

International Students and U.S. Border Security

by David A. Urias and Carol Camp Yeakey

The terrorist attacks on September 11, 2001, resulted in substantial political, economic, and social changes in the nation. Higher education was not immune from this upheaval, and one significant way that 9/11 impacted colleges and universities was through federal legislation on international student enrollment. To date there have been few assessments of the repercussions of these regulations. This article explores two questions: which laws affect international student study in the U.S. and the intended and unintended consequences of these laws. We explore these questions through an analysis of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the F1 student visa—the two main methods for managing international enrollment. We also examine how they affect post-secondary institutions.

For a number of years, the Federal Bureau of Investigation (FBI) has warned Congress that state sponsors of terrorism have been funding students to come to the United States, where many are studying technology-related fields that may contribute to weapons of mass destruction programs. The Immigration and Naturalization Service (INS)—now the United States Citizenship and Immigration Services within the Department of Homeland Security (DHS)—has routinely been unable to locate individuals whom it wants to deport, some of them

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for criminal violations. After 9/11, former Attorney General John Ashcroft acknowledged that the FBI, INS, and local law enforcement authorities couldn't find more than 1,000 students from Arab and Muslim countries—about one in five of those sought for interviews related to the terrorist attacks.¹

U.S. immigration officials have historically devoted insufficient attention to international students attending schools in this country,² and INS's original, paper-based tracking system has been inefficient, inaccurate, and unreliable. Shortly after the first World Trade Center bombing in 1993, one of the terrorists was found to be

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living in the United States on an expired student visa. This discovery resulted in the formation of a multi-agency task force to review the INS process for monitoring international students. In September 1996, Congress enacted IIRIRA, which mandated that the INS develop an electronic system to replace the previous one and begin collecting foreign student information from colleges and universities.

In response, in June 1997, the INS implemented a pilot project, the Coordinated Interagency Partnership Regulating International Students (CIPRIS), to test the feasibility of an electronic reporting system. In July 2001, the name CIPRIS was changed to SEVIS [Student Exchange Visitor Information System], an Internet-based tracking system. CIPRIS, and then SEVIS, encountered opposition from some higher education association lobbying groups, who didn't object to monitoring foreign students, but rather to the imposition of an international student processing fee. Because the INS relied on fee collections to fund SEVIS, the delays in establishing the fee process, caused in part by the higher education groups lobbying efforts, affected its development and implementation.³

The 9/11 terrorist attacks brought renewed attention to international students because several of the terrorists were in the United States on student visas. They had also recently changed their visa status to a student visa, or had attended flight schools. On October 26, 2001, Congress enacted the USA Patriot Act, which required the INS to fully implement SEVIS by January 1, 2003. The law also mandated that the INS include information on each foreign student's port of entry and date of entry, and it expanded the types of schools required to participate in SEVIS to include flight schools, language training schools, and vocational schools.

Congress provided \$38.8 million to fully fund the SEVIS implementation.⁴

The Enhanced Border Security and Visa Entry Reform Act of 2001 required additional information to be electronically reported, including the issuance of the visa and the registration and enrollment of the foreign student at the institution. This law also requires schools to report to the INS the failure of a foreign student to enroll or begin studying in an INS-approved school.⁵ Because of these security measures, efforts of international students to attend United States universities have not been

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“proceeding quite as smoothly”⁶ as desired. Post-9/11, the study abroad process has become more complicated.⁷ The security measures have also increased “visa hold-ups or denials.”⁸ An Institute for International Education survey found that these delays or denials have focused on Muslim male students. The result is an erosion of foreign enrollments in the nation’s universities and English language programs.⁹

In this article, we hope to develop four themes with respect to international students studying in the United States:

1. The higher education community cannot afford unfunded federal mandates, such as those imposed by SEVIS.
2. Current federal policies make it more difficult for international students to study in the United States.
3. IIRIRA and SEVIS haven’t been implemented properly.
4. Current federal regulations are negatively impacting foreign student enrollment.

