

## On Borders and Academic Freedom: Noncitizen Students and the Limits of Rights

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### Abstract

This article explores the limits of the discourse of “academic freedom” in the contemporary US university by centering the particular position and experiences of international students. A focus on the question of rights presumes that all participants in campus life have the capacity to claim said rights and thus fails to effectively comprehend how campuses function, for whom they function, and how legal and administrative policies stemming from US immigration law condition campus life for noncitizens and the broader campus community. This article illustrates how the invocation of “rights” operates in ways that both obfuscate and, at times, oddly animate the very figures such a focus implicitly renders both insignificant and exploitable—noncitizen students, faculty, staff, and other campus workers.

In June 2019 the Campus Free Expression Project of the Bipartisan Policy Center (BPC), a Washington, DC, think-tank, hosted a conversation on the theme “Protesting the Podium: Campus Disinvitations.” The panel featured Harvey C. Mansfield, the William R. Kenan Jr. Professor of Government at Harvard University, alongside three other older white men who work at prestigious universities as faculty or administrators. Mansfield enthusiastically voiced his concern for the state of US campus culture, arguing that academic freedom, once a mantle of liberalism as articulated by John Stuart Mill, is now the domain of

conservatives who must uphold the role of the university as its protector.<sup>1</sup> To bolster his position, Mansfield took up what seems like an unlikely avatar for the conservative voices of the Harvard campus, especially given Mansfield's broad embrace of white, antifeminist, US nationalist politics: a student he simply referred to as "an Iranian girl."<sup>2</sup>

To explain how conservative students find other students to be the "real issue" restricting their freedoms, Mansfield recounted the following: "We had an Iranian girl in one of my classes and invited her over to dinner with my wife. And she made this interesting remark: 'in Iran you have to be careful about what you say in public but you can pretty much say whatever you like in private. Here in America,' then and she specified, 'and this means Harvard, it's the reverse.'"<sup>3</sup>

Mansfield's paraphrasing, or perhaps more aptly ventriloquism, of this student was met with a few beats of awkward silence before one of the men seated off-camera to his right, seemingly in sympathy with Mansfield's plight rather than his student's, commented, "You've had a tough time there." To which Mansfield responded, solemnly, "Yeah." Though understated, the affect of the exchange was palpable: conservative faculty are beleaguered but continue to soldier on in their noble efforts to preserve the freedom to be unencumbered by concern for the needs of others.<sup>4</sup>

In relaying this story, Mansfield performs a fascinating transposition from his own status as victim of liberal censorship, a status he has argued is to be expected as "a white male conservative professor," to the figure of a feminized, presumptively non-Christian, nonwhite, noncitizen student.<sup>5</sup> It is telling that a panel organized, even if inadvertently, around white, conservative men's thoughts and feelings about academic freedom would turn to such a figure. The move plays on a dominant and condescending trope of the international student as an oppressed, feminized young person from a non-Western country whose appreciation for the supposed freedoms and values the United States bestows upon them can provide a unique, outsider perspective to help citizen students more fully respect all that they otherwise take for granted.<sup>6</sup> Yet Mansfield's assumption that this student's remark, in his home and over a meal, was somehow

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<sup>1</sup>Bipartisan Policy Center, "Protesting the Podium: Campus Disinvitations," featuring Harvey Mansfield, Senator Bob Kerrey, Michael Roth, and Matthew Dickinson, June 18, 2019, <https://bipartisanpolicy.org/event/protesting-the-podium-campus-disinvitations/>.

<sup>2</sup> See Harvey Mansfield, *Manliness* (New Haven, CT: Yale University Press, 2007).

<sup>3</sup> "Protesting the Podium: Campus Disinvitations," 1:05.

<sup>4</sup> For a further elaboration on this framing of "freedom," see Jodi Melamed and Chandan Reddy, "Using Liberal Rights to Enforce Racial Capitalism," *Items: Insights from the Social Sciences* (2019), <https://items.ssrc.org/race-capitalism/using-liberal-rights-to-enforce-racial-capitalism/>.

<sup>5</sup> Harvey Mansfield, "The Theory behind My Disinvitation," *Wall Street Journal*, April 15, 2019.

<sup>6</sup> Mimi Thi Nguyen has usefully argued that we cannot simply dismiss "freedom" here as a trick or a ruse but instead need to understand "that freedom is precisely the idiom through which liberal empire acts as an arbiter for

an expression of an unencumbered or unrestricted perspective or truth is specious. Her very point seems to have been that in America, and even at Harvard, one is not entitled to their opinion, especially in private. This willful misreading of her statement only follows if Mansfield somehow imagines himself as either above or beyond the broader structures of power that shape campus life, especially for students whose continued presence on campus and in the country depends upon faculty and administrators to support their visas.

There is much that could be unpacked about this panel, the perspectives it highlighted, and what they make clear about efforts to manage campus life under the guise of “academic freedom” in ways that enable and extend the university’s status as a fundamentally conservative project.<sup>7</sup> For the purposes of this article, however, I am primarily interested in thinking through how a narrow focus on the question of rights, and the ways such a focus presumes that all participants in campus life have the capacity to claim them, fails to usefully comprehend the following: how campuses function, for whom they function, and how legal and administrative policies stemming from US immigration law condition campus life for noncitizens and the broader campus community. I do not mean to overinflate the significance of the BPC or this event but open with a brief discussion of the conversation the group hosted in an effort to illustrate how the invocation of “rights” operates in ways that both obfuscate and, at times, oddly animate the very figures such a focus implicitly renders both insignificant and exploitable—noncitizen students, faculty, staff, and other campus workers.

