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## America Slams the Door (On Its Foot)

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## Washington's Destructive New Visa Policies

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On January 28, Ejaz Haider—the editor of one of Pakistan's most influential newspapers and a guest scholar at the Brookings Institution—was stopped outside the Washington think tank by two armed, plainclothes officers from the U.S. Immigration and Naturalization Service (INS). Haider had originally been invited to the United States by the State Department for a conference on U.S.-Pakistan relations. Nonetheless, he was arrested, hustled into a car, driven to a detention center, and interrogated for hours. The charge: he had allegedly failed to properly register his presence in the country—something now required of visitors from many Muslim countries to the United States as part of a stringent set of immigration restrictions that have been imposed since the September 11, 2001, attacks.

Haider's arrest occurred despite the fact that he had been invited by the U.S.

government, had already registered on his arrival, and indeed had been extensively interrogated when he first entered the country, some three months earlier. He had since done exactly as he was instructed by the INS' own telephone help line.

High-ranking officials at the State Department quickly intervened, raising sharp protests with their colleagues at the INS, and Haider was released that night, dumped in suburban Washington, D.C., with little but a subway card in his pocket. Furious, the Pakistani journalist, who had been to the United States six times before, resolved that he would not return as long as such policies continue. "This is not the United States I used to come to," he told *The Washington Post*.

In a sense, he was right. Whereas Haider's plight received a high level of attention due to his stature, his treatment was hardly unique. On the contrary, it revealed a disturbing pattern that has

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emerged in the year and a half since America was first attacked by terrorists: the U.S. government has begun to impose highly restrictive regulations on visitors from Muslim lands, restrictions that have had the primary effect of telling men like Ejaz Haider—potential friends and supporters of the United States—that they are no longer wanted in the country. A huge source of goodwill is thus being squandered, at precisely the time when the United States needs it most.

The most painful irony of this new policy is that the United States' openness to outsiders has long been the underpinning of the country's economic and social fabric. Just as many U.S. corporations have gone global in recent years to great success, so too have American universities, drawing on the talents of the best and brightest from around the world. Roughly half of the students now receiving Ph.D.'s in the sciences at U.S. schools are foreigners. That may not last for long, however.

What Washington seems not to recognize is that these guests are important not just for the nearly \$12 billion they pump into the U.S. economy each year. They also provide bridges of knowledge and understanding that greatly improve the strategic position of the United States in the world. Consider this: Kofi Annan, the UN's secretary-general; Prince Saud Faisal, Saudi Arabia's minister of foreign affairs; Gloria Macapagal Arroyo, president of the Philippines; and Vicente Fox, president of Mexico, are just a few of the many current foreign leaders who studied at U.S. universities. As students at American schools, they developed strong ties to the country, laying the foundation for the productive relationships they have relied on later in their careers. American

security has greatly profited as a result. And nowhere are such ties more important than with the more than 50 predominantly Muslim countries that now form the frontline in the war on terrorism.

Unfortunately, Washington's present homeland security policy, shaped by panic-driven regulations and unfunded or ill-crafted mandates, is undermining this openness and harming America's broader foreign policy. Rather than combating the growing radicalism and anti-Americanism of many Muslim youths around the world, the stringent new visa policies are only feeding such resentment. At a time when the United States needs pro-American ambassadors more than ever, its government seems bent on turning away the next generation of them.

### **AN UNAMERICAN ACT**

Most of the current controversy stems from one legislative source: the USA PATRIOT Act of 2001 ("Uniting And Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism"). The PATRIOT Act was a response to the trauma of the September 11 attacks and to the fact that some of the hijackers had entered the country on student visas to attend U.S. flight schools. The new legislation was part of an effort to start better vetting and monitoring of foreign visitors, including students and scholars attending American schools. The restrictions imposed, however, were extreme, exceeding in scope those in any other Western democracy.

