

Chapter 14

When Extraordinary Circumstances Call for Mutual Aid: The Arrival of Afghan Academics in the U.S.

Stephen A. Rosenbaum

University of California, Berkeley, USA

Dauida Finger

Loyola University New Orleans, USA

Negina Khalili

Loyola University New Orleans, USA

Ghazi Hashimi

Northwestern University, USA

ABSTRACT

In this chapter, the authors use the narrative essay as a device for providing insight into the experiences of legal scholars, with a spotlight on the personal journeys of two Afghan scholars whose lives and livelihood were put in jeopardy when their country's law professors and lawyers were abruptly thrust into a struggle for academic freedom, vigorous advocacy, and personal safety. They also share the reflections of two US-based legal educators who helped to secure the engagement of Afghans with American law schools at the time their own government was in the midst of a chaotic retreat and the Taliban had regained total control. This series of vignettes examines challenges faced by educators, lawyers, and students in Afghanistan and the United States and the profound impact of the Taliban's totalitarian takeover on academic freedom, human rights, and the pursuit of education.

DOI: 10.4018/979-8-3693-1483-8.ch014

PROLOGUE

In this chapter, the authors discuss efforts to facilitate the arrival of Afghan scholars at-risk after the August 2021 Taliban takeover of Afghanistan. To add to the existing literature on so-called “scholar rescue” is a multi-perspective view on the role and response of American academic institutions, bringing together the contemporary voices of two Afghan scholars and two United States faculty members in a unique exploration of the collaboration that resulted from the crisis. Academy in Exile’s founder Kader Konuk has written:

“Historicizing the figure of the ‘refugee scholar,’ a figure that has been referred to as exile, émigré, refugee, expatriate, displaced scholar, pariah, or, as is the trend now, simply person ‘at risk,’ is helpful in identifying the intellectual traditions that inform current international aid efforts in higher education.” (Konuk, 2020, p. 277).

The aid effort chronicled here includes at-risk Professors Ghazi Hashimi and Negina Khalili, both Afghan lawyers, who eventually were welcomed at U.S. law schools as visiting scholars after evacuating from Afghanistan. The other two authors are Professor Stephen Rosenbaum, University of California, Berkeley, who helped to lead efforts to bring Afghan scholars to the U.S., and Professor Davida Finger, Loyola New Orleans, who responded to Rosenbaum’s outreach and worked to secure a position at her own institution for Professor Khalili. Although scholar rescue programs in the United States and Europe “remain the most important and enduring response to safeguarding and restoring the scholarly freedoms of academics whose intellectual rights have been threatened” (Adebayo, 2022, p. 1818), the effort reported here falls outside the domain of these formalized initiatives.

The four authors’ perspectives are woven together to describe the initial period of the urgent evacuation of Afghan scholars starting in August 2021. Taken together, these perspectives provide a novel view of the crisis and the role of U.S. academic institutions and faculty by bringing together Afghan and American academic perspectives. Throughout the chapter, each author offers their own viewpoint as the evacuation process unfolded during a time period when many in the United States were seeking a way to lend support to Afghan lawyers, judges, and scholars, and some academic institutions were able to find ways to open their doors to Afghans forced to flee.

After an overview of the Afghan crisis situation that prompted the effort to create visiting positions for Afghan scholars at-risk, Professor Rosenbaum anchors the chapter by providing context for his engagement with Afghan scholars. Professors Hashimi and Khalili share brief remarks about their own escapes from Afghanistan. Professor Finger offers her perspective as a faculty member following Professor

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Rosenbaum's lead to place scholars at-risk as visitors, which was a significant step toward securing evacuation and arrival in the United States. The account of the Afghan scholars' departures and arrivals highlights issues, obstacles and a path forward. By centering on the perspectives of the scholars at-risk, together with those of U.S. faculty during this challenging time, and drawing from the literature on the historic and contemporary émigré scholar experience, the chapter reflects on collective lessons learned, at both the individual and institutional levels, especially in light of the likely need to replicate similar situations for other scholars in the future.

Taliban 2.0 Takeover

In August 2021, many Americans were riveted to their screens—on TV, social media and other platforms—in disbelief. Multiple messages were arriving via email, Facebook, WhatsApp and later via Telegram Messenger and Signal. Our former Afghan students and contemporary law colleagues were in danger. The Taliban was steadily advancing on Kabul and it was only a matter of days before the U.S. military would evacuate. (Mobasher & Qadam Shah, 2021). With the undemocratic rulers' return to power and their ultra-orthodox interpretation of Islam, the ongoing reconstruction and reform process was halted. A challenging, unclear path started to take form and tens of thousands of Afghans attempted to leave their country out of fear of the Taliban's totalitarian rule. (Qadam Shah & Rosenbaum, 2023, pp. 221-22).

The Taliban returned to reign with neither a clean slate nor clean hands. There were many incentives for reprisals against secular, Western-educated, and American-affiliated intellectuals, given their public profiles and past or present associations with the U.S. or international NGOs. Several had published in English or Dari during the previous decade on subjects deemed anti-Islamic or pro-Western. Many Afghan legal academics had addressed issues such as political participation of women and national development in a post-Taliban era. Some were on the law faculty at the American University of Afghanistan, an institution modeled on American higher educational standards—and the target of a lethal bomb attack by suspected Taliban operatives at the time the former self-styled emirate government was ploddingly plotting its return to power.

G. HASHIMI

The United States played a key role in the political and economic development of Afghanistan from 2001 to 2021. Since the fall of the Taliban regime, “impressive amounts of moneyha[d] been spent in the effort to ‘restore’ or ‘develop’ Afghanistan...” (Eddy, 2009, p.1). The February 2021 Agreement between the U.S.

and the Taliban increased concerns among my compatriots, given horrific memories of the Islamic emirate's earlier governance from 1996 to 2001. We expected the United States would not leave us without support and would avoid unilaterally handing power over to the mullahs. The agreement led to the Taliban's swift return to power, erasing the progress made during the previous 20 years. On August 14, while conducting an interview of a prospective employee with the Civil Service Commission, my colleagues and I received news that the Taliban insurgents had entered Kabul, leading to cancellation of the interview as we rushed to find safe places to hide. My colleagues and I quickly embarked on our journeys homeward. Due to road congestion, the typical 40-minute drive from the Commission to my residence turned into an agonizing four hours.