My research on the figure and figuration of nonwhite, noncitizen students in the history and contemporary structures of US higher education works to avoid misunderstandings such as Mansfield’s by taking on an historicized structural analysis of the ways US student visa policies condition and manage student lives and campus practices. I take such an approach not to efface or disavow the articulated perspectives of such students but instead because much work on noncitizen students in the United States fails to attend to the ways such enunciations are conditioned by the legal and administrative specificities that order international students’ lives and relationships. That is, despite Mansfield’s assertion that international students, such as the “Iranian girl” in his class, are staunch defenders of a liberal (in the technical, historical, and individual-rights-above-all-else sense of the term) notion of freedom of speech, and, indeed, even if the individual he is citing is just such a champion, the context of her utterance must also be taken into account.

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all humanity.” See Mimi Thi Nguyen, *The Gift of Freedom: War, Debt, and Other Refugee Passages* (Durham, NC: Duke University Press, 2012), 4. Notably, this trope is persistently mirrored by a figuration of the often masculine, nonwhite, and non-Christian, international student as risky subject whose presence threatens to harm the security of the nation. I explore the paradox and impact of this dual figuration in my forthcoming book.

<sup>7</sup> For more on the inherently conservative work of US university liberalism, see Abigail Boggs and Nicholas Mitchell, “Critical University Studies and the Crisis Consensus,” *Feminist Studies* 44, no. 2 (2018): 432–63.

Taking up a student's comment as qualitative evidence requires attending to the policies and administrative practices that condition this student's capacity to gain entrance to a US institution of higher education, to navigate the precarities of the US immigration and visa system, and to retain a status that allows her to remain in the country long enough to at least complete her studies. These complicated and fluctuating processes are the culmination of a century and a half of variable immigration laws and administrative procedures with differential impacts depending on a student's country of origin, and their racialized, classed, gendered, and religious identity. Since the Trump administration's ascension in 2016 these already alienating and invasive processes have become all the more convoluted and draconian. In the case Mansfield calls upon, grappling with his student's enunciation would thus require attending to not only the gendered and racialized politics of the relationship between Mansfield and this student (politics Mansfield seems himself to acknowledge in a sideways manner by specifying that his wife was also present at the dinner he shared with the student in his home) but also the more formal legal and administrative parameters that condition the expression of noncitizen students—especially students from the Middle East in the United States with the F student visa. In what follows I set out to provide some basic contextualization of these matters for readers with an interest in understanding and perhaps intervening in the set of administrative practices that condition campus life.

The uniquely decentralized history, organization, and funding structure of US higher education means that most campus oversight falls to an amalgamation of boards of trustees or regents, state governments, accreditation commissions, bond rating agencies, and college ranking publications, rather than to the federal government. Yet, despite a lack of the kind of centralized federal higher education system that exists in many other countries, the US federal government does effectively manage campus life, shape campus policies, and impact administrative practices in numerous ways. Recent examples include the Obama administration's efforts to interpret Title IX of the 1972 Education Amendments as extending college and university responsibility to mitigate hostile environments that foster sexual or dating violence.<sup>8</sup> Or efforts under both the Bush and Trump administrations to animate Title VI of the Higher Education Act to effectively restrict academic programming in support of Palestinian rights by deeming anti-Zionist work inherently anti-Semitic and thus a civil rights violation.<sup>9</sup> Both of these matters employ the broad framework of civil rights to

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<sup>8</sup> See, for example, Max Larkin, "The Obama Administration Remade Sexual Assault Enforcement on Campus: Could Trump Unmake It?," WBUR, November 25, 2016, <https://www.wbur.org/edify/2016/11/25/title-ix-obama-trump>.

<sup>9</sup> It is important to note that though Title VI now functions as part of the Higher Education Act, it originated in the 1958 National Defense Education Act, a piece of Cold War legislation that aimed to train experts in foreign languages and area studies for US security purposes. See "The History of Title VI and Fulbright-Hays: An Impressive

authorize their interventions: the government threatens to withhold federally backed research funds, grants, and loans if an institution is found in violation of its policies or decrees to protect individual rights. As such, the government's capacity to act is organized around the presumption that students are individuals to whom the federal government guarantees such rights, that is, they are citizens.

But, as noncitizens, an increasingly sizable percentage of college and university students have a far more ambiguous relationship to such rights. For the 2018–19 academic year, an all-time high of 1.09 million international students traveled to the United States under the conditions of an F-1 visa; they represented an unprecedented 5.5 percent of all US college and university enrollments. A much harder to quantify number of students are part of the imperiled Deferred Action for Childhood Arrivals or are undocumented.<sup>10</sup> My focus here is specifically on students in the United States or attempting to come to the country through the student visa program. The international student is an important case study because of the way federal immigration policy positions and manages this population in relationship to institutions of higher education with significant implications for understanding how federal immigration regulation itself conditions campus life for citizen and noncitizen students and for other campus workers including administrators, faculty, staff, and others. As Mark Salter argues, administrative processes that allow temporary visitors to live in a country under specific conditions—that is, visas—effectively delocalize the border, expanding its logic and administration into nonborder spaces.<sup>11</sup> This is especially the case when the rights of noncitizens are consistently eroded, as in the United States since the mid-1990s, and when the rights of all nonwhite and nonwealthy people are persistently in question.<sup>12</sup> In the case of international students, the expansion of the border is activated when

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International Timeline,” US Department of Education, January 21, 2011, <https://www2.ed.gov/about/offices/list/ope/iegps/history.html>; Erica L. Green, “Education Dept. Reopens Rutgers Case Charging Discrimination against Jewish Students,” *New York Times*, September 11, 2018, <https://www.nytimes.com/2018/09/11/us/politics/rutgers-jewish-education-civil-rights.html>; Erica L. Green, “U.S. Orders Duke and U.N.C. to Recast Tone in Mideast Studies,” *New York Times*, September 19, 2019, <https://www.nytimes.com/2019/09/19/us/politics/anti-israel-bias-higher-education.html>.