Among other things, the PATRIOT Act has been interpreted as requiring that the State Department be provided with electronic evidence by academic institutions of all background data on applicants before

issuing student and scholar visas. Other nonimmigrant visa applicants are now subjected to additional clearance procedures, including having their names checked against law enforcement and security agency databases. A Web-based tracking and reporting system (known as the “Student and Exchange Visitor Information System,” or SEVIS) is being established to allow the INS to monitor the status of all foreign students. All nonimmigrant visitors and green-card holders must now report changes of address to the INS. Finally, and most controversially, all nonimmigrant male visitors between the ages of 16 and 45 from certain (mostly Muslim) countries have been required to register with INS offices—in some cases, even if they registered when first entering the country.<sup>1</sup>

Each of these requirements has proved contentious, not to mention bureaucratically arduous to implement. As a result, implementation has already bogged down. The various agencies responsible for executing the program still lack the funding to fully enforce its measures. And the turmoil has only been heightened by the reorganization of many of these agencies into the new Department of Homeland Security.

Meanwhile, most U.S. universities, schools, and national associations have encountered similar bureaucratic and logistical problems and have been unable to computerize their databases within the mandated time period. Entering records into SEVIS has also created snags. Many of the required technical and logistical elements, including the underlying data-

bases, simply do not exist. To make matters worse, INS officials are required to physically visit and recertify every one of the thousands of American schools accepting foreign students, at a time when the agency is already stretched thin.

Also worrisome has been the marked tendency of government bureaucrats to stonewall when dealing with many foreign (particularly Muslim) visitors. Officials have failed to act in a timely manner on visa matters and gratuitously resorted to law enforcement techniques such as fingerprinting and background checks. Yet such tactics have met with little protest; in the best of times, visa holders have no natural constituency to stand up for them. The post-September 11 environment has made such advocates even harder to find.

#### **DENIALS, DELAYS, AND DISTRESS**

The damaging effects of the new system have already begun to be felt across the U.S. educational system and beyond. According to the Association of American Universities, the unintended consequences of the new visa screening requirements have included a massive decrease in the number of foreign students from Muslim states, scores of foreign faculty being unavailable to teach courses, scientific research projects becoming delayed or derailed, and businesses moving trade elsewhere. Meanwhile, the selective registration program for Muslim males inside the United States has had little success in finding actual terrorists, even while causing great distress and offense to Muslim visitors.

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<sup>1</sup> The countries on the list are Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, the United Arab Emirates, and Yemen.

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In terms of the numbers of foreigners refused admission, hard data on the impact of the new restrictions is not yet available, and will likely never be issued—at least not in the form of local breakdowns of the numbers (to prevent applicants from knowing whether some ports of entry are more forgiving). There is, however, extensive anecdotal evidence that the numbers have dropped. Surveys of college administrators support the widespread belief that the number of students being denied permission to enter the country has radically increased over the last two years.

The problem is not just pure denials, however, but also the increase in delays in the process—which can have the same effect as outright rejection. Even for those who successfully obtain visas, what used to take a few weeks can now take from six months to a year. For students, this can mean interrupting their studies or missing registration dates. As *The Chronicle of Higher Education* noted in November 2002,

for many foreign students trying to reach the United States, the past few months have amounted to endless waiting in a stalled security line. Students seeking visas are reporting not only delay after delay, but also a lack of information about what is causing the delays.

Together, the denials, delays, increasing costs, and the perception of xenophobia are driving thousands of foreign students to study in other countries. Universities in the Middle East, as well as in other Western states such as Canada or the United Kingdom, have seen a large increase in the numbers of applicants—in some cases as much as a fivefold increase from pre-2001 levels. Australian universities have even begun explicitly marketing themselves as an alternative to arduous U.S. visa procedures.

The effects of these new cumbersome policies, moreover, are being felt by all foreign visitors—not just by students, and not just by those from Muslim states. U.S. immigration lawyers report that visitors from places as far afield as Russia and China are experiencing problems. Even more disturbing, perhaps, is the fact that the new policies are also harming refugees and asylum seekers. Last year, the INS admitted only 27,300 refugees to U.S. soil, despite the fact that a full 70,000 had been authorized by the government to come. This was the lowest number of refugees allowed into the country in a given year in the last quarter-century and represented just 40 percent of the 2001 total (68,426). The situation has grown so severe, in fact, that the UN now refers urgent refugee-status seekers away from U.S. shores and toward Canada and the Scandinavian nations instead. All this despite the fact that not one terrorist has ever been found among the refugees screened.

