

The Identity Project

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Contact in Geneva: Edward Hasbrouck
+1-415-824-0214 (cell/mobile)
eh@papersplease.org

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Summary of issues submitted to the U.N. Human Rights Committee (107th Session) for its review of the implementation of the ICCPR by the United States of America

The Identity Project (IDP), <<http://www.PapersPlease.org>> is a U.S.-based nonprofit organization (NGO) which provides advice, assistance, education, and legal defense to those who find their rights infringed by demands for identification. IDP is joined in two of its submissions by the Consumer Travel Alliance (CTA).

As part of the U.S. Human Rights Network, the Identity Project has made five submissions to the U.N. Human Rights Committee for the list of issues for the U.S. These issues relate to (a) freedom of movement and (b) remedies for violations of the ICCPR.

Four of our submissions relate to U.S. violations of freedom of movement. These constitute violations of Article 12 of the ICCPR (and in some cases also other articles):

- (1) **Requirements for government-issued travel documents:** Airlines and other common carriers (railroads, long-distance buses, etc.) are forbidden to transport anyone who does not have a government-issued identity document. There is no right under U.S. law to such a document. Many people lawfully seeking to travel to, from, or within the U.S., including many U.S. citizens, do not have such a document. Without government-issued ID credentials, they can travel only if they can afford to buy or hire a private vehicle, which is often prohibitively expensive.
- (2) **Permission-based government controls on air and surface travel:** Airlines and some other common carriers are forbidden to transport any passenger unless the government -- after review of the person's reservations, travel history, and other personal information -- gives *explicit, individualized, per-flight prior permission*.
- (3) **Surveillance and monitoring of travelers:** Airlines and other common carriers are required to give the U.S. government "root" access to their reservation systems. *The government makes complete copies of all international airline reservations, and keeps them as part of a secret lifetime travel history file* for each person who has ever traveled to, from, or via the U.S. These reservation records include intimate personal information such as Internet protocol addresses, credit card numbers, religious meal preferences, medical conditions, identities of travel companions, whether they requested one bed or two in their hotel room, etc.

(4) Detention, interrogation, and searches of travelers: Travelers who are not suspected of any wrongdoing are subject to intrusive personal searches, including “virtual strip-search” imaging machines that show the details of their bodies, through their clothes, as though they were naked. Travelers who do not “consent” to these searches are forbidden to travel by common carrier. Travelers can be detained for such searches, and/or for questioning, at any point in their journey.

Through these measures, the U.S. government has established a comprehensive system of government **tracking and control** of travel by common carrier to, from, and within the U.S., violating travelers' rights to freedom of movement and privacy.

None of these measures have been carried out through judicial process, and the ICCPR cannot be invoked as the basis for review by U.S. courts of these or any actions. All of these measures have been imposed by secret, standardless, administrative orders. There are no publicly-disclosed rules for what travelers are required to do or to submit to, or for when the government can search, interrogate, or prevent a person from traveling. No “no-fly” order has been reviewed by any U.S. court. Travel records are exempt from the Privacy Act, so travelers have no right to see what records are being kept about them.

No consideration has been given to the right to freedom of movement, even when we have filed formal objections with U.S. government agencies that these practices violate Article 12 of the ICCPR. Instead, travel and travelers have been treated as *per se* suspicious and as subject to lessened protection. Surveillance, search, and detention of travelers have been exempted from protections, requirements for justification, and mechanisms for redress which are available in other non-travel-related contexts.

The fifth issue submitted by the Identity Project is the failure by the U.S. government to (a) keep records of, (b) respond or provide remedies for, or (c) report to the U.N. Human Rights Committee concerning complaints of violations of the ICCPR.

In the previous review of the U.S. by the U.N. Human Rights Committee, the U.S. referred to Executive Order 13107, which required Federal agencies to implement the ICCPR, and to consider and respond to complaints of violations of the ICCPR.

However, *the U.S. government must have known, when it submitted its 2005 report, that EO 13107 was never implemented.* In response to our Freedom Of Information Act requests, executive and administrative departments have been unable to identify any records of the complaints they have received of violations of the ICCPR, responses to those complaints, or reviews of the issues raised by those complaints. The U.S. failure to implement EO 13107 demonstrates that administrative discretion, without the possibility of judicial review, is not sufficient to protect human rights.

We urge the U.N. Human Rights Committee to take up these issues of freedom of movement and remedies for violations of the ICCPR, and to recommend that the U.S. create an effective means for judicial review of complaints of violations of the ICCPR.