<sup>10</sup> Institute for International Education, “Open Doors Report: International Students Contribute \$44.7 Billion to the U.S.,” November 18, 2019, <https://studyinthestates.dhs.gov/2019/11/open-doors-report-international-students-contribute-447-billion-to-the-us>. A total of 223,085, or nearly a quarter of all F visa holders, are in the United States as part of the imperiled Optional Practical Training program, which allows students who have completed their studies in the United States to work for one-year after they graduate or three years if they receive a STEM degree. See Elizabeth Redden, “Will Trump Opt to Restrict Foreign Student Work Program?,” *Inside Higher Education*, May 29, 2020.

<sup>11</sup> Mark Salter, “The Global Visa Regime and the Political Technologies of the International Self: Borders, Bodies, Biopolitics,” *Alternatives: Global, Local, Political* 31, no. 2 (2006): 176.

<sup>12</sup> See the Monica Varsanyi, “Rescaling the ‘Alien,’ Rescaling Personhood: Neoliberalism, Immigration, and the State,” *Center for Comparative Immigration Studies* 173 (2009): 877–96. For longer discussions of the distinctions between citizens and noncitizens as well as the ways citizenship itself is unevenly distributed across categories of

university personnel are enlisted in policing and managing students, as has been required since the inception of the F student visa in 1952 but has become increasingly formalized since September 11, 2001.<sup>13</sup> Looking to how the movement and lives of noncitizen students are managed and curtailed as a result of federal immigration policy thus provides insight into the functional inadequacy of a rights-based, liberal imaginary of what universities are and can be.

The crucial role of international students for the budgetary stability of US institutions of higher education is difficult to overstate, but, until recently, it has rarely been a point of significant public concern. This role has, however, been glaringly apparent to university administrators and followers of higher education news since the early 2000s. The intensity of US higher education's dependence on noncitizen students for their tuition payments was first made apparent in 2004 and 2005, when the number of international students choosing to study in the United States dropped by 2.4 and 1.3 percent. At the time, international students were contributing \$13 billion to the US economy in the form of tuition, fees, and living costs, constituting the fifth-largest export of services from the US economy.<sup>14</sup> Observers saw the declines as a response to the implementation of harsh new US government visa policies between 2001 and 2003 that included the enactment of the Student and Exchange Visitor Information System (SEVIS) and the 2002 implementation of the National Security Entry-Exit Registration System, which required immigrant men from predominately Arab and Muslim-majority countries to report to immigration for the collection of biometric data. In a substantial shift from previous practices, SEVIS requires almost all visa applicants to interview with consulates in their home countries and submit to biometric screening, creating an arduous obstacle for many would-be students.<sup>15</sup> Professionals working in the field of international student advocacy also attributed the decline in visa applications to the deterioration of the international reputation of the United States, specifically with regard to questions of xenophobia and racism.

Much to the relief of university administrators across the country, minor declines in enrollments during 2003–04 and 2004–05, which at the time seemed to portend a grim future, were quickly made up in the

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class, race, gender, sexuality, ability, class and more, see Lisa Lowe, *Immigrant Acts: On Asian American Cultural Politics* (Durham, NC: Duke University Press, 1996); Evelyn Nakano Glenn, *Unequal Freedom: How Race and Gender Shaped American Citizenship and Labor* (Cambridge, MA: Harvard University Press, 2002); Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ: Princeton University Press, 2004); and Rachel Ida Buff, *Immigrant Rights: In the Shadows of Citizenship* (New York: New York University Press, 2008).

<sup>13</sup> James Walsh, "Education or Enforcement? Enrolling Universities in the Surveillance and Policing of Migration." *Crime, Law and Social Change* 71 (2019): 325.

<sup>14</sup> Allan E. Goodman, "Open Doors and Secure Borders: US Student Visa Policy in the Post 9/11 World," *International Relations and Security Network (ISN)*, January 2006.

<sup>15</sup> Meng Lu, "Not Part of the Family: U.S. Immigration Policy and Foreign Students," *Thurgood Marshall Law Review* 34 (2009): 343.

following years. In response to these declines and the significant drop in the numbers of domestic students able to pay full-freight tuition during and after the 2008 financial crisis, between 2006 and 2016, US universities, public and private alike, ramped up efforts to recruit international students. In doing so, they were supported by industrial leaders such as Business Roundtable and the federal government. Schools developed elaborate social media campaigns, established partnerships with international secondary schools, and, in a large number of cases, hired recruitment agents, such as IDP Education and StudyUSA. According to reporting in *Inside Higher Ed*, when bonuses and other payments are included, recruiting agents make as much \$9,000 per student enrollment.<sup>16</sup> In part as a result of these efforts, the market in international students in the United States reasserted itself, with a strength beyond the dreams of most campus chief financial officers. As early as 2009, there was an 8 percent increase in the number of students traveling to the United States, exceeding the previous high from 2002–03 by 14.5 percent, bringing the total number of students to 671,616 and their economic contribution to the US economy to \$17.8 billion.<sup>17</sup> As of the 2018–19 academic year nearly 1.095 million students were on US campuses, and the Institute for International Education (IIE) reported that these students brought with them a \$44.7 billion contribution the US economy, a significant amount of which circulated through US university budgets.<sup>18</sup>