S. ROSENBAUM

For more than ten years, a critical mass of Afghan legal scholars had devoted their professional lives in teaching, training, research, and advocacy with new methods and on new causes. They had graduated from University of Washington or Ohio Northern University with hands-on knowledge, technical understanding of teaching methodology, and an esprit de corps developed during their time together in the United States. They had since designed interactive course plans for subjects ranging from lawyering skills and civil procedure to international criminal law, women's rights, and ethics. The curriculum was being normalized. They were joined by legal academics, lawyers, and jurists also educated in the U.S., United Kingdom, Australia, India or in Europe.

A decade earlier, I had been part of a team of UW clinical faculty who conducted a comparative law tutorial for LLM students from Afghanistan, under the auspices of a U.S. State Department-funded legal education support program, LESPA. Ghazi Hashimi, a Kabul University law professor and criminal defense attorney, was one of my students. Our goal was to lay the groundwork through skills-based, interactive education, to reform the law and Shari'a faculties pedagogy that had changed little since the days before the Soviet invasion. (Choudhury, 2014, pp. 259-61; Swenson & Sugerman, 2011). We wanted to ensure that clinical education—broadly defined and decisively organic—would not be divorced from the rest of the curriculum, but rather be endorsed and embraced by their faculty colleagues, university administration, and Ministry of Higher Education. Our students in the tutorial were the people responsible for piloting this new curriculum and they needed help to do so. (Rosenbaum, 2016).

Upon its return to power, the clear motivation of the Taliban directorate was to root out any instruction, examination or vulgarization of material and messages that fell outside the confines of a fundamentalist Islamic sect.

G. HASHIMI

During my time in the United States, I had observed the active engagement of women in both the public and private sectors. During my youth in a Nangarhar province village, education for girls was not encouraged. When I returned to Afghanistan in 2013, I was motivated to prioritize the empowerment of women, particularly in the area of education. I undertook a number of projects, with a focus on female students, many of which were made possible by support from NGOs such as the Asia Foundation and International Legal Foundation and from the U.S. and other Western governments.

These activities included a capacity building program for both male and female students at Kabul University's law and Shari'a faculties. I was also an Associate Professor in the University's legal clinic, where I taught various litigation skills and helped female students with professional client interviews in family law cases. I served as a moot court judge and prepared teaching materials for academic Legal English courses conducted by LESPA, the legal education support program which had sponsored my graduate studies at UW. Many of the participants in moot court and LESPA were women.

As a senior specialist in the Independent Administrative Reform and Civil Services Commission, from 2018 until the collapse of the Government in August 2021, I helped in hiring national and provincial administrative directors who were instrumental in mitigating corrupt practices. During my two years with the Commission, I noticed that many young people were keen on entering government service through open competition and that the number of individuals who held master's and doctorate degrees in Afghanistan was increasing.

N. KHALILI

After obtaining my bachelor's degree in Shari'a law from Herat University, I served as the first female prosecutor in my native Ghor province, prosecuting high profile gender-based cases involving death by stoning, honor killing, child marriages, domestic violence, extreme cases of violence against women, and homicide. The threats to me and my family from the Taliban, and targeted killings against prosecutors, impeded our progress, as the Taliban insurgency and political control had never actually subsided in many parts of the country after the demise of the Islamic Emirate in 2001. Nevertheless, I continued to provide a window for women to pursue perpetrators of crimes against them.

I not only wanted to seek justice, but to encourage girls and women to feel safe and to study and work outside the home. After the collapse of the Emirate, people

in Ghor province and elsewhere were witnessing the blossoming of democracy and the incorporation of human rights values. They saw the first school for all boys and girls and the reopening of universities. A new generation in Afghanistan got a chance to get a peek into the modern world.

In 2017, I was selected for a scholarship funded by the U.S. Department of State at Ohio Northern University Pettit College of Law to pursue an LLM in democratic governance and rule of law. This was the chance of a lifetime, although it was very much against the custom for a young woman to go abroad for education and be accepted back into society afterwards. This was particularly true in Ghor province, despite having the support of my family. With a master's degree in hand, I returned to Afghanistan in 2018 with a more informed understanding of human rights—and had a chance to make a difference.

Appointed as the Head of Prosecution for Juvenile Protection, I partnered with UNICEF to draft a training curriculum for juvenile prosecutors, as most prosecutors were not fully trained under the new law to differentiate between juvenile and adult offenders. Later, while on staff at the Attorney General's office, I was selected to develop a capacity building plan. I also lectured part-time on human rights courses at Rana and Fanoos Universities in the faculty of law, which informed my development of a curriculum for training prosecutors. In 2020, I was asked to serve as director of a State Department-funded uniform case management system, so that any information needed by prosecutors or clients could easily be provided with the click of a mouse.

DEPARTURES AND ARRIVALS

S. Rosenbaum

The listservs for the Association of American Law Schools (AALS) Clinical Legal Education Association faculty and for international human rights clinicians were networks that I used widely to share information, as I anchored the effort to facilitate the evacuation of Afghan scholars who had trained in law and democracy. Many law clinic faculty responded and ultimately, scores of U.S. universities became host schools for Afghan scholars at-risk. Typically, these were law schools, sometimes with a joint appointment in another campus department or school, or sometimes in partnership with other law schools in the vicinity. This was a convenient way to share costs and spread the benefits. My own school's Dean, Erwin Chemerinsky, an influential legal academic, lawyer and newly elected President of the AALS, put out an email to all law school deans urging them to take on an Afghan "visiting scholar" or a "fellow" or some other specially designated, short-term faculty or staff member.

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As a contingent faculty member, I was not immersed in the ways of institutional leadership. I figured that law school administrators are constantly approached about a number of worthy causes and that this particular “ask” would compete for limited resources. (Lässig, 2017, pp. 788-89). Or perhaps it would be met with polite indifference. It soon became apparent that some prospective schools were not appreciating the need to act quickly and were applying standard protocols for a permanent, tenure-track hire. The tension between humanitarian and utilitarian responses to attacks on academic freedom has been noted by earlier scholars, i.e. the need to respond to the persecution of scholars balanced against establishing a given scholar’s potential value to the host institution. (Konuk, 2020, p. 272). My pitch was to convince would-be hosts that expediency, flexibility and safety were our paramount concerns, tilting the effort in a pragmatic and humanitarian direction. As we moved further from the withdrawal of American troops, with borders closing and visas delayed, I realized that departure from Afghanistan or a third country was not imminent for many scholars, and their arrival was not subject to a predictable timetable. With the passage of time, I had the impression that Russia’s invasion of Ukraine in early 2022, as the conflict *du jour*, was beginning to eclipse the crisis and chaos in Afghanistan and the continued need for American material, financial and moral support for Afghans in-country and out-of-country.