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While an individual mandate may seem justified, often it imposes burdens on states and localities that make it less likely that overall federal goals can be achieved. The cumulative impact may force implementers to adopt cost-ineffective strategies to achieve compliance, or forgo the ability to make real progress toward critical benchmarks because they lack sufficient resources. This appears to be the case

with respect to the INS and SEVIS.¹⁰ The demands the SEVIS system places on university resources seems destined to ensure its lack of success,¹¹ with added pressure on university international studies offices to obtain more resources to admit and track international students.¹²

CURRENT FEDERAL POLICIES MAKE IT MORE DIFFICULT FOR INTERNATIONAL STUDENTS TO STUDY IN THE UNITED STATES

As a result, there are economic, political, and social consequences. During the 2003–04 academic year, 572,509 international students studied in the United States.¹³ According to the most recent Open Doors Report, international students infused more than \$13 billion into the United States economy.¹⁴ An immediate consequence of federal policies governing international student study in the United States is a decrease in enrollment numbers¹⁵ and thereby a decrease in local economic revenues. This past academic year saw a 2.4 percent decline in international enrollment.¹⁶ See Table 1 for enrollment data from 1993 to 2004.

If this trend continues, the United States will lose its competitive advantage in the global educational market to those countries with more relaxed visa policies. This will result in an enormous loss of revenue. Evidence of this is slowly being reported. For example, the Council of Graduate Schools reports a 5 percent decline in international graduate student applications for the 2004–05 academic year. This follows a 28 percent decline in the prior year's graduate applications. Most notable declines are from such countries as China (down 13 percent) and India (down 9 percent), and in the fields of engineering (7 percent decline) and business (8 percent decline).¹⁷

Data shows that stringent visa regulations, fear of discrimination against Middle Easterners and South Asians (especially against male Muslims) in the United States, the recession and resulting loss of post-study job opportunities, and the decrease in international aid being offered by U.S. institutions are all factors contributing to the increasing interest of students in academic options offered by other countries,¹⁸ such as Australia, Canada, Great Britain, New Zealand, and India.¹⁹ Information on Muslim enrollment trends is a cause of concern. The choice of alternative countries to the U.S. for post-secondary education is fueled also by fear of visa procedures and the prolonged wait encountered with visa applications to the United States.²⁰ The above realities indicate that current policies concerning international student study in the U.S. are having a negative impact on enrollment. See Table 2 for the top 20 countries sending students to the United States.

Table 1:
Enrollment Data of International Students by Academic Year

Academic Year	Number of International Students	Percentage Change over Previous year
'93-94	449,749	2.5%
'94-95	452,653	0.6%
'95-96	453,787	0.3%
'96-97	457,984	0.9%
'97-98	481,280	5.1%
'98-99	490,933	2.0%
'99-00	514,723	4.5%
00-01	547,867	6.4%
'01-02	582,996	6.4%
'02-03	586,323	0.6%
'03-04	572,509	-2.4%

Source: Open Doors Report, 2005

The second domain adversely affected by federal policies, specifically IIRIRA, is political. National security needs to be better balanced with the nation's goal of being an inviting place for international students to live and study. Lack of cultural awareness poses a serious threat to our national security. Better knowledge of other countries and better communication with them are keys to political well-being. Having international students on U.S. campuses is one way of achieving this goal. Note the congressional testimony of then-Secretary of State Colin Powell after 9/11:

International students enrich our communities with their academic abilities and cultural diversity, and they return home with an increased understanding and often a lasting affection for the United States. I can think of no more valuable [political] asset to our country than the friendship of future world leaders who have been educated here.

Current federal policies aimed at tracking international students give the impression to the international community that we are stereotyping students from certain parts of the world and certain religions, specifically Muslims and others from the Middle East, as terrorists.²¹ See Table 3 for the distribution of foreign students by region of origin. Another political consequence is that students in scientific fields are being restricted, even those coming from NATO-friendly countries. This implies that these potential scientists are going to study and research elsewhere.

