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Editor's Note

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EDITOR'S NOTE

Given that it is the election season in the United States, I would like to express my hope that whoever wins the White House and Congress, our national leaders will turn their attention to a grave and continuing threat to higher education in this country. This threat is posed to all institutions nationwide, but it falls especially hard on those devoted to graduate studies.

The threat has been growing for many years: it is the gauntlet that must be run by students from abroad who wish to come to the United States. Young men and women seeking to enroll in our graduate schools are being denied visas in huge numbers by the United States consular officers worldwide, and, in particular, by those who staff the non-immigrant visa sections.

Americans concerned with the welfare and the future growth potential of our higher education "industry" should be angry. After all, higher education constitutes one of our greatest assets and is a major element in our economy. So, too, those scholars and administrators who understand the benefits that study in America's higher education institutions confers both upon the countries from which the students come and upon the United States itself should be upset.

In the latter years of the last century, over two million non-immigrant visas were denied annually at U.S. consulates, according to the State Department's own reports; since 9/11, I believe, the number of turndowns is on the rise. One is tempted to ask: Could enemies of our country do more to harm the national interest, create more ill will toward the United States, than these consulates are doing?

Here is a typical example. Last spring, one of our doctoral students suffered a death in his family. His father

had died suddenly, so he was called back home to take care of family matters—including a thriving business. This student, roughly half-way through the program, came from a moderate Muslim nation, a land with which the United States certainly should be seeking to create good will and minimize unpleasantness.

The student had changed his original visa here in the U.S. to attend graduate school. He had earned a Master's Degree in the Washington metropolitan region and then he enrolled in our university to earn a doctorate in Business Administration. When the call came from home, he duly filed for a one-term break and arranged for his courses following that.

Imagine our surprise when this student, who went to the U.S. embassy for his F-1 visa, was denied. He wrote to the university right away, saying that he had been told he was being denied because he had changed his status while in the U.S. "and failed to show enough means to maintain" himself in the United States.

We naturally turned to our Congressman. He received a letter dated May 22 reading:

After careful review of his application and the documents presented, the officer in charge of his case found that he was unable to show that he is eligible for a visa.

What to make of such a statement? No reason whatsoever was given.

The Congressman's office tried a second time. Again, a denial was affirmed. This time the significant paragraph read:

The officer in charge of Mr. A---'s case reviewed the documents you sent. The documents do not constitute the

proof needed to overcome the presumption of immigrant intent. As additional evidence that Mr. A--- does not intend to respect our law, it was noted by the adjudicating officer that Mr. A--- was continuously employed in the United States contrary to U.S. immigration law since he first entered the U.S. in 2003.

The university sprang into action, first because the allegation was actually untrue—he hadn't worked since 2003, only since 2006—and, second, because of a more easily explained answer: the university in fact has a program which provides for advanced students to work when the assignment is related to the curriculum. This student had been working since November of 2006 under the Curricular Practical Training Program. We thereupon sent a letter to the consulate, explaining the program, showing where authorization for the program rests in the immigration law, and showing the student's transcripts (quite good grades, too). Naturally, we thought, this would end the problem. Indeed, Mr. A---- had not shown any disrespect for American law whatsoever.

Sadly, if not in retrospect surprisingly, the consulate responded to the Congressman (not to the university, which had written the letter explaining the program) by dropping any reference to the charge about working. It now found Mr. A--- ineligible to finish his studies because he "was properly found ineligible under section 214(b) of the Immigration and Nationality ACT (INA) as amended." No other explanation was given.

The consul thus had now invented an entirely new charge: 214(b). That is, he was claiming that the student had not proven that he had an unabandoned home in his home country. What legal basis did the officer have to do this? Moreover, this charge again was without merit as an argument, since the student had in fact voluntarily returned

home in the midst of studies to straighten up the family's business affairs after his father's death. In other words, a whole new ground was used to deny the student, with no opportunity granted to either the student or the university to present the facts in rebuttal.

A student was ripped from his studies by a family emergency back home, granted leave by the university, and then prevented from returning to school by a series of accusations, the legal and factual bases of which were hardly credible.

It is often said that new Foreign Service officers are asked to work as consular officers on their first foreign assignments. They apparently see this as an unpleasant job, and woe betides the individual who grants a visa to someone who subsequently jumps to another status. The visa officers use as the basis for their power a clause in the law that states that all applicants for non-immigrant visas (businessmen, students, temporary workers, and tourists, plus others) must prove to the satisfaction of the interviewing officers that they are in fact not intending to become immigrants.