In terms of our resources, it helped to have assembled a national team of *pro bono* immigration law firms and to suggest that costs could be offset by local in-kind assistance, or joint arrangements, as discussed above. The role played by State Department alumni and Karen Hall, Ohio Northern University’s former director of the Democratic Governance and Rule of Law LLM Program, was also critical. FPJRA was able to compensate Hadley Rose and Habib Rahmani for their efforts in helping get placements, get people out of Afghanistan and provide some financial assistance for travel and incidental costs.

D. Finger

As Law Clinic Director at Loyola New Orleans and an active member of the national law clinic faculty community, I had been considering the situation in Afghanistan from a distance and trying to determine whether there were ways that clinic faculty in the U.S. could provide some support. I had never been involved in related justice issues, but felt compelled to consider ways to support Afghan colleagues, although I knew that I did not have my own established networks. The Jewish concept that anchors my work, *tikkun olam*—repairing the world—continued to come back to me as a guidepost. The news was getting worse every day for Afghan women. On August 14, 2021, I received the following e-message from Professor Stephen Rosenbaum, which he sent to law clinic faculty throughout the U.S.:

Dear Colleagues,

Our fellow legal clinicians and quasi-clinical faculty in various Afghanistan universities are trapped. Their past/current affiliation with US or other Western universities, NGOs and IGOs taints them in the eyes of Taliban operatives and other insurgents.

These law faculty and NGO activists do not qualify for the much-publicized Special Immigrant Visa (SIV). Despite bureaucratic and logistical hurdles, many are seeking a way out of country. I'm writing to see if your law school or university has a liaison for possible placement of Afghan evacuees (or those from Myanmar, Syria, Yemen, Ethiopia...) in positions like Visiting Scholar or some other low-cost post that allows them and their families to escape a fate that ranges from stigmatization to punishments to death. The Council for At-Risk Academics (www.cara.ngo) does its own vetting and has limited placements.

I'm interested in joining forces with others who have leads and/or fresh ideas. Please contact me off-line at above email address.

In solidarity,

Steve

That email was the catalyst I had been waiting for, and I wanted very much to pursue the proposed action in collaboration with Steve whom I knew had long standing international experience. I forwarded Professor Rosenbaum's message to the Loyola New Orleans Dean, Madeleine Landrieu, who responded quickly with a message of support; we soon engaged other University leadership to confirm institutional support. From there, Loyola began what became an eight-month process to secure the arrival of an Afghan at-risk scholar. Professor Rosenbaum grounded this effort for our institution and many others; we were in touch daily for months as we worked through visa issues, evacuation logistics, and more. We also worked alongside the Fragomen law firm, which volunteered its considerable expertise on immigration matters on a *pro bono* basis. Despite access through many networks, the process and policies for travel to the U.S. were anything but clear. Most notably, with family members remaining in Afghanistan, the scholars had difficult decisions about the best immigration path forward for themselves.

Professor Rosenbaum facilitated the framework for discussions with the institution by creating and sharing a punch list of "Commitments of the Host Institutions" that

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enabled me to have increased clarity in discussing expectations with College of Law and University Leadership.

Our vetting of visitors gave priority to candidates who were: (1) Western-trained (usually U.S.) legal academicians, jurists, or NGO advocates; (2) holders of LLM, JSD, or PhD degrees issued by an accredited Western higher education institution; (3) at risk for stigmatization, punishment, economic sanctions, and/or death; (4) able to travel solo (with other arrangements for family, if any); and (5) willing to seek supplemental means of financial or in-kind support. We also prioritized candidates who had a justice, rule of law, or access to justice orientation and had made a *bona fide* application (i.e., not subject to sham or cronyism).

With this structure in place, my discussions with the Loyola leadership team followed a reasonably concrete track of what was required of us with the vetting of visitors in mind. This structure further enabled streamlined discussions that ultimately resulted in a commitment of funding for one year in a partnership by the Loyola New Orleans College of Law and the College of Arts and Sciences.

It took only one week after Professor Rosenbaum first messaged us to move the process sufficiently forward for engaging a visiting position. We received the CVs of five candidates. The challenge of this process was not lost on me; I was keenly aware that the scholars at-risk were not necessarily able to choose the location, institution or community that they would be moving to. I convened a group of faculty members from departments across the University to engage with the selection process that resulted in our institution's match with Professor Negina Khalili. This collaborative process was key to making the decision, which I was not equipped to do alone and perhaps more importantly, to developing highly interested stakeholders especially given that our institution did not have a pre-existing scholar at-risk committee. The faculty members from these different departments were early, supportive connections for Professor Khalili once she arrived and the process of building a community became a priority.

Many questions remained on how we would provide sufficient resources, physical and emotional, to our newly arriving colleague. However, given the exigency of the situation, we moved forward to secure Professor Khalili's arrival to Loyola New Orleans without having answers to everything immediately.

N. Khahili

When the government of the Islamic Republic of Afghanistan collapsed in 2021, I was working at the Attorney General's Office, in charge of the elimination of violence and harassment against women. It was as if someone had just turned off the lights and there was sudden darkness, as insurgents were roaming the streets of Kabul with their guns pointing and shooting at innocent people. My journey

from the Kabul Airport to the U.S. started on August 21, 2021 when, in the span of two weeks, the Taliban took control of the entire country and began to zealously dismantle all democratic institutions.

With the help of Loyola University and Professor Davida Finger, and the mobilization of law schools abroad, I was able to evacuate to safety after three long and desperate nights on the Afghan airport tarmac. Those days were truly a disaster—without food, sanitation, or safety. Like many of my fellow citizens who were trying to escape the wrath of the mullahs, I found safe passage at first in a third country. I recall seeing the pile of hijabs at the airport left behind as we were able to board flights out of country. I spent seven months in Qatar and then was in limbo in Albania for months before a United States visa was issued to me. Without the support of people like my Ohio Northern mentors, State Department leadership, and Members of Congress, many would have lost their lives in the ensuing violence wrought by Taliban militants.

