Law 28:573-661.

Bollag, Burton. 2006a. "America's Hot New Export: Higher Education." Chronicle of Higher Education, February 17, 2006: A44-47.

Bollag, Burton. 2006b. "U.S. Again Bars Cuban Scholars." Chronicle of Higher Education, March 17, 2006: A53.

Bollag, Burton. 2006c. "Education Group Calls for National Foreign-Student Recruitment Strategy." Chronicle of Higher Education, June 23, 2006: A44.



Bollag, Burton. 2006d. "Greek Professor Barred From U.S." Chronicle of Higher Education, July 7, 2006: A42.

Bollag, Burton. 2006e. "College Fined for Cuban Program." Chronicle of Higher Education, July 21, 2006: A33.

Bollag, Burton, 2006f. "U.S. Won't Appeal Tariq Ramadan Ruling." Chronicle of Higher Education, September 8, 2006: A23.

Bollag, Burton and Dan Canevale. 2006. "Iranian Academics Are Denied Visas." Chronicle of Higher Education, September 1, 2006: A72.

Bollag, Burton and Shailaja Neelakantan. 2006. "After Visa Delay, Prominent Indian Scientist Spurns U.S. Invitation." Chronicle of Higher Education, March 10, 2006: A40.

Bulwa, Demian. 2006. "Man OK'd to Return to U.S From Pakistan." San Francisco Chronicle, September 13, 2006: B5.

Cohen, David. 2006. "Growth of Foreign – Student Enrollments Slows in Australia." Chronicle of Higher Education, March 24, 2006: A53.

Committee on Policy Implications of International Graduate Students and Postdoctoral Scholars in the United States. 2005. Policy Implications of International Graduate Students and Postdoctoral Scholars in the United States. Washington, D.C.: The National Academies Press.

Cooper, Helene and Thom Shanker. "Draft Iran Resolution Would Restrict Students." New York Times, October 26, 2006: A6. (U.S. and allies' draft resolution in UN Security Council would ban Iranian students from enrolling in physics studies at member nation colleges)

Couter, Michel and Marie-Helen Giroux. 2006. "The Aftermath of 11 September 2001: Liberty vs. Security Before the Supreme Court of Canada." International Journal of Refugee Law 18: 313-332.

Davies, Gareth. 2005. "Higher Education, Equal Access, and Residence Conditions: Does EU Law Allow Member States to Charge Higher Fees to

Students Not Previously Resident?” Maastricht Journal of European and Comparative Law 12:227-240.

Dougan, Michael. 2005. “Fees, Grants, Loans and Dole Checks: Who Covers the Costs of Migrant Education Within the EU?” Common Market Law Review 42: 943-986.

Ehrenberg, Ronald G. 1999. “My Life and Economics.” American Economist 43: 9-18.

Ehrenberg, Ronald G. 2000. Tuition Rising, Why College Costs So Much. Cambridge, MA: Harvard University Press.

Gott, Gil. 2005 “The Devil We Know: Racial Subordination and National Security Law.” Villanova Law Review 50: 1073-1133.

Guterman, Lila. 2006. “The Taint of ‘Misbehavior.’” Chronicle of Higher Education, February 24, 2006: A14-16.

Hebel Sara. 2006. "Report Card on Colleges Find U.S. Is Slipping."

Chronicle of Higher Education, September 15, 2006: A1-24.

Institute of International Education. 2006. Open Doors Report on

International Educational Exchange [2004-05]. New York: IIE.

Jordan, Miriam. 2006. "New Backlash In Immigrant

Fight, Grass-Roots Groups Boost Their Clout." Wall

Street Journal, September 28, 2006: A1

Kapoor, Romy, 2005. "F-1 Students." In Berger and Borene, eds., 57-76.

Kobach, Kris W. 2005. "The Quintessential Force Multiplier: The Inherent

Authority of Local Police to Make Immigration Arrests." Albany Law

Review: 179-235.

Kochenov, Dimitry. 2003. "Pre-Accession, Naturalisation, and 'Due Regard

to Community Law." Romanian Journal of Political Science: 71-88.

Labi, Aisha. 2006. "Britain Expands Foreign-Student Recruitment."

Chronicle of Higher Education, April 28, 2006: A55.

Lambert, Richard and Nick Butler. 2006. *The Future of European Universities: Renaissance or Decay?* London: Centre for European Reform.

Landler, Mark. 2006. "Seeking Quality, German Universities Scrap Equality." New York Times, October 20, 2006: A3.

Langewiesche, William. 2005. "The Wrath of Khan: How A. Q. Khan Made Pakistan a Nuclear Power—and Showed That the Spread of Atomic Weapons Can't Be Stopped." The Atlantic Monthly. November 2005: 62-4, 66-8, 70-2, 74, 76-80, 82, 84-5.