Table 2:

Countries with the largest number of students in the United States

1.	India	79,736	11.	Germany	8,745
2.	China	61,765	12.	Britain	8,439
3.	South Korea	52,484	13.	Brazil	7,799
4.	Japan	40,835	14.	Colombia	7,533
5.	Canada	27,017	15.	Kenya	7,381
6.	Taiwan	26,178	16.	HongKong	7,353
7.	Mexico	13,329	17.	Pakistan	7,325
8.	Turkey	11,398	18.	France	6,818
9.	Thailand	8,937	19.	Malaysia	6,483
10.	Indonesia	8,880	20.	Nigeria	6,140

Source: *The Chronicle of Higher Education* 11/19/04

Consequently, the United States will lose “its competitive edge.”²² There are political implications, too, in terms of the North American Free Trade Agreement (NAFTA). According to the agreement between the United States, Mexico, and Canada, there is supposed to be a free exchange of ideas and people across borders. Restricting individuals because of their educational field of interest is in violation of the agreement and it remains to be seen what the consequences will be.

The cultural isolation that results from a lack of exposure to foreign languages and cultures deprives U.S. students of a well-rounded liberal education, which includes knowledge about the fine arts, literature, history, and world geography. Additionally, our nation’s lack of emphasis on foreign language competence and cultural awareness contributes to the image of the arrogant American seeking to impose his language and culture on the world. The ability to speak other peoples’ languages with an awareness and understanding of their cultures is crucial to effective international communication. Allen Goodman, president of the Institute of International Education states, “It is clearly in America’s long-term national security interest to welcome international students to come here to study. International students in U.S. classrooms widen the perspectives of their U.S. classmates and contribute to vital research activities.”²³

Anecdotal evidence shows that the new regulations have created a stressful and demoralizing work environment for university administrators and staff. They and their international students are apprehensive and confused by the regulations. The orientation of these offices has changed from one of supportive advocates and information sharing for cultural adjustment to one of carrying out new DHS regulations. In other words, regulations are being written at a prolific rate and require inordinate staff time to sift through the minutiae. Staff no longer have adequate

Table 3:

Distribution of foreign students in the United States, by region of origin, 2003-04 (and 1-year change)

Asia	56.6%	(-2.5%)
Europe	12.9%	(-5.0%)
Latin America	12.2%	(+1.0%)
Africa	7.1%	(+1.2%)
Canada, Bermuda	4.8%	(+1.6%)
Middle East	5.6%	(-8.5%)
Oceania	0.8%	(-5.8%)
Total enrollment:	572,509	(-2.4%)

Source: Open Doors Report, 2005

time to aid in their clients' adjustment and must focus instead on the rigid bureaucracy imposed in this new climate. As a result, international students perceive international studies offices as regulatory and unsupportive.

IIRIRA (1996) AND SEVIS HAVE NOT BEEN IMPLEMENTED PROPERLY

For example, IIRIRA has never been fully implemented.²⁴ Furthermore, the objectives are not clear, and the act doesn't provide substantive criteria for resolving conflicts. The implementation process makes it unlikely that officials and target groups will perform as desired. For example, it has taken eight years since the passage of IIRIRA for the INS to publish its final regulations in the *Federal Register*. In addition, international student advisors are advised to use their own discretion to interpret areas of practice that might be deemed gray areas of the law. Laws affecting immigration are not written by those charged with their implementation, but by politicians who seek to accomplish many objectives. Specific legislation affecting international student study in the United States is so ambiguous that one individual in the study characterized it as "reading the Talmud." Added to this is the fact that IIRIRA is tied to the implementation of other laws, such as the Patriot Act, leading to more confusion and interpretation among the various levels.