G. Hashimi

The evacuation process was poorly managed and lacked a clear plan, leaving many Afghans waiting for months in hotels for flights. Along with other members of the Afghan US law alumni association (AALA), I maintained on-line contact with our U.S. counterparts at FPJRA (Friends of the Public-Private Partnership for Justice Reform in Afghanistan). After I fled my office on August 21, I received an instruction a couple days later to converge near the Kabul airport and attempt entry through the American military base. I opted for a taxi, urging the driver to avoid Taliban checkpoints. Despite venturing through side streets, the trip to the airport was harrowing. Upon arrival, I encountered fellow professors from Kabul University, as well as other AALA members, all summoned to the airport. The surroundings were chaotic, with thousands of Afghans vying for entry to the airport despite the daunting presence of Taliban militants. The struggle to reach the military base proved nearly insurmountable for myself and a fellow professor. We were advised by FPJRA to return home and await information on the next flight. Many weeks later, on October 23, a potential flight failed to materialize, due to airport congestion and technical glitches and we received a FPJRA directive to attempt a risky journey to Mazar-i- Sharif in the north.

The Taliban continued to obstruct scheduled evacuation flights. As the Russian-Ukrainian war unfolded, a U.S. contact informed us of a temporary halt in flights and suggested relocating to a third country. Obtaining visas was challenging and expensive. Neighboring countries like Uzbekistan, Tajikistan, and India had stopped issuing visas for Afghan citizens; the only options were Iran and Pakistan. I eventually arrived in Pakistan in February 2022. However, administrative processes at the

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U.S. Consulate prolonged my visa application for another 15 months, with little explanation for the delay. Struggling to sustain myself in Pakistan with an expired visa, I reluctantly returned to Afghanistan to secure a new visa before re-entering. The experience with Pakistani police was marked by unwarranted demands for bribes from Afghan citizens. I did not arrive in Chicago until July 2023 to begin my fellowship at Northwestern University, which had early on selected me as one of their visiting scholars. My personal experience resonates with what has been documented in the literature to the extent that “[v]isas raise hope for oppressed and suppressed scholars, but visa politics can just as easily shatter hope and life.” (Adebayo, 2022, p. 1829).

D. Finger

The need for clear expectations throughout this process cannot be overstated. In this crisis context that included linguistic, cultural, social, and a myriad of other barriers, it was of utmost importance that expectations be managed through timely communications that remained as clear as possible to secure the eventual arrival of Professor Khalili. Steve Rosenbaum and I remained in close touch for many months to track events as they unfolded with Professor Khalili’s arrival and to troubleshoot, as we encountered barriers and discovered new needs. I also spoke with other U.S. law faculty who had responded to Steve and were embroiled in similar institutional and immigration issues that we considered together, sharing notes and ideas for immigration issues, onboarding upon arrival, and building communities of support. It appears that even the formal scholar at-risk programs are subject to this “academic immobility conundrum” insofar as physical movement is hampered between countries predominantly in the Global South and Global North, due to travel restrictions and changes in visa governance and politics. (Adebayo, 2022, p. 1829). There are also difficult legal and personal decisions faced by émigré scholars in adjusting their immigration status. (Yarar & Karakaşoğlu, 2022, p. 1633; Baser & Öztürk, 2022, p. 9).

To further the process for Negina Khalili, Loyola provided her with a written contract with a start date that eventually was pushed back to track her eventual arrival date in the U.S. from Albania. I was mindful that even the ability of Professor Khalili to access documents via email had its own challenges. Moreover, she was accepting an appointment sight unseen at an unfamiliar institution and in an unknown location. I was aware of those painful challenges throughout the process to secure Professor Khalili’s arrival.

Loyola had arranged for a position that focused on speaking at the College and in the community. The semester after her arrival, Professor Khalili also taught a human

rights course to undergraduate honors students, which she spent considerable time designing and planning during the time she was also acclimating to New Orleans.

While my institution had committed to a paid, year-long visitor position, it was clear that broader support needs would be required well beyond that timeframe. There was much to consider in terms of basic needs, housing, medical, and integration in the University and community. I was able to confirm with the local Catholic Charities office that Professor Khalili would be accepted as a refugee client and as such, afforded the benefits of case-management through that non-profit agency, which included a critical piece: access to an immigration attorney without cost.

S. Rosenbaum

I hesitate to use the word “rescue.” (Adebayo, 2022, p. 1832). In the end, this kind of effort is driven largely by personal and professional connections. (This is what historian Simone Lässig referred to as “a sense of professional solidarity on the part of their [at-risk scholars’] foreign colleagues and the wide respect for the academic system that had trained them.” (Lässig, 2017, p. 787). For me, my time as a visiting faculty member at UW allowed me to bond with Afghan students who became peers once they returned home. Unfortunately, this was not enough to motivate almost all of my UW colleagues, much less the administration, for whom the now-defunct legal education support program was more of a distant memory than an urgent cause.

In the midst of *ad hoc* recruitment of hosts and writing letters of support, I became aware of the niche of organizations supporting at-risk scholars with financial grants and suitable out-of-country academic placements. I was profoundly moved in reading about the genesis of these organizations, many of which had saved the careers and lives of Jewish professors who had been dismissed, ostracized, and eventually expelled and/or murdered by the Nazi regime. That resonated with me deeply, given my personal background and identity as a Jew.

Sociologist Kudus Adebayo has written about the importance of “solidarising politically with exiled academics,” criticizing “the limited engagement of rescue organisations with the political undercurrents that led to academic threat and displacement in the first place.” (Adebayo, 2022, p. 1827). In the same vein, political philosopher Seçkin Sertdemir Özdemir has urged that “[h]umanitarian policies based on the compassionate approach must be superseded by acts of solidarity grounded in the sense of belonging to a common world. Only then can the political problems that give rise to such exile be confronted.” (Sertdemir Özdemir, 2021, p. 950).

When there is a crisis or tragedy in the community of international clinical law teachers, my first reaction has been to convey solidarity with faculty and lawyers in places where I have some connection. As advocates and activists, clinicians may find ourselves “more *of* the Academy—than *in* the Academy occupied by our fellow

doctrinal faculty members—having to distance ourselves from the institution, with the need to immediately react to real world events on issues that touch our professional lives.” (Rosenbaum, 2022, p. 55). I have since been called upon to reflect on the possible negative impact of the “victim savior” narrative. (Sertdemir Özdemir, 2019, pp. 943-46; Adebayo, 2022, pp. 1829-30 & 1832). Following a politically motivated dismissal by the Erdoğan regime from her university post, one exiled Turkish academic wrote of the media’s characterization of her flight to Western Europe:

“I was and am not a refugee. . . . The western gaze needs new victims, but am I that victim? Well, I am a ‘scholar at risk’, that much is true enough. . . . Europe needs me as a victim to assure itself that it is indeed ‘the saviour’ that it has imagined itself to be.” (Sertdemir Özdemir, 2019, p. 944).