Legomsky, Stephen. 2005. Immigration and Refugee Law and Policy [4<sup>th</sup> ed.]. New York City: Foundation Press.

McClure, Ann. 2006. "Made in America." University Business, October 2006: 50-54.

McMurtie, Beth. 1999. "Words From a Veteran U.S. Diplomat on How The Visa Process Works." Chronicle of Higher Education, September 24, 1999: A60.

Miller, David and Michael Hersen. 1992. Research Fraud in the Behavioral and Biomedical Sciences  
New York: Wiley.

Molina, Mario J. "Autobiography." [1995 Nobel Prize website]  
[http://nobelprize.org/nobel\\_prizes/chemistry/laureates/1995/molina-autobio.html](http://nobelprize.org/nobel_prizes/chemistry/laureates/1995/molina-autobio.html)

Mooney, Paul. 2006a. "The Wild, Wild East." Chronicle of Higher Education. February 17, 2006: A-46-49.

Mooney, Paul. 2006b. "In a Rural Chinese Province, an American Educational Outpost." Chronicle of Higher Education, February 17, 2006: A49-50.

National Association of Foreign Student Advisors [NAFSA]. 2003. In America's Interest: Welcoming International Students: Report of NAFSA's Strategic Task Force on International Student Access. Washington, DC: NAFSA: Association of International Educators.

National Association of Foreign Student Advisors [NAFSA]. 2006. Restoring U.S. Competitiveness for International Students and Scholars. Washington, DC: NAFSA: Association of International Educators.

National Immigration Law Center [DREAM Act]. 2006.  
[ <http://www.nilc.org/immlawpolicy/DREAM/index.htm> ].

Olivas, Michael A. 2000. "Ideological Balance in Immigration Law Teaching and Scholarship: Reflections Upon 'Race Matters.'" University of Illinois Law Review 2000: 101-126.

Olivas, Michael A. 2004. "IIRIRA, The Dream Act, and Undocumented College Student Residency." Journal of College and University Law 30: 435-464.

Olivas, Michael A. 2006. "Reflections On Academic Merit Badges and Becoming an Eagle Scout." Houston Law Review 43: 81-124.

Overland, Martha Ann. 2006a. "Shattered Dreams in the Philippines." Chronicle of Higher Education, March 3, 2006: A40-42.

Ramsden, Brian. 2006. Patterns of Higher Education Institutions in the UK: Sixth Report. London: Standing Conference of Principals.

Santayana George. 1937. "The Genteel Tradition in American Philosophy." In The Works of George Santayana, Volume VII New York: Charles Scribner's Sons. Reprinted in Winds of Doctrine: Studies in Contemporary Opinion. IndyPublish: 2001

Schleicher, Andreas. 2006. The Economics of Knowledge: Why Education is Key for Europe's Success. Brussels: Lisbon Council Policy Brief.

Shuppy, Annie. 2006. "Muslim Scholar Denied a U.S. Visa Again." Chronicle of Higher Education, October 6, 2006: A41.



Steiner-Long, Kathy. "J-1 Exchange Visitors for Academic and Research Activities." In Berger and Borene, eds., 77-88.

"U.S. Citizens Denied Entry Into U.S." Interpreter Releases, September 11, 2006: 1944-1945.

Van der Mei, A. Pieter 2003. Free Movement of Persons Within the European Community: Cross-Border Access to Public Benefits. Oxford: Hart Publishing.

Van der Mei, Anne Pieter. 2003. "Residence and the Evolving Notion of European Union Citizenship." European Journal of Migration and Law 5: 419-433.

**Footnote 1:**

This Section is drawn from (Olivas 2004), and for length considerations, I have not reproduced all the footnote apparatus that appears in the longer original version. Other treatments of this intersection of higher education and terrorism include (Couter and Giroux 2006) and (Gott 2005).

**Cases Cited:**

*Ahmed v. University of Toledo*, 664 F. Supp. 282 (N.D. Ohio 1986) (colleges may require international students to obtain insurance coverage).

*Nyquist v. Mauclet*, 432 U.S. 1 (1977) (states may not limit financial aid programs to citizens and preclude permanent residents).

*Tayyari v. New Mexico State University*, 495 F. Supp. 1365 (D. N.M. 1980) (additional requirement for enrolled students who are from country whose residents have taken US hostages).

*Toll v. Moreno*, 458 U.S. 1 (1982) (nonresident visa holders entitled to establish residency for tuition purposes).

*Western State University of Southern California v. American Bar Association*, 301 F.Supp.2d 1129 (C.D.Cal.2004) (proprietary law school and accreditation).

