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We're All Prisoners, Now: US Citizens to be Required "Clearance" to Leave USA

October 26, 2006

Forget no-fly lists. If Uncle Sam gets its way, beginning on Jan. 14, 2007, we'll all be on no-fly lists, unless the government gives us permission to leave-or re-enter-the United States.



The U.S. Department of Homeland Security (HSA) has proposed that all airlines, cruise lines-even fishing boats-be required to obtain clearance for each passenger they propose taking into or out of the United States.

It doesn't matter if you have a U.S. Passport - a "travel document" that now, absent a court order to the contrary, gives you a virtually unqualified right to enter or leave the United States, any time you want. When the DHS system comes into effect next January, if the agency says "no" to a clearance request, or doesn't answer the request at all, you won't be permitted to enter-or leave-the United States.

Consider what might happen if you're a U.S. passport holder on assignment in a country like Saudi Arabia. Your visa is about to expire, so you board your flight back to the United States. But wait! You can't get on, because you don't have permission from the HSA. Saudi immigration officials are on hand to escort you to a squalid detention center, where you and others who are now effectively "stateless persons" are detained, potentially indefinitely, until their immigration status is sorted out.

Why might the HSA deny you permission to leave-or enter-the United States? No one knows, because the entire clearance procedure would be an administrative determination made secretly, with no right of appeal. Naturally, the decision would be made without a warrant, without probable cause and without even any particular degree of suspicion. Basically, if the HSA decides it doesn't like you, you're a prisoner - either outside, or inside, the United States, whether or not you hold a U.S. passport.

The U.S. Supreme Court has long recognized there is a constitutional right to travel internationally. Indeed, it has declared that the right to travel is "a virtually unconditional personal right." The United States has also signed treaties guaranteeing "freedom of travel." So if these regulations do go into effect, you can expect a lengthy court battle, both nationally and internationally.

Think this can't happen? Think again. It's ALREADY happening. Earlier this year, HSA forbade airlines from transporting an 18-year-old a native-born U.S. citizen, back to the United States. The prohibition lasted nearly six months until it was finally lifted a few weeks ago. Nazi Germany and the Soviet Union are two countries in recent history that didn't allow their citizens to travel abroad without permission. If these regulations go into effect, you can add the United States to this list.

For more information on this proposed regulation, see <http://hasbrouck.org/IDP/IDP-APIS-comments.pdf>.

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