Inasmuch as we were not eager to position ourselves as saviors of victims of an authoritarian regime, we felt compelled, in our appeal to US university administrators, to rely on stories of desperation for those remaining in Taliban territory. (Sertdemir Özdemir, 2021, pp. 942-43; Adebayo, 2022, p. 1825).

Adjusting to New Realities

Political and international security issues in Afghanistan continue to be important to the Afghan diaspora and the population living under a renewed restrictive government, and also to strategic analysts, journalists, and historians throughout the globe. Emigrant multilingual, multicultural academics, already familiar with the literature and politics, will have a head start in informing academic peers, media outlets, and international and regional policy makers. Hopefully, some of the analyses and messaging will also find their way into clandestine on-line or broadcast information accessible to compatriots remaining in their homeland.

Transitions and relocation are not always easy. After her flight from Nazi Germany, historian and philosopher Hannah Arendt described the plight of exiled academics as having “lost” their “occupations” and “confidence” that they were “of some use in this world.” The loss includes language and “the naturalness of reactions, the simplicity of gestures, the unaffected expression of feelings...” These are left behind on the other side of the “rupturing” of one’s private and public-professional life due to displacement. (Newman, 2020, p. 286 (citation omitted)). In more concrete terms, “scholars do not all arrive in their respective places of relocation with the same level of preparedness and readiness to allow for proper integration into research life. Some may have lost their means of identity and life’s work... without any hope of recovering them.” (Adebayo, 1830).

D. Finger

Once Professor Khalili arrived in New Orleans, it became clear early on that we would need to extend support beyond one year, especially while her asylum petition was still pending. With many Afghans arriving in the U.S. simultaneously in a relatively short period of time, a permanent job search for her would not be easy. Moreover, ensuring a meaningful scope of work at our institution took on increased importance as Professor Khalili's long-term career options and life plan more generally in the United States became more of a focus. For her second academic year, we successfully applied for a grant that focused on supporting newly arrived Afghans; this covered part of Negin's salary. In committing to working with scholars at-risk, institutions must consider whether multi-year support is possible and provide clarity about that as early on as possible.

Ideally, institutions would establish a scholar at-risk committee to delineate policies to keep expectations clear and known for all involved, with established parameters for available funding and the timing and focus of visiting appointments. This seems to be in keeping with the recommendation of Exile Studies scholars to develop "pre-crisis networks" through the Academy, personal contacts, professional associations and foundations. (Lässig, 2017, pp. 784-86). A pressing question that comes back to me again and again is how are Afghan refugees securing permanent employment in the U.S. and how will they find work in their chosen field.

N. Kahili

From the start, my vision has been to promote human rights with a particular focus on the most vulnerable, i.e., women and children. Loyola has provided me with a chance to work towards my goal and connect with people working towards the same. In addition to lecturing on human rights subjects at the University, I also enrolled in the LLM program. I am also on staff at Loyola's Women's Resource Center, partnering with wonderful people to advocate for women's rights and gender-based violence prevention in New Orleans.

Living as a refugee and away from family comes with its difficulties and I hope one day I will have them join me in the United States. Adjusting to a new life in a new place, and finding new friends and social support, are the challenges any refugee faces. But, with the help of Loyola and friends I am grateful to minimize the difficulties and to settle. I have not witnessed much Islamophobia here and have found America to be welcoming of all faiths. Catholic Charities has assisted me in many ways without asking my religion. After my arrival I stayed at first with Professor Finger and her family. While they celebrated Passover, I was fasting during Ramadan and praying at a local mosque.

It is still disheartening for me as a woman who fought for twenty years for democracy and rights in Afghanistan to see my people, particularly girls and women, in this deplorable condition. I don't have any plans to return to my country as long as the Taliban is in power. Maybe I will go back when there is a government that supports women's rights and other civil and political rights.

G. Hashimi

Having had prior experience in the United States and the University of Washington academic culture and maintaining a network with my Afghan peers made the transition a little smoother. (Yarar & Karakaşoğlu, 2022, p. 1632; Lässig, 2017, p. 796). But, it is easy to underestimate the emotional toll that comes with emigration, leaving behind one's home and extended family, a culture and a way of life. Even for myself, who was accustomed to living in the United States. In effect, I am "starting over" as a lawyer and an academic. Currently, I am a Clinical Fellow with the Bluhm Legal Clinic at Northwestern University and a Visiting Scholar with the University's Buffett Institute for Global Affairs. Grateful for the opportunity and for my mentors, including Professor Juliet Sorensen, I am conducting research on embezzlement and other corrupt banking practices in Afghanistan and the degradation of law in a Taliban 2.0 regime.

While promising, the resettlement of my family in America requires a period of adjustment to American culture and the environment—particularly for my wife and children who had never been to the United States. At the beginning, we encountered difficulties in finding an affordable apartment due to high rents and my lack of a rental history and credit score. Despite these challenges, the fellowship program and the integration of my children into local schools have been valuable. School authorities have accommodated our religious values and for the most part we feel safe as Muslims to freely practice our faith.

English language proficiency poses a significant challenge. My wife misses her relatives in Afghanistan, adding an emotional layer to adaptation. She has since found solace and companionship in a new Afghan friend. The road ahead for language acquisition and cultural assimilation may be long, but perhaps traveled more easily with a supportive friend. While we remain hopeful about a prosperous and free Afghanistan, we acknowledge that the timeline for improvement may be long. My family and I do not contemplate returning any time soon. I can understand how for some academics who receive a scholarship, the migration decision process can instill some confidence. Rather than leading to a "disrupted" or "disordered" life, a scholarship might bring "some hope for a life in 'harmony' or 'order'." (*Id.*). I maintain optimism about overcoming any obstacles in our pursuit of a stable and fulfilling life in the United States.