But recent data tell a bleaker story for the future of international student recruitment. As Paul Schulman of *University World News* reported in January 2019, international student enrollments have functioned as a financial Band-Aid as universities deal with shrinking domestic student enrollments, but there is ample evidence that this solution will not hold. IIE’s annual survey of international students in the United States began to once again show a slackening market in the fall of 2016, when there was a 2.4 percent decline in new international student enrollments. Data from the US Department of State support IIE’s finding; the number of student visas issued dropped from an all-time high of 644,233 in 2015 to 471,728 in 2016. Reports released in 2017 document a continuation and intensification of the decline, with new enrollment decreasing another 6.6 percent and new visa issuance dropping under four hundred thousand for the first time since 2010. While the travel of international students to the United States began to slow at the tail end of the Obama administration, it is widely assumed that Trump administration policies, postures, and public performance of

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<sup>16</sup> Elizabeth Redden, “Commissions and Incentives,” *Inside Higher Ed*, June 20, 2018, <https://www.insidehighered.com/news/2018/06/20/corporate-pathway-providers-shake-international-student-landscape-and-ante>.

<sup>17</sup> Deborah Gardner, “Record Numbers of International Students in U.S. Higher Education,” Institute for International Education press briefing for the National Press Club, November 16, 2009.

<sup>18</sup> “Number of International Students in the United States Hits All-Time High,” Institute for International Education, November 18, 2019, <https://www.iie.org/en/Why-IIE/Announcements/2019/11/Number-of-International-Students-in-the-United-States-Hits-All-Time-High>.

overt xenophobia and racism have exacerbated already existent concerns that student interest in US higher education will continue to decline, especially given increased competition from abroad.<sup>19</sup>

Would-be international students, and particularly students racialized as nonwhite and traveling from countries variously marked as a risk or threat in US economic or security discourse, are increasingly being denied the freedom to travel for their education. This happens in three stages. First, through both delays and denials in the visa provision process in their home countries. Then, should a student obtain a visa, through an intensification and expansion of previous practices of denying entrance at US ports of entry, such as airports, after they have traveled to the country. Finally, once students arrive on campus, through the surveillance, policing, and precarity of their lives and educations, since maintaining a visa requires continuous approvals from and registration with international student advisers who have been effectively deputized as immigration officials. The advisers must regularly update and monitor students' digital files for the federal government with information including student addresses, courses, and travels. Failure to do so puts not only the student's visa in jeopardy but also the individual employee's job and the institution's future ability to sponsor students. Finally, faculty serve as yet another layer of immigration enforcement, especially for graduate students who rely on them for employment and the verification of often-irregular course loads that reflect actual classes as well as lab work and teaching. Though something like a course enrollment record can seem quite straightforward, faculty members often function with a good deal of discretion in their allotment and recording of credit hours, for instance.

Visa denials have long been a part of the international student travel process. According to the State Department, 362,929 new student visas were issued 2018, while 195,187 applications were refused.<sup>20</sup> Most of the refusals are issued under section 214(b) of the 1952 Immigration and Nationality Act, which essentially says that a visa can be denied to any would-be-nonimmigrant unable to prove that he or she does not intend to immigrate on a permanent basis. The other primary reason for visa denials is section 212(a) of the same law, which allows for visa denials if a consular or border agent finds any suspicion of a student's being a

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<sup>19</sup> Jenny J. Lee, "Crisis to Opportunity: Rehumanising Internationalization," *University World News*, no. 483 (November 2018).

<sup>20</sup> See "Table CVI(B) Nonimmigrant Visas Issued by Classification," US Department of State, accessed April 10, 2020, <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2019AnnualReport/FY19AnnualReport-TableXVI-B.pdf>; and "Worldwide NIV Workload by Visa Category FY 2018," US Department of State, accessed April 10, 2020, <https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/NIVWorkload/FY2018NIVWorkloadbyVisaCategory.pdf>. For more on visa refusals in 2018, see National Foundation for American Policy, "State Department Visa Refusals in FY 2018 for Immigrants and Nonimmigrants," March 2019, <https://nfap.com/wp-content/uploads/2019/03/State-Department-Visa-Refusals-In-FY-2018.NFAP-Policy-Brief.March-2019.pdf>.



security risk to the country.<sup>21</sup> Thus, during both the consular interview in their home country and when they get to a port of entry, students must persuade first the consular and then the Customs and Border Patrol (CBP) agent with whom they interact that they both do not desire to remain in the United States on a permanent basis and have deep respect for and no animus toward the country. The consular interview process has a long history, beginning with the notoriously eugenic 1924 Johnson Reed Act but, as referenced above, it became nearly universally mandated after September 11, 2001. The discretion of CBP officers to deny visa holders at ports of entry has gone through several shifts in the last few years, the most recent change being a July 13, 2018, policy memorandum released by US Citizenship and Immigration Services effectively rescinding a 2013 Obama administration policy that had reduced the CBP agent's discretionary power, rendering the port of entry a newly uncertain space for students to traverse. This policy change is part of the Trump administration's reshaping of immigration policy and administration without actually passing laws. As Rachel Morris has described, under Trump, "transformation has mostly come about through subtle administrative shifts—a phrase that vanishes from an internal manual, a form that gets longer, an unannounced revision to a website, a memo, a footnote in a memo. Among immigration lawyers, the cumulative effect of these procedural changes is known as the invisible wall."<sup>22</sup>