Finally, at a time when U.S. policymakers are lamenting the global spread of anti-Americanism and pushing for better public diplomacy, U.S. visa restrictions are beginning to harm cross-cultural outreach as well. For example, in October 2002, the Brookings Institution sponsored a conference in Doha, Qatar, on “U.S. Relations with the Islamic World.” The conference attracted more than 70 senior leaders and scholars from 25 different Muslim countries to discuss how the United States could better engage with Islamic states and communities. Ironically, such a conference, designed to support Muslim reform movements, probably could not have been held in the United States itself because of the new difficulty in getting visas.

**BUT IS IT WORKING?**

To be fair, it should be remembered that the new restrictions had a legitimate motivation: to improve homeland security. Sadly, they have accomplished little on that front; if anything, they seem to be backfiring, and actually hampering the long-term war on terrorism.

Part of the problem is that many technical and cultural questions that underlie the new policies have simply not yet been sorted out. For example, the new restrictions were imposed before the large-scale, complex database programs had been established or funded. Moreover, even if the technology were available to link various agencies of federal, state, and local governments, the colossal scale of such links (leaving aside the privacy complications) would still entail problems with false and mistaken identities.

After all, terrorists who try to get visas to enter the United States will now almost certainly take the trouble of falsifying their application forms in ways that will be difficult to trace. Moreover, differences between Western and non-Western naming conventions undermine the utility of computerized identity searches. Within the Muslim world alone, there exist a variety of naming principles: in some cases, members of each generation take the personal name of the father as their last name and hence names change with each generation; in other areas, people use their place of origin as a last name. Also popular are variations on Islamic names such as Muhammad or the “99 names of God,” which provide abundant opportunities for combinations with “Abdul,” or “the servant of.”

As these examples suggest, names alone are not very helpful when conducting

an identity search in some cultures. Even birth dates are often not reliable, thanks to poor local record-keeping and confusion between Muslim lunar and Western solar calendars. Other identity indicators, such as ID numbers, are therefore necessary. But these measures only increase the possibilities for fraud and deception.

Complicating matters still further, al Qaeda has shown itself to be adept at adapting to new security schemes. The organization has already begun recruiting non-Arab Muslims in order to avoid detection. Terrorists of the future are equally likely to be Western, including men such as José Padilla (the would-be “dirty” bomber from Chicago) and Richard Reid (the attempted shoe bomber from Birmingham, England). Terrorists could also be 46 years old or older (as are both Osama bin Ladin and his top deputy, Ayman al Zawahiri), which would place them outside the INS’ scrutiny.

What the drafters of the new visa restrictions seem not to have recognized is that the real risk to the United States is now posed by terrorists who enter through illegal, not legal, means. This group can include those who cross the loosely guarded Canadian border. Harassing the thousands of law-abiding Muslims who follow all of Washington’s rules and laws will do nothing to address this problem. Instead, by straining relations with the Muslim community and making people fearful of U.S. law enforcement agencies, the new measures may actually make it more difficult to gather intelligence about those actually seeking to do harm.

**MAKING ENEMIES ABROAD**

As the above problems suggest, the new visa restrictions cannot simply be

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considered a question of homeland security. The new measures have had such damaging implications for the conduct of foreign affairs that they should no longer be viewed in isolation.

Already, the new programs are provoking widespread protests and indignation abroad. Nearly every Muslim ambassador to the United States has raised the matter with the State Department. The foreign ministers of Bangladesh, Indonesia, and Pakistan have all traveled to Washington to personally protest the measures, which they saw as an affront. More widely, the new requirements have become major political issues within the Islamic world, helping stoke the belief that the United States is hostile to Muslims in general.