Stand in a visa section of almost any U.S. consulate—particularly in the bigger countries overseas—and witness the disaster this clause has wrought. Men and women who want to enter the United States usually arrive at the consulates for their interviews before dawn. They line up outside and when the doors are opened, they are allowed in. Armed guards are prominent. The television runs, with no sound. The applicants are then called and—from my observation—are granted less than a minute to submit their papers and hear of their fate.

I have stood and watched many of these bright students, applicants to America's graduate schools, be turned down one after the other. Often, according to at least one expert

who is knowledgeable on the training of these officials, the consular officers actually try to trick the students into saying that they intend to stay on or violate some other law. And this does not protect America from terrorists, in my opinion. After all, the 9/11 hijackers were granted visas. Typically, according to suits that have been filed in the past, the poorer (and, it was alleged in a case in Brazil, the darker) applicants are rejected.

Once I stood in a room in Mumbai and watched bright young potential graduate students called for a second interview. One by one they were called and went up to a window. They presented the papers they had been asked to show at their first interview—usually, bank statements, support letters from relatives in the United States, and the like. Each one was turned down. This was a charade, set up a few days earlier in order to enable the consulate to prepare denial letters. I saw students who could have become ambassadors of good will for the United States spurned; would they become possible enemies, in their bitterness? Perhaps I also saw men and women who might have contributed to the advancement of science, mathematics, and technology in our country, who might have helped us once again to become world leaders in engineering and innovation, rejected.

What's more surprising to Americans, the individuals denied have no appeal rights whatsoever: the consular officer's word is the law. There is no recourse to a court system, no judge where evidence might be presented. And the students are not even told how they can rectify whatever wrong exists. Typically, they are presented pabulum and the real explanation not given (i.e., the consular officer thought they might not succeed in their studies or the student fell into a verbal trap that the officer had laid for him).

During my career I have also received notice that students were rejected by consul officers who apparently themselves had little or no familiarity with higher education itself. They seemed not to have understood that high school major disciplines may not be the same as majors for undergraduate or graduate school, therefore not understanding the information on the application forms. They were looking for trouble where there was none.

Twins, students from Chad—where now we have few friends—were rejected on this basis. How could they major in math at the University of the District of Columbia when their high school featured geography? A fine young man from Israel was spurned because he had traveled to Japan instead of using an earlier visa to the U.S. “You’re lying,” shouted the accusing consular officer. “You went to America and now you want to return there to get permanent residence,” she bellowed, denying the visitor’s visa and turning a friend of America into someone who would never want to come here. Another student—again, at the doctoral level -- was denied because the consul officer had made a study and found out that 40 percent of the students didn’t return. Does that mean that 60 percent did? No wonder Australia and Great Britain are gaining more Chinese applicants for university study—and we are stumbling. Repeatedly the students say that they do not want to go through the ugliness.

I cannot blame one administration or another for the sorry state of our visa consular service today. For example, a cable some months ago by Secretary of State Rice (herself a former top official of Stanford) to the consulates instructed them to treat applying students more respectfully. Dr. Rice said that students should no longer be stopped and denied because of their stated majors or their intended schools. (Indeed, consul officers have denied students from attending certain

universities over the years—a role they have no training for whatsoever, one might think.)

The problem is that the consular service has long been a realm unto its own, one that since the time of State Department officials such as Breckinridge Long and Loy Henderson has not represented the finest in the American tradition of welcoming foreigners to these shores. They are unregulated, and there is no court appeal possible. In my opinion, they've stood for the worst. They have certainly harmed America's higher education industry.

Comparative civilizationalists should be especially unnerved by the negative work of these consular officers. We, perhaps above others, understand that increased intercultural understanding provides a foundation for international peace and good will. If we believe that conflict between civilizations or societies and cultures exists today and should be diminished by scholars, we must make our voices heard.

So, whoever becomes the next president, I say: "Please reform our consular system. This nation's higher education system ought to be a beacon for the world—not a glaring, ugly example of Fortress America."

Joseph Drew
Washington, DC

Coming This Spring!!

Both the lively interest frequently expressed in CCR's articles and the vigorous on-going debates on matters related to civilizations lead us to inaugurate a "Letter to the Editor" section, beginning with the next, i.e., Spring, 2009, issue.

Please send comments and opinions by email to the Senior Editor, Dr. Laina Farhat-Holzman, at lfarhat102@aol.com; the deadline is March 1, 2009, if you wish your letter to appear in the Spring issue.

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