This past academic year, effects of the 2018 policy change and the stories of international students trying to navigate the US immigration system regularly made the mainstream news. One of the stories to garner the most attention was that of Ismail B. Ajjawi, a Palestinian student traveling from Lebanon to start his first year at Harvard on an AMIDEAST scholarship. Ajjawi's case earned such interest, no doubt, in part because of the Harvard name but also because his was one of the first publicized instances of a student being denied entry to the country on the basis of the 2018 Trump policy discussed above and a new policy, initiated under the Obama administration but vastly expanded in the first months of the Trump administration, that allows CBP agents to require students to provide the passwords to their social media accounts.<sup>23</sup> As Ajjawi explained, after he was detained for five hours the CBP agent "called me into a room, and she started screaming at me. She said that she found people posting political points of view that oppose the US on my

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<sup>21</sup> For more on visa-denial rates, see Jackal Tanelorn and April Anderson, "Worldwide Approval (and Denial): Analyzing Nonimmigrant Visa Statistics to the United States from 2000 to 2016," *Mobilities* 14, no. 2 (2019): 267–88.

<sup>22</sup> Rachel Morris, "Trump Got His Wall, After All," *HuffPost*, November 24, 2019, <https://www.huffpost.com/highline/article/invisible-wall/>.

<sup>23</sup> "Timeline of Social Media Monitoring for Vetting by the Department of Homeland Security and the State Department," *Brennan Center for Justice*, published June 25, 2019, updated November 12, 2019, <https://www.brennancenter.org/our-work/research-reports/timeline-social-media-monitoring-vetting-department-homeland-security-and>.

friend[s] list.”<sup>24</sup> Due to this discovery, she rescinded Ajjawi’s visa, requiring him to board a plane and leave the country. News reports on this case do not include the technical grounds on which the agent rescinded Ajjawi’s visa but it is likely on the basis of section 212(a).<sup>25</sup> After significant advocacy from AMIDEAST, the Harvard administration and Harvard student groups who organized a petition with over 7,000 signatures, Ajjawi was permitted to travel to campus for the start of the academic year.<sup>26</sup>

While the process ended well for Ajjawi, more reports of students being denied entrance at airports have since circulated, and there is no guarantee that he will not be repeatedly subjected to the exact same treatment every time he attempts to travel to the United States on this visa. In January 2020, the *New York Times* published an article titled “‘Demeaned and Humiliated’: What Happened to These Iranians at U.S. Airports” telling the stories of sixteen Iranian students and their efforts to come to the United States. Local campus papers are also covering this phenomenon. For instance, a Northwestern University paper published a story, “The Panic to Stay: The Uncertainty of Getting (and Keeping) a Study Visa in the Age of Trump,” which includes Ajjawi’s story alongside that of Zijing Tan, a third-year student from China enrolled at Northwestern, and an Iranian student who was not allowed to board his flight.<sup>27</sup>

That this policy has been used to deny entry to new and returning students means that the risk of travel is persistent throughout a student’s education. One of the most egregious cases to come to national attention is that of Mohammad Shahab Dehghani Jossein Abadi, an Iranian student enrolled to study economics at Northeastern University. Upon his arrival at Logan Airport in Boston in January on a student visa, with which he had previously entered the country, CBP held him for a second round of questioning and then ordered him removed from the country without access to a lawyer. Abadi was removed that night, after and

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<sup>24</sup> Shera S. Avi-Yonah and Delano Franklin, “Incoming Harvard Freshman Deported after Visa Revoked,” *Crimson*, August 27, 2019, <https://www.thecrimson.com/article/2019/8/27/incoming-freshman-deported/>

<sup>25</sup> “Admission Qualifications for Aliens: Travel Control of Citizens and Aliens,” 8 USC 1182: Inadmissible aliens, accessed April 10, 2020, <https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title8-section1182&num=0&edition=prelim>.

<sup>26</sup> Shera S. Avi-Yonah and Delano R. Franklin, “Freshman Previously Denied Entry to the United States Arrives at Harvard,” *Harvard Crimson*, September 3, 2019, accessed April 10, 2020, <https://www.thecrimson.com/article/2019/9/3/harvard-student-turned-away-arrives/>.

<sup>27</sup> Caleb Hampton and Caitlin Dickerson, “‘Demeaned and Humiliated’: What Happened to These Iranians at U.S. Airports,” *New York Times*, January 25, 2020, <https://www.nytimes.com/2020/01/25/us/iran-students-deported-border.html>; Amy Ouyang, “The Panic to Stay: The Uncertainty of Getting (and Keeping) a Study Visa in the Age of Trump,” *North by Northwestern*, December 9, 2019, accessed April 10, 2020, <http://www.northbynorthwestern.com/the-panic-to-stay/>; Steph Solis, “Shabab Dehghani, Iranian Studying at Northeastern University, Detained at Boston Logan International Airport,” *MassLive*, January 21, 2020, <https://www.masslive.com/politics/2020/01/shahab-dehghani-iranian-studying-at-northeastern-university-detained-at-boston-logan-international-airport.html>.

despite a federal judge's issuing an emergency stay of his case. The next day, a district judge dismissed the case, saying it was moot because Abadi had already been deported. As his lawyer told the press, "This is not an isolated incident. . . . This is a pattern of misbehavior by this administration who lacks respect for the rule of law and lacks respect for the individuals here who are coming to attend school and to get a degree and to further their knowledge."<sup>28</sup>