S. Rosenbaum

Many Afghan legal scholars who had returned to the Islamic Republic after their education abroad were at ease with languages and a global lifestyle. It is these qualities which made them a particularly attractive target for the Taliban and other rogue insurgents, but also allow them to adapt to life outside Afghanistan, explore newer research media and venues, and to contribute to the diversity of a new academic institution. Ghazi reminds us, however, that it is easy to “gloss[] over the profound difficulties encountered by scholars upon arrival in their respective host countries.” (Konuk, 2020, p. 276). In addition to the difficult emotional and practical adjustment, there are “disciplinary differences, the loss of access to the archives and libraries they left behind, ongoing uncertainties regarding citizenship, the barriers presented by an unfamiliar language” and possibly cultural or religious prejudice or isolation. (*Id.*)

Neither Ghazi nor Neginia has experienced much animus against them as Muslims or as immigrants or people of color. Yet, they may have Afghan or other Global South emigrant peers in the U.S. or elsewhere in the West “who fall into the category of the politically exiled, rather than the internationally defined legal categories of migrants, refugees, displaced or stateless persons or asylum seekers.” (Sertdemir Özdemir, 2019, p. 946). Perhaps for them, their focus in exile is “not on the hope of building a new life in the hostland, but on return to the homeland.” These peers may also be subject to anti-immigrant populism or other hostile environments and sense that their status is temporary and insecure. (*Id.*).

The Scholar Rescue Phenomenon

The literature about prior periods of scholar rescue reveals trends that are both similar to, and distinct from, our own experience, especially in terms of the scale and aftermath. Earlier accounts of academic migration, under the rubric of Exile Studies, concentrated heavily on intellectual elites. Researchers “were generally less interested in the many ‘nameless’ émigrés” such as the Afghan scholars who are the subject of this chapter. (Lässig, 2017, pp. 770-71). Professor Konuk has reminded us that “[t]he collective exile, imprisonment, or killing of dissident intellectuals has been used as a tool by authoritarian and fascist regimes since the early twentieth century.” (Konuk, 2020, p. 270). This was the case with the arrest and mass deportation of Armenian intellectuals in Istanbul in 1915 who were eventually deported to Ottoman Syria, ushering in the months-long genocidal killing. (*Id.*, pp. 270-71).

Organized efforts to come to the aid of academics abruptly dismissed or forcibly retired in 1933 from their university positions after the Nazis consolidated power in Germany, are considered to be the inspiration or roots for today’s so-called scholar

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rescue initiatives. (Konuk, 2020, p. 270). The Academic Assistance Council, founded in England, was one such organization. Later renamed the Council for At-Risk Academics (CARA), its objective was to assist scholars who were victims of political and so-called “racial” persecution to relocate outside the reach of the Third Reich. In the United States, the Institute of International Education initiated the Emergency Committee in Aid of Displaced Foreign Scholars, the precursor of today’s IIE-Scholar Rescue Fund. Philipp Schwartz, a Jewish professor of pathology, founded the *Notgemeinschaft deutscher Wissenschaftler im Ausland* (Aid Organization for German Academics Abroad) and coordinated rescue efforts from Switzerland, where he took refuge after dismissal from a German university. The organization also convinced the newly secularizing and Westernizing Turkish state to accept a number of purged professors. (Konuk, 2020, p. 273-74; Newman, 2020, p. 289).

In contrast to the *ad hoc* and individualized initiatives by academics and administrators undertaken to place Afghan scholars in the United States, the 1930s migration relied largely on self-aid organizations, private foundations and colleges and universities (at the institutional level), and to a lesser extent on the Roosevelt Administration and establishment media outlets. (Lässig, 2017, pp. 776-78). In both instances, the sought-after university placements were meant to be temporary, but not necessarily for the same reasons. Anti-semitism and nativism in the U.S. was still prevalent in academia in the earlier part of the 20th century and there was the belief that the expelled scholars would soon return to their posts after a quick defeat of Hitler. For the Afghan émigrés, however, it was almost exclusively a question of institutions’ financial capacity and willingness to deviate from standard curricular planning, recruitment and hiring practices.

Relocation from Nazi Germany, Austria and other annexed territories was motivated only in part by humanitarian instincts. It was also an opportunity for fledgling faculties, including historically black colleges, to fill their ranks in the sciences and humanities with “scientific capital” and for more established universities to hire European luminaries (Konuk, 2020, p. 271; Newman, 2020, p. 294; Lässig, 2017, pp. 772 & 779). This utilitarian or strategic “brain gain” motivation, which often obscured any empathetic appeal, was absent in the case of the Afghan scholars or of only incidental interest to university administrators. (Lässig, 2017, pp. 770-72). The latter émigrés who were considered for positions in the U.S. were neither well-known, nor necessarily filling curricular gaps in the American professoriate and were offered only temporary positions. At best, some of the Afghans had an alumni connection with the University or were able to teach a class in Islamic law, comparative law or Central Asian studies. Xenophobia and anti-immigrant sentiment notwithstanding, humanitarian arguments in support of scholar rescue continue to resonate in the West. “A memory culture shaped by a sense of responsibility imposed

by the Holocaust” allows for humanitarianism to prevail over concern about excellent scholarly qualifications. (*Id.*, p. 794).

In a celebrated initiative, the president of the maverick New School of Social Research founded the University in Exile as a home for the displaced German Jewish and anti-fascist scholars and their families, invoking the image of Byzantine scholars fleeing from the Ottomans. With the help of philanthropists, the school facilitated assimilation in the U.S. of the “faculty as a whole,” and not simply an individual scholar. Eventually, the school became a sanctuary for academics from other countries. (Konuk, pp. 273-74; Newman, p. 290). The work of these intellectuals had a profound impact on the shape of the United States Academy in the 20th century. (Newman, p. 291). Some of the professors remained on the faculty for years and others moved on to other American universities. In recent years, the University in Exile morphed into a globally expanding consortium of colleges and universities in more than 15 nations, mainly in the Global North. Each institution commits to hosting at least one threatened scholar every year. More than 150 exiled scholars from 24 countries have been assisted. (The New University in

Exile, <https://newuniversityinexileconsortium.org/history/mission/or-mission/>, 2024).