Let's consider two examples. After an international student has completed his/her studies, that student is eligible to participate in what is called Optional Practical Training (OPT), an opportunity to apply knowledge gained in the classroom to a practical work experience off-campus. Employment must be related to one's field of study and must be commensurate with the educational level attained. Currently, there is confusion and controversy concerning student travel outside the

United States while on OPT. This confusion was created when the DHS issued an Operating Instruction in 2004 that is inconsistent with the agency's prior practice. The regulations state that an individual on OPT does not have to have secured employment to maintain his/her legal status while on OPT; one only has to be actively seeking full-time employment. The latest interpretation we know of this regulation is that if a student who is authorized for OPT leaves the country and does not have a job, then that student will not be allowed to re-enter the United States as an F-1 visa student and will lose any time remaining on OPT.

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The second example affected a U.S. citizen. Last October, a colleague from Washington University in St. Louis presented a paper at an international conference in Cuba. When she returned, she was detained by immigration officials in Miami and informed that she had just committed an illegal act against the United States government. No rationale was given to her for the detention. Currently, traveling outside the United States is risky for international students—even with a valid passport, visa stamp, and other documentation. Regardless of one's country of origin, there is no guarantee that the student will be allowed to re-enter the United States. The decision on re-entry is left to the discretion of the immigration official at a port of entry. Finally, visas are denied for certain academic disciplines,²⁵ but which disciplines are considered security risks is not made public. Since advisors also uninformed they are unable to appropriately advise international students about traveling and re-entering the United States.

CURRENT FEDERAL REGULATIONS NEGATIVELY IMPACT FOREIGN STUDENT ENROLLMENT

While there is insufficient data to judge if new regulations are inhibiting foreign student enrollment, college and university officials perceive that there is a disproportionately negative effect on foreign Muslim enrollment.

The transfer of the INS to the Department of Homeland Security creates additional challenges for SEVIS implementation.²⁶ Ensuring that the SEVIS implementation continues progressing will require “prompt identification of per-

sonnel in the new organization who will be responsible for certifying schools, so that they receive sufficient training and guidance to administer the program.”²⁷ The DOJ’s Office of the Inspector General made several recommendations to ensure SEVIS’ efficacy, reliability, and full implementation.

At the institutional level, the problem with SEVIS is that it is difficult to use. For example, it takes too long to enter student information into the database and if a designated school official makes a mistake in SEVIS, such as accidentally terminating a student’s record, the official can request a data fix from DHS. But the fix can take up

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to a year and while the resolution is pending, the international student is ineligible for certain benefits, such as applying for Optional Practical Training. The alternative is for the student to apply for a reinstatement—an alternative that costs \$195 and will leave a permanent mark on the student’s SEVIS record. SEVIS’s full capabilities will not be realized until there is full cooperation between universities, DHS, and other areas of the government “... something ... [that] has proved to be a problem in the past.”²⁸

DHS must also consider the steps necessary for maintaining SEVIS and international student visa operations during a prolonged system outage. Such an outage could occur if government systems or higher education and other related systems were invaded. Less severe, but still of concern, are system problems that halt the ability of users to function in the SEVIS environment. Examples include software, hardware and related problems on the SEVIS server; Web browser updates that are not compatible with the SEVIS web interface; and SEVIS updates that are not compatible with existing technological protocols. Already, there have been disruptions of up to three days during software and server upgrades.

The process of acquiring a visa needs to be more efficient and pleasant also. This can only be achieved if the proper resources are in place. Recently, a student from India brought me an article from the *Times of India*, titled “Students Learn to Keep Off U.S.: Visa, Security Tangles Send Enrollment Figures to New Low.” In the article, the statistics on international students in the United States, the economic benefits they bring, the expected declines in enrollment, identification of

countries trying to recruit international students away from the United States, as well as other related statistics were alarming.²⁹

International studies offices should continue to advocate for international students and get the word out that the office is there to serve and not just to report students to DHS when they do something wrong. In essence, colleges and universities need to stop acting in the role of “Big Brother.” International studies office staff and college and university officials could then fulfill their humanitarian obligation and responsibility to properly socialize international students to the cam-

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pus and surrounding community via language training and other services.