For the students who make it to campus, the time of immediate interrogation at the border expands into a more routinized and persistent form of on-campus registration and monitoring. For campus administrators and other workers, the presence of and need for F1 students requires their complicity with federal processes of policing this population.<sup>29</sup> SEVIS was designed to manage international student information, verify their identities, track their movements and whereabouts, and detect migration transgressions. As James Walsh argues, immigration officials represent it as "an expansive surveillance network for gathering vast quantities of intelligence to trace politically relevant groups."<sup>30</sup> He goes on to explain how universities and their workers are conscripted into this process: "When non-citizens are admitted, universities must create and maintain detailed records containing information on as many as 150 data fields, including biographical (legal name, date and place of birth, travel history, address, financial records), academic (status, field of study, course enrollment, academic performance), employment (employer name and address), and school (campus address, session dates, responsible program officials) information."<sup>31</sup>

Any breaches in visa status, which can include unsatisfactory progress toward a degree, an unreported change in address, an unreported change in employment status, a failure to enroll on time, and more, must be reported within twenty-four hours and are investigated by the Compliance Enforcement Unit of US Immigration and Customs Enforcement (ICE). The federal government can then prosecute and fine schools and individual advisers who fail to comply. As university staff monitor and continually register international student actions through SEVIS, they also are responsible for repeatedly verifying students as in-status or as

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<sup>28</sup> Shannon Dooling, "Iranian Student Deported from Boston despite Court Order: Federal Judge Dismisses Case," WBUR, January 21, 2020, <https://www.wbur.org/news/2020/01/21/iranian-northeastern-cbp-immigration-deportation-shahab-dehghani-boston-logan>.

<sup>29</sup> The federal government first started to explore a computerized system for maintaining and sharing student information in 1979, when INS encountered issues locating Iranian students, and was called for again after accusations that a Jordanian international student was involved in the 1993 plot to blow up the World Trade Center. Technical and cost issues as well as push back from advocates for international education delayed the implementation of such a system, but the perception that international students were the masterminds behind the events of September 11, 2001, ensured the system's eventual success.

<sup>30</sup> Walsh, "Education or Enforcement?," 330.

<sup>31</sup> Walsh, 330.

deportable and thus, for Walsh, “constitute a disciplinary instrument of ‘post-entry social control.’”<sup>32</sup> As is often the case with such tech-based solutions to perceived social problems, SEVIS is frequently riddled with errors in its usage, with disastrous effects for students who are inadvertently found to be in violation of their status because of typos or system errors. A single such error in one of the system’s 150 data fields can trigger a series of events with calamitous consequences. Through a Freedom of Information Act request Walsh discovered that between 2012 and 2016 SEVIS was used to identify and deport 256,087 international students, but he does not assess the validity or rationale behind the deportations.

While these policies have clear implications for individual students, they also do a great deal of work to condition the broader environment of the campus as a place where people study, work, and live, cross-hatching anti-immigrant logic with the antiblackness, antibrownness, and anti-Asianness endemic to the US social order. In the mid-2000s Jenny Lee and Charles Rice, researchers at the University of Arizona, conducted an ethnographic study of international students’ experiences that “uncovered tremendous discrimination.” Their study “revealed neo-racism in the form of less-than-objective academic evaluations; loss of employment or an inability to obtain a job; difficulty in forming interpersonal relationships with instructors, advisors, and peers; negative stereotypes of one’s culture; negative comments about foreign accents; and so on.”<sup>33</sup>

In other words, students experienced the negative effect of US-specific forms of racism but also the material effects of such racism in the loss of opportunities to learn and to work. One student told Lee and Rice about an Indian student friend who reported “trouble with her first advisor,” including racial and sexist comments to the point where she “had to change advisors, and it was very difficult for her. He had made a comment about ‘wiping out the whole Middle East.’” Another student explained, “[A] foreign student finds it more difficult to get a job than the American students. The [faculty] understand that. The fact that they understand [and] the students understand that for them American students work at [negotiating] the price. . . . The foreign students are like, ‘Yeah, whatever [salary is offered is accepted].’ Not doing so can have drastic consequences. After this student complained, they “cut off [her] funding and they forced [her] to look for something else.” For this student, these experiences illustrate how faculty treat international students “like the scum of the earth.” These conditions can and often do incite a performance of exceptional student, scholar, and researcher by international students who hope to succeed in the United States. They also necessarily condition labor practices in the spaces of labs, classrooms, and centers where non-international students work. If one or several students in a lab work far beyond the twenty-hour maximum their visa legally allows

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<sup>32</sup> Walsh, 334.

<sup>33</sup> Jenny J. Lee, “Neo-racism toward International Students: A Critical Need for Change,” *About Campus* (2007): 28.

them to work because, in part, not doing so would potentially put their visa at risk, all other students are likely pressured to follow suit. Countless studies on the crisis of graduate student mental health speak to the severity of this situation.<sup>34</sup>

For international graduate students, being disadvantaged in the immediate competition for employment in labs, as teaching assistants, or elsewhere has clear consequences in the most immediate sense for their training and economic well-being, but it also can and does have longer-term implications for their careers, thus layering onto their experience of the broader precarity of the academic job market. For instance, an unwillingness to acquiesce to a faculty member's demands can result in the denial of the kinds of recommendations, introductions, and coauthorships that are crucial for successful careers in academia or industry. As one student explained, "It is basically saying that if you suck up to them, life will be simple for you again. If you say nothing against them then you . . . will get your funding, you [will] get [an] easy graduate assistantship, you will get scholarships, your research will go through easily."<sup>35</sup> In the increasingly competitive world of the academic job market, minor actions by faculty members can have career-making or ending consequences for students. The importance of such connections becomes even clearer when students begin looking for an employer who will sponsor their visa extension or green card, a process that will determine where they are able to live after they graduate.