There is no Academy in Exile *per se* in the United States, populated by expatriates, to serve as a faculty-in-waiting for the day the Taliban is once more ousted. There is, however, a network of Afghan émigré professors, lawyers and judges who are part of an Online Education Academy offering Afghan women access to education. Originally formed in 2019 as the Afghanistan Law, Shari’a, and Political Science Association, ALPA is also committed to holding annual conferences for Afghan law and political science professors. The courses, which span a variety of disciplines, including law, human rights and journalism, are “solidifying ALPA’s position as a beacon of learning for Afghan women.” (ALPA (in Exile), www.alp-a.com, 2024). Another iteration of a home for displaced faculty is the American University of Afghanistan. For many years the premier (private) university in Afghanistan, since its founding in 2006, AUAF quickly relocated to Qatar after the Taliban 2.0 takeover. Its law faculty has included a number of Western-educated graduates. The University continues to educate hundreds of students in Afghanistan and in the diaspora, online and in person—with a strong commitment to critical thinking, civic engagement and equal opportunity for women. In its vision statement, the University declares: “Until the day we return to our campuses in Kabul, AUAF lives in the minds of its students and the accomplishments of its alumni – who prove what we have always believed, that education will prevail.” (AUAF, (<https://auaf.edu.af/>), 2024).

Complementing the Academy in Exile model is the Academy in Exile (AiE), consortium in Germany, co-founded in 2017 by Professor Konuk. Like the New University in Exile, it is a joint initiative of several universities, institutions and

foundations hosting scholars at-risk because of their academic work and/or civic engagement, “enabling persecuted scholars to collaborate with each other” through long-term fellowships, emergency stipends, residencies and guest professorships. (AiE, <https://www.academy-in-exile.eu/>, 2024). Other German higher education institutions and foundations have regularized placements and compensation and have timely reacted to crises in an organized fashion—whereas most of their U.S. counterparts have responded to irregular and informal appeals to place and fund at-risk scholars. Would-be hosts in Germany sometimes take the initiative to apply for stipends on behalf of their endangered or colleagues abroad. In other instances, exiled scholars have utilized their own personal contacts in Germany or were aided by bilateral academic channels or self-organized solidarity networks. (Yarar & Karakaşoğlu, 2022, pp. 1617 & 1631). Even for those scholars who have no personal network or clear support abroad, “the academic capital appears as the life saver to hold on.” (*Id.*, p. 1632).

It is ironic, or rather, fitting, that Germany, which once expelled its vilified and censured professoriate en masse has become an important migration destination for émigré academics. (Lässig, 2017, p. 794). As for Turkey, there is only irony: The nation that took in many dismissed German Jewish scholars in the 1930s has been purging its own enemies from the Academy decades later.

Going Forward: The Afghan Education Vacuum and the Legal Academy in Exile

Only a year after the public burning in Berlin of university library books written by Jews and “un-German” authors, and the wholesale dismissal from academia of Jews and regime opponents, the Third Reich Education Minister is reported to have asked his dinner companion how was his university mathematics department now that it was free of “Jewish influence.” The professor allegedly replied, “There is no mathematics [there] any more.” (Newman, 2020, p. 288 (citation omitted)). Decades later, more than two years after the return of Taliban 2.0, the higher education ministry’s Department of Invitation and Guidance directed private universities to remove all books from the “Republican era” and purge their libraries of any books that were contrary to the Hanafi (Sunni Islamic) school of jurisprudence. (*Kabul Now*, 2023). Around the same time, the Acting Minister of Higher Education announced, incongruously, that the emirate was committed to improving the quality of higher education and “plans to enhance the capacity of university professors.” He assured Afghans pursuing doctoral or master’s degrees (at home or abroad) that there were now funds available to pay them to teach. Meanwhile, as an indication of the wide scale faculty exodus, a student told a reporter, “We want experienced professors

because the professors who have been appointed for these two-year periods have very little teaching experience.” (*TOLOnews*, 2023)

The ranks of Western-trained academics in Afghanistan’s faculties of law and Shari’a have been depleted, whether through dismissal, resignation and/or exile. Kader Konuk of the Academy in Exile has “inquire[d] into the ways in which knowledge may be preserved and transferred in exile” and what can we learn from past experiences to counter “the great forgetting wrought by totalitarian and fascist governments?” (Konuk, 2020, p. 270). It is important that the body of legal knowledge and teaching methodologies brought to America with the Afghan legal scholars not be lost. And, to the extent feasible, the learning appetite and skills-building capacity of faculty and students trapped in their totalitarian-governed homeland be “nourished” from abroad in any way possible.

D. Finger

Girls continue to face extensive barriers in terms of access to education in Afghanistan and there has been a deterioration in the quality of instruction and infrastructure. (Special Inspector General for Afghan Reconstruction, 2023, pp. 5-15 & 19). Whether or not the Taliban genuinely laments the loss of the Western-educated law and Shari’a professoriate, it is clear that the university faculty ranks are shrinking in many fields and educational quality has declined since August 2021. Many professors fled after the Taliban takeover and those who remained have been subject to threats and intimidation. Universities have been forced to decrease the number of secular courses. Administrators and teaching staff are leaving their jobs and enrollments are declining, in part due to restrictions on secondary and higher education of girls and women. All of this contributes to a reduction in teaching capacity. (*Id.*, pp. 9-12).

G. Hashimi

As Afghans navigate the uncertain path ahead, it is crucial to recognize the potential within the country, and extend a supportive hand. The Taliban have prevented girls from secondary and higher education. The future looks bleak, especially for women. The uncertain future of Afghanistan depends on the international community, which bears moral responsibility for applying pressure on the Taliban to change their approach to governance and human rights. Without this change, there is no future for the younger generation.

The presence of educated Afghans, both within and outside the country, reflects a collective aspiration for knowledge and skills development and presents an opportunity for positive change. Utilizing the material resources and intellectual capital amassed over the past two decades, I am dedicated to contributing to a

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community of collaboration and assistance among my peers as we try to rebuild the nation and foster long-term development. Together with Afghan colleagues in ALPA, I am teaching on-line legal writing courses in the Dari language. Through ALPA's Online Education Academy, we aim to empower women students with essential legal skills. I am also writing recommendation letters for Kabul Law School graduates who are aspiring to pursue opportunities abroad.

N. Khalili

Education is key in developing societies, but the Taliban have banned women and girls from attending high school and universities, despite 20 years of investment in the educational sector, including scholarship, and opportunities for Afghan women to continue education in the U.S. and around the world. Although a lot of funding was allocated for women's right to development and welfare, the male-dominated society and over two decades of war make it impossible for a fruitful outcome in the short term. Poverty, insecurity, lack of jobs, and restriction on women and girls made the situation worse. Much more needs to be done.