Finally, some researchers interpret the language used to describe international students as suggesting international students are a market and economic resource to be expanded, shared, controlled, and secured as a commodity. The language is reminiscent of colonial European imperialism’s securing of distant markets.³⁰ Institutions must work with the media to eliminate that construct and present a welcoming image that assures potential students that the United States is a safe place for international students to come and study.

There is need for further research on the impact of federal regulations on international student study. It would be interesting, for example, to examine the treatment of “suspect” groups in terms of race, religion, and/or field of study. But restrictions on international student exchange are only part of the problem. Exacting scrutiny and regulation of visits by international scholars also has a deleterious effects on scholarly exchange. There is a need to find a balance between national security concerns and a welcoming atmosphere for international students. Improved and streamlined procedures at all levels will help ameliorate the situation. The true challenge will be to combat the perception abroad that the United States is not an inviting place for international exchange or that visa approval is a challenging process. Continued efforts are necessary to ensure that the United States remains a premier destination of choice for the best and brightest international students. In an increasingly smaller and global society, the benefits to the world are undeniable. ■

ENDNOTES

- ¹ Borjas, “Rethinking foreign students,” 2-5.
- ² Vestal, “International Education.”
- ³ DOJ, “Student and exchange visitor information system,” I-003.
- ⁴ *Ibid.*
- ⁵ *Ibid.*
- ⁶ Rubin, “Global Engagement,” 19.
- ⁷ Koy, “Report on International Educational Exchange,”; Harrison, “Educational Exchange for International Understanding,” 2-4.
- ⁸ Rubin, “Global Engagement,” 19.
- ⁹ Bollag, “Foreign Enrollments at American Universities,”; “Graduate applications from overseas decline again,”; Brown, “Decline in international graduate student applications,”; Field, “Visa delays stemming from scholars’ security.”
- ¹⁰ DOJ, “Student and exchange visitor information system,” I- 003.
- ¹¹ Bowen and Foley, “Impact of sevis on the u.s. admissions office,” 31-33.
- ¹² *Ibid.*
- ¹³ Koy, “Report on International Educational Exchange.”
- ¹⁴ *Ibid.*
- ¹⁵ Bollag, “Foreign Enrollments at American Universities,”; “Graduate applications from overseas decline again,”; Brown, “Decline in international graduate student applications,”; Field, “Visa delays stemming from scholars’ security,” ; Urias, “Foreign Student Enrollment in Selected U.S. Institutions,” 3515.
- ¹⁶ Bollag, “Graduate applications from overseas decline again,”; Koy, “Report on International Educational Exchange.”
- ¹⁷ Brown, “Decline in international graduate student applications.”
- ¹⁸ Alam, “Visa issuance,” 9.
- ¹⁹ Brown, “Decline in international graduate student applications,”; Goswami, “Students Learn to Keep Off U.S,” 4.
- ²⁰ Brown, “Decline in international graduate student applications.”
- ²¹ Arnone, “Colleges expect the worst in preparing for new system,” A33-35; Borjas, “*Immigration policy and the American economy*,”; Harklau, “Newcomers in U.S. Higher Education,” 634-655; NAFSA, “Online newsletter,” November 25; Rubin, “Global Engagement,” 19.
- ²² Rao, “Brain Drain and Foreign Students.”
- ²³ Koy, “Report on International Educational Exchange.”
- ²⁴ Urias, “Foreign Student Enrollment in Selected U.S. Institutions.”
- ²⁵ Brown, “Decline in international graduate student applications.”
- ²⁶ Bowen and Foley, “Impact of sevis on the u.s. admissions office,” 31-33.
- ²⁷ DOJ, “Student and exchange visitor information system,” 32.
- ²⁸ Johnson, “The perils of homeland security,” 2.
- ²⁹ Goswami, “Students Learn to Keep Off U.S,” 4.
- ³⁰ Rhee and Sagaria, “International Students,” 85.

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