Though Lee and Rice were surprised at the level and kinds of discrimination their research revealed, they were equally if not more disturbed by the students' seeming acceptance of their treatment as simply "the cost of earning an American degree."<sup>36</sup> The students accepted their treatment with much the same resignation as other international students describe their experience of SEVIS and other federal policies that impinge on their privacy. Lee and Rice describe the students as "more calloused than angry"; some students seemed unaware of their rights or that there could be any redress for the discrimination they encountered, while other students clearly knew their options but "feared that they would be deported to their home country for stirring up trouble."<sup>37</sup> Thus students accept their treatment as routine. One student who described having bottles thrown at him explained, "Being international students, you get used to it."<sup>38</sup> Another student advised, in

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<sup>34</sup> Collen Flaherty, "Mental Health Crisis for Grad Students," *Inside Higher Ed*, March 6, 2018, <https://www.insidehighered.com/news/2018/03/06/new-study-says-graduate-students-mental-health-crisis>.

<sup>35</sup> Jenny J. Lee and Charles Rice, "Welcome to America? International Student Perceptions of Discrimination," *Higher Education* 53 (2007): 403.

<sup>36</sup> Lee, "Neo-racism," 29.

<sup>37</sup> Lee and Rice, "Welcome to America?," 404.

<sup>38</sup> Lee, "Neo-racism," 29.

stark terms, that international students simply have to play the game: “[You] need to be prepared for bad experiences in language and culture. And you have to know the rules of the game or you’ll be killed.”<sup>39</sup>

Given the students’ awareness of the broader conditions of their treatment, Lee’s suggestion that one way of correcting the wrongs international students experience is to inform them of their rights seems a bit contradictory. In many cases it appears that students understand that the political world they live in is not always responsive to such formalities, especially for noncitizen students who are located at the nexus of state, university, and individual prerogatives. In their dealings with universities, the US government, and the individuals who represent these bodies, international students are squarely located within the fissures of often facially nonracial (though far from antiracist) US universities and their incorporative impulse. At the same time, however, they are also aware that their incorporation is contingent upon their ability to self-optimize and perform within a narrow conception of their role as temporarily present visitors whose full incorporation is heavily dependent upon fulfilling the desires of the university and a transnational form of American neoliberalism.

Last fall, Sritama Chatterjee, a second-year English doctoral student from India at the University of Pittsburgh, published an article with another solution to the issues facing international students: unionization.<sup>40</sup> In her article for *Inside Higher Ed*’s “GradHacker” blog, Chatterjee tells of her experience coming to Pitt and discovering that, unlike in India, graduate students at Pitt lack a union. She then lays out all of the ways a union would be especially beneficial for international students, including helping them navigate university and federal bureaucracy as well as the “hostile political climate” and enabling them to combat discrimination, including the extra fees international students are charged, funding discrepancies, and the overt racial animus that nonwhite students contend with.

Chatterjee’s call for a union as a response to the specific hardships international students face marks an important rebuttal of the long-standing administration tactic of deploying threats against international students to undercut unionization drives. Recent examples of such efforts include a “Frequently Asked Questions about Graduate Student Unionization” circulated to graduate students by Holden Thorp, a provost at Washington University in St. Louis in August 2017 in response to a graduate student unionization campaign. As Jake Bittle reports in an October 2017 article for *The Nation*, in addition to depicting unions as risky for all students, the document not so tacitly threatens international students. In response to the question, “Could a strike potentially have an impact on my F-1 visa status?,” the document baldly states,

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<sup>39</sup> Lee and Rice, “Welcome to America?,” 401.

<sup>40</sup> Sritama Chatterjee, “Benefits of a Graduate Students’ Union for International Students in the U.S.,” *Inside Higher Ed*, November 26, 2019, <https://www.insidehighered.com/blogs/gradhacker/benefits-graduate-students%E2%80%99-union-international-students-us>.

“Universities are legally required to report to U.S. Immigration and Enforcement . . . if a student fails to maintain status.”<sup>41</sup> Similar warnings have been issued by administrators at Northwestern, Penn State, Harvard, and, most recently, the University of California, Santa Cruz, a case I will return to in a moment. Bittle characterizes the quote from the FAQ document above as “effectively” implying that the university “would be legally bound to call ICE if international students went on strike,” despite the fact that, as he writes, “it’s the university, not ICE, who decides when an international student is no longer a student.” Yet, as discussed above, this assessment underaccounts for the power of the federal government to intervene in campus affairs. An argument could be made, however, for the obligation of university administrators to support their students, both materially and ideologically, in the face of threats from ICE, in effect making it possible for the students to exercise something akin to academic freedom, rather than animating such threats to the administration’s own ends of managing citizen and noncitizen students like.

A new effort to organize for graduate student rights is underway, heightened in both its potential hazard and hope, and this time international students are at the forefront of organizing. Last fall, graduate students at the University of California, Santa Cruz (UCSC), broke with the union that represents graduate students across the University of California system, the United Auto Workers (UAW). Eighty-four percent of UCSC graduate students voted against the contract the UAW negotiated with the University of California Office of the President because it failed to include a cost-of-living adjustment (COLA). In recent years the already impacted Santa Cruz housing market has experienced further consolidation due to pressure from nearby Silicon Valley and the university’s drive to increase undergraduate enrollment. Many graduate students report spending up to 60 percent of their stipends on rent, often of substandard rooms in shared houses.<sup>42</sup> For international students, whose visa restrictions forbid them from working more than twenty hours a week or off campus, the situation is even more severe.