Through individual mentoring and teaching, I am trying to do my part in preserving and transferring knowledge and skills. Under the aegis of the Afghanistan Prosecution Association, I am assisting prosecutors still in-country and helping those who wish to leave with their visa applications. And, in interviews with national and international media, I can continue to speak freely about the dire situation in Afghanistan and help ensure that events there are not overshadowed by other world crises. I can speak more loudly now that I am in the diaspora. (Baser & Öztürk, 2022, p. 4 (citation omitted)).

S. Rosenbaum

A couple years after the Afghan scholar exodus, I joined a network, in partnership with Monash University, to offer free on-line lessons to displaced, dislocated or ostracized populations (Classrooms Without Walls, 2024). For Afghan girls and women, the mission is to create a space to exercise skills in critical thinking, where they can feel free to speak about the constraints they are experiencing under an authoritarian, fundamentalist regime. Notwithstanding Professor Konuk's message about the importance of preserving knowledge in exile and resisting totalitarian edicts on educational form and substance, I asked myself how does on-line teaching change the status quo? What is the objective of a class like this in the context of the Taliban regime when so many opportunities have been curtailed and agency and identity repressed? After agreeing to teach this course *pro bono*, I put this question to some of my former Afghan law students who had returned to Afghanistan to

teach in the law schools under the Islamic Republic and then had to flee when the Taliban took over. Here are some of their comments:

These women are (or may be) mothers, and they are sisters and daughters. If they are able to respect and teach the rest of the family (or their children) to respect each other's human rights, that in itself is enough to bring a change in society. Individuals constitute a family and a family is a crucial part of a society.

Understanding human rights and the rule of law can also offer emotional resilience. If they're aware of their rights, these women and girls may feel less isolated and more connected to a global community of individuals who believe in, and fight for, those same rights. Having an awareness of global standards and rights can give them a glimmer of hope that change might someday come or that there are parts of the world where their rights are recognized.

Societies change, and circumstances can shift. If these women ever find themselves in situations where their worlds expand, having a strong foundation in human rights and rule of law can prepare them to be leaders and advocates in their communities. . . . When opportunities arise, either in Afghanistan or if they find themselves outside its borders, these women will be better equipped to advocate for change.

EPILOGUE

As noted above, there was not really any tension between humanitarian and utilitarian motivations in support of the at-risk academics from Afghanistan. In placing endangered scholars, few school administrators were incentivized by the potential benefit to the host institution. Still, it must be recognized that these "scholars bring knowledge from the home countries to enrich the intellectual environment of their host institutions." (Adebayo, 2022, p. 1822).

In her case study of academics escaping the autocratic regime in Turkey, on temporary fellowships or grants in Europe, researcher Seçkin Sertdemir Özdemir has written that "politics based in compassionate humanitarianism" may not be "appropriate. . . when we examine close up current campaigns designed to help persons displaced by political persecution." (Sertdemir Özdemir, 2019, p. 936). While she does not "devalue the social importance of emotions such as pity and compassion and their power to assist our capacity to empathize with others," she has asserted that such "welcoming policies" may lead to "exiled academics experienc[ing] a form of anonymization and marginalization which demands that they acquiesce to their normatively assigned roles as victims to be saved." (*Id.*, p. 937).

Migration and diaspora studies scholar Kudus Adebayo has cast the marginalization or victimization as a product of Eurocentrism or bias against academics from the Global South. (Adebayo, 2022, pp. 1825-26 & 1830). This may be indicated by

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an “institutional insistence that one’s nationality should define the border of one’s research and public engagement in the host country...thereby robbing them of their agency to freely choose what to research.” (*Id.*, p. 1830 (citations omitted)). It is further reflected in the inaccessibility of scholars publishing in English-language peer-reviewed journals “given the pre-conditions of the higher education system where they originally built their careers” (*id.*, p. 1825) or in “how the publications of at-risk scholars in their mother tongue are dismissed, and in the devaluation of academic titles they carry.” (*Id.*, p. 1830).

This is not to suggest, however, that the victim-savior narrative, othering, anonymization or marginalization is the inevitable lot of émigré scholars at their respective host institutions. Nor is it manifested to date in the experience of the scholars profiled in this chapter. In fact, it is reasonable to fill a void on the faculty in the areas of the scholars’ present research and draw upon their expertise and lived experience. There are also some college and university positions where teaching capacity is valued as much or more than research potential. Moreover, the emigrant’s desires, ambitions and expectations will vary—as will those of their hosts and sponsors.

Scholars Bahar Baser and Ahmet Erdi Öztürk have described the array of definitions and complexities surrounding the terms *exile* and *refugee* as typically tied to “experiences of longing and belonging, nostalgia and sorrow, advocacy, and resistance.” (Baser & Öztürk, 2022, p. 7 (citations omitted)). They cite an essay by literary critic and post-colonial studies pioneer Edward Said, describing the unsurmountable but “essential sadness” of the exilic situation and as something “compelling to think about but terrible to experience.” Baser and Öztürk ask, however: “Does exile always need to have a negative connotation?” (*Id.*)

AiE founder Kader Konuk posits that the most effective scholar rescue model in our times is one with emphasis on the knowledge—rather than on the individual scholar as the agent of that knowledge. It is a model “that foregrounds the conditions and modes of transforming knowledge in exile” insofar as forming cohorts of refugee scholars “facilitate[s] the concentration, absorption, and transformation of knowledge at host institutions.” (Konuk, 2020, p. 276). In effect, the creation of academies in exile, whether an independent bricks-and-mortar residency, consortium or on-line institution, it is the dissident intellectuals’ knowledge or scientific capital that must be preserved in the host country. And the knowledge is not static.

The New School of Social Research still serves as a model insofar as it “continues to attract distinguished and socially active faculty who challenge long-held theories and push scholarship and social discourse in new directions.” (<https://www.newschool.edu/nssr/history>, 2024). Moreover, the various scholar rescue programs should continue to investigate areas of overlap and particularized expertise “towards the creation of a coordinated response at scale.” (Adebayo, 1832). Whether constituted as a single institution, or more likely a consortium, the academy in exile should

conscientiously attract scholars who bring existing knowledge but are also amenable to innovation and transformation.

When war, disaster, or authoritarian regime change is visited on places where we have professional partnerships, we must continuously ask ourselves, in our capacity as justice educators: What are the options—and obligations—for those of us who teach and otherwise engage with colleagues abroad, to support their institutional or other political struggles, particularly when there are threats to academic freedom, livelihood or lives? For those of us endangered by the regime change, we must ask: What are our expectations of support from our colleagues abroad and what can we do to assure that in exile at host institutions we will continue to survive and thrive?

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