What the drafters of the new immigration policies seem to have ignored is the fact that the overwhelming majority of Muslim countries are not supporters of terrorism; indeed, many have worked closely with Washington on counterterrorism. Given such cooperation, the United States' one-size-fits-all approach to visa questions has been particularly galling. Qatar, for example, has come under great criticism in the Arab world for letting the U.S. military use its territory as a base for the coming war with Iraq. Yet Qatar has been rewarded for its risk-taking by having its citizens included by the INS in the same category as Iraqis.

The unintended consequences of such a ham-fisted approach will have long-term effects as well. By reducing the number of foreign students and scholars and imposing extensive and expensive reporting requirements, these measures will weaken the U.S. university system and economy directly. Indirectly, they will undermine the perception that American universities,

the U.S. economy, and American society at large welcome international visitors. Yet if the United States hopes to remain a world leader, it cannot act like an isolationist power.

The new visa measures will also, over the long term, damage support for American ideals in the Islamic world and beyond. By burning America's bridges with the next generation of business and political leaders, Washington will undercut its ability to encourage progress abroad. Nor will a slick public-diplomacy campaign do much to improve matters. The humiliating sting of being forced to stand in line for days only to be rejected for a visa will be not be salvaged by a glossy brochure or a radio program extolling Muslim life in America.

### **SEEING CLEARLY**

Slamming the brakes on all visa applications and putting all Muslim males on watch lists is clearly not the way to protect the United States. Yes, a young Muslim man may represent a greater threat of being an al Qaeda terrorist than an elderly Danish woman. But even sound policies can have unintended costs and consequences, and these also must be considered.

To improve its approach, the U.S. government must focus its efforts on trying to weed out terrorists at its borders. Better controls are needed over weak zones of entry. Relatively unguarded harbors (through which terrorist weapons of mass destruction would more likely enter) merit the same attention as airports. Rather than treating all Muslim male visitors the same, the INS should identify smaller subsets of visa applicants and holders that require special screening. It should also focus on processing nonproblem applications far



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more quickly, in order to ease the burdens both on the system and on applicants. A structure should be put in place to rapidly admit visitors who have already been vetted, such as students and scholars who are returning from short trips outside the country. Re-entry documents should be provided prior to their leaving the United States.

The U.S. government must also try to link its public diplomacy with its visa processes. Rather than discouraging all Muslims from coming to the United States, Washington should welcome well-intentioned Muslim students, clerics, writers, and other distinguished visitors. Special programs should be put in place at the embassy level to ensure a smooth application process for foreign opinion leaders.

Within U.S. borders, the treatment of foreigners should also be improved. This means rethinking the INS registration program, which has degenerated into a system of harassment. The Haider case must never be repeated. To ensure that, Washington must put an end to in-depth and insulting interrogations at the border and within the country, where the policy has been to treat all Muslim visitors like criminals, not guests. INS workers should also receive better cultural sensitivity training, and the present "cattle-line" processing at airports should be amended.

Reform will require the joint participation of both the executive and legislative branches of the U.S. government. Most of the blame for the current situation may lie with the Justice Department for its hysteria and the White House for its disengagement. But Congress also shares responsibility. It was Congress, after all, that enacted such broad legislation. And it

was Congress that failed to provide federal agencies with the resources adequate to enforce it. Therefore Congress, as well as the executive, must work together to address and improve the current problems.

As a unit, the U.S. government must recognize that true homeland security requires long-term vision. The damaging effects of the present exclusionary policies will be felt for generations. Current visa and registration policies only antagonize, with no great gain in safety. They must be rationalized and reformed in a way that seeks to better protect America and further U.S. outreach, particularly toward Muslim communities that are all-important in the war on terrorism.

No other nation has a history of being as welcoming to outsiders as the United States. This trait has been a source of America's greatness and of much of the foreign goodwill toward the United States. Erecting walls to keep out people of the Muslim faith will obscure that vision of America as a shining beacon on a hill. And that is something neither the United States nor the world at large can afford. 🌍