In December 2019 graduate student teaching assistants, who typically each instruct and grade for at least sixty undergraduate students each semester, mobilized a strike to withhold grades for the fall quarter. In February they broke with their union and began a wildcat strike, cancelling classes and picketing at the main entrance to campus. On February 7, UCSC’s International Student and Scholar Services wrote to students warning them that “actions that result in student discipline or arrest may have immigration consequences,

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<sup>41</sup> Jake Bittle, “This University Suggested International Students Could Be Reported to ICE if They Unionized,” *The Nation*, October 5, 2017, <https://www.thenation.com/article/archive/this-university-suggested-international-students-could-be-reported-to-ice-if-they-unionized/>.

<sup>42</sup> “January 2nd: Grad Life before COLA #5: Unsafe Housing and Living Unhoused,” *pay us more ucsc*, January 2, 2020, <https://payusmoreucsc.com/january-2nd-grad-life-before-cola-5-unsafe-housing-and-living-unhoused/>.

both on our current status and possible immigration applications you may make in the United States.”<sup>43</sup> On February 14, the president of the University of California, former secretary of homeland security Janet Napolitano, sent a letter warning striking students that “participation in the wildcat strike will have consequences, up to and including the termination of employment with the University.”<sup>44</sup> International graduate students took this statement as making “the implicit threat of deportation a reality by threatening to revoke Spring 2020 work appointments.” On February 28, 2020, Napolitano made good on the threat, sending termination of employment letters to fifty-four graduate students, including up to fifteen international students for whom termination will entail losing tuition waivers and the invalidation of their visas. How this will play out in the lives of individual students is yet to be determined. As of April 2020 a GoFundMe campaign for the striking graduate student workers had raised \$284,935 of its \$300,000 goal, with much of the funds going to support the students’ basic needs and organizing efforts. UCSC faculty were working with other UC faculty to secure research and other positions for students.<sup>45</sup>

It is difficult to square the experiences of the students affected by Napolitano’s decision to fire students, and especially the experiences of international students now rendered deportable and vulnerable to the precarities of immigration control, with Mansfield’s story of “the Iranian girl” or with the vision of unencumbered academic freedom he and the rest of the BPC articulated in the June panel. What does academic freedom mean for students, such as Mansfield’s, whose capacity to remain in the country and complete their educations requires the consistent support and approval of faculty and administrators? As one international student told a reporter for the Middle East Research and Information Project, “Even though I was supportive of the TA strike, I felt scared to participate in the rally with other students. I know that getting arrested for whatever reason is not an option for me and will jeopardize my stay. This is oppressive. It means that I cannot freely express myself politically.”<sup>46</sup> But many students did participate. A Turkish student striker, for instance, cited President Recep Tayyip Erdogan’s crackdown on academic freedom over the last several years as part of her motivation to take part in the movement: “I come from a dictatorship and I am very aware of the fear atmosphere they [the UC administration] want to create here.” Another student, Yulia Gilchinskaya explained, “This is a fight for future international students . . . [and about] who gets to have

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<sup>43</sup> “UCSC International Graduate Students on Strike: Statement against De Facto Deportation,” *pay us more ucsc*, February 20, 2020, <https://payusmoreucsc.com/ucsc-international-graduate-students-on-strike-statement-against-de-facto-deportation/>.

<sup>44</sup> Ingy Higazy, “UCSC International Students Increasingly Vulnerable Amid Wildcat Strike,” *MERIP*, February 27, 2020, <https://merip.org/2020/02/ucsc-international-students-increasingly-vulnerable-amid-wildcat-strike/>.

<sup>45</sup> “Support Fund for Striking Workers at UCSC,” UCSC Wildcat Strikers, accessed April 10, 2020, <https://www.gofundme.com/f/support-fund-for-striking-workers-at-ucsc>.

<sup>46</sup> “Support Fund for Striking Workers at UCSC.”



access to higher education and how the conditions we live in and labor under right now preclude people who are not independently wealthy from pursuing a career in academia. . . . For international students, undocumented students, and students of color, we understand the risks and yet it's worth trying to change our situation than just continuing to live in it."<sup>47</sup> Here, Gilchinskaya articulates a relationship to the future, organized in relationship to the university, that is about making and risking life in an effort to change the "situation" of not just graduate students but potentially the university itself.

Such a different conceptualization of the purpose and value of universities is necessary if we are to work toward a version of these institutions that could exceed a liberal imaginary of individual rights, one that seizes the potential of universities as sites of concentrated resources and directs them toward more radical and liberatory ends.<sup>48</sup> As Robin D. G. Kelley has cogently argued, "It is a peculiar sort of academic elitism that puts academic freedom, a somewhat abstract concept in itself, in a position of primacy before other types of very real and tangible physical freedoms: the freedom to circulate unimpeded, the freedom to be treated as an equal citizen, the freedom to even access spaces of higher education, which must certainly be a prerequisite for the much-lauded academic freedom that is causing so much consternation."<sup>49</sup>

Academic freedom, that is, is simply an impossibility if other forms of unfreedom are left uncontested.

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<sup>47</sup> Charlotte West, "Breaking: UC Santa Cruz Terminates Contracts for 54 Graduate Students," *Voices of Monterey Bay*, February 29, 2020, <https://voicesofmontereybay.org/2020/02/27/international-students-take-charge-at-uc-santa-cruz/>.

<sup>48</sup> Abigail Boggs, Eli Meyerhoof, Nick Mitchell, and Zach Schwartz-Weinstein, "Abolitionist University Studies: An Invitation," August 2019, <https://abolition.university/>.

<sup>49</sup> Robin D. G. Kelley, "Defending Zionism under the Cloak of Academic Freedom," *Black Educator*, January 31, 2014, <http://blackeducator.blogspot.com/2014/01/>.