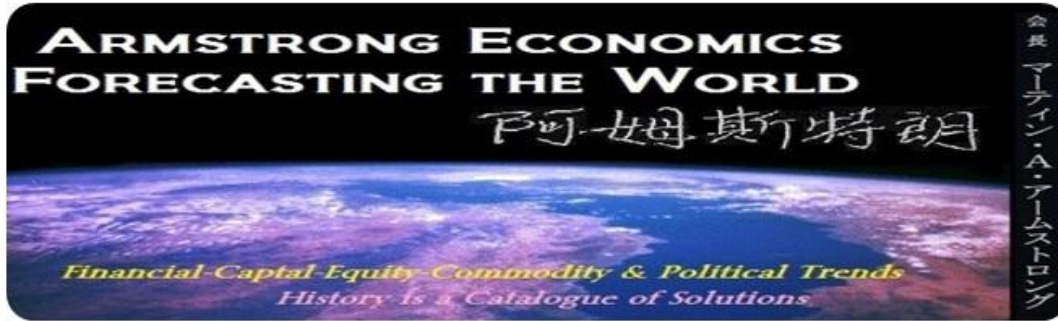
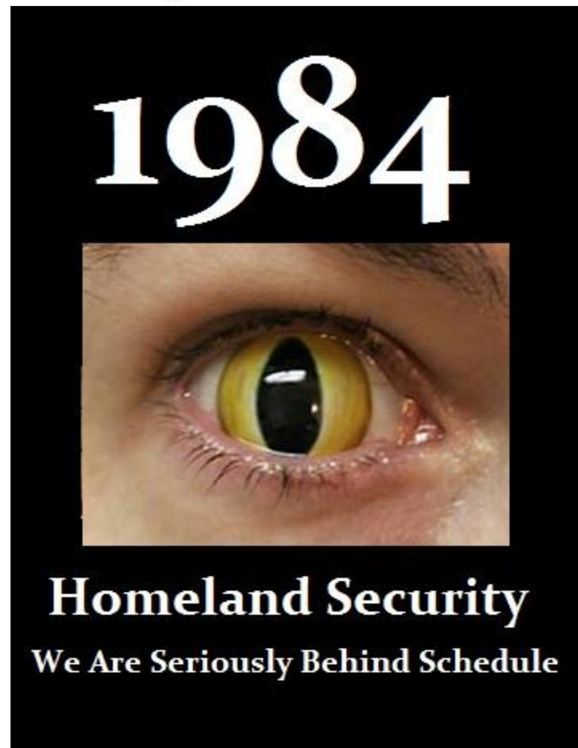


Answering Your Questions



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Unconstitutional American Police State

> ***"We are ready to attend your conference in Europe as a follow on to Philidelphia. We simply cannot be molested and groped by TSA , border patrol, VISA control, etc. We refuse."***

I want to deeply apologize for the conduct of the United States. As someone who has suffered the heel of the boot of these vile and uncivilized people, I fully understand and it will be the last international conference I will ever do in this country. This is a sample of the emails I received from non-US readers. Others required a letter from me just to have an invitation to get a visa. Others trying to send a bank

wire had their money held for weeks. The horror stories of those who attended being fingerprinted at the border and treated like pieces of shit have shocked me. I can only express my sincere regret for the unprincipled police state that has emerged. The Statue of Liberty should just be melted down and recast into chains. There was an elderly man from Germany who did not speak English and his son stepped up to the counter with him only to be screamed at that if he did not get back, the agent would refuse to let him enter the USA. I did not realize how bad the United States has become regarding normal business travelers. This is worse than what I experienced even going behind the Berlin Wall. I deeply apologize for the insane police state tactics to which they are subjecting all travelers to the USA even for business. I will make every effort to try to set up a conference in Europe and Asia within the coming months and will never again hold an international conference in the United States. I will personally deliver my objections to Congress.

They do not do this to Americans for that would be illegal and a criminal act of a violation of your civil rights. This speaks volumes of how this nasty emergence of government in America views the rest of the world. Nonetheless, this practice is still **UNCONSTITUTIONAL** as applied to foreigners and violated even international law for the American Revolution ended **Personal Jurisdiction** and adopted **Territorial Jurisdiction** that changed the world. Previously, you were the subject of the king. If you violated the law in another country, they did not punish you and sent you back to your king as his "subject" (Property). Since the American Revolution was against monarchy, they had to decide what would to do with a citizen of another country who committed a crime. **Territorial Jurisdiction** was then born. In other words, the constitution was deemed to also apply the full rights, privileges, and immunities to foreigners when in the United States the same as a citizen because they would then be tried in the USA and not sent back to some king. So the US is acting illegally. You cannot have it both ways. This is either **Territorial Jurisdiction** where foreigners have the same rights as citizens or we are back to the old "subject" of the king shit. The terrorists for the World Trade Center attacks were given lawyers and trials in New York. They denied me those rights arguing I was a corporate officer and since corporations have no such rights lacking a biological form, in my capacity as a corporate officer I had no personal rights either opening the door to life detention until you die with no charge and no trial. The United States could not deny those rights to visiting individuals and thus they are now doing violating the Constitution as standard operational procedure. This is outrageous and a violation of everything that was supposed to make us a "free" society. They obviously look upon everyone as scum at this point and they are behind schedule with 1984.

I want to make this very clear for it pertains to citizens and visitors alike. We need a new special court with rotating judges that are professors from all universities in panels of 7 not appointed by the President for life or some other bullshit and they **CAN NEVER** hold a government job in the past or future. The Executive would have to present what they intend to do FIRST and this court would rule if it would be allowed under the Constitution. As it stands now, they act ruthlessly and it is always the burden of the target to **PROVE** he has any rights whatsoever. The Constitution provides **NOTHING** as any sort of guideline or deterrent toward government. We always get the heel of the boot on our necks. There is no liberty anymore and we are not a free society when we have to prove we have rights to stop the action oppressing us. Write to your Ambassador and object to this treatment.

Territorial Jurisdiction in US law refers to a court's power over events and persons within the bounds of a particular geographic territory. If a court does not have **Territorial Jurisdiction** over the events or persons within it, then the court cannot bind the defendant to an obligation or adjudicate any rights involving them. Thus, it is a violation of every fundamental principle of civilized countries for the USA to treat a visiting citizen of another country in such a manner different than its own citizens and this the Fourth Amendment requires probable cause to take fingerprints. This is an illegal search and seizure of your personal privacy. Running your name against a database is one thing, but to create a database of every traveler with fingerprints is the worst kind of police state and that data will no doubt be shared with your home country. So if your home state cannot create national identity cards in such a manner, it can do so clandestinely with the police state of the USA. Foreign citizens should file suit against the United States and demand damages and that this outrageous database be destroyed.

One of my favorite cases explaining international law and its development is **REID v. COVERT, 354 U.S. 1 (1957)** where the opinion written by **MR. JUSTICE FRANKFURTER, concurring in the result** is quite enlightening. I have provided just that relevant section below.

Border Security: The Role of the U.S. Border Patrol

Automated Biometrics Identification System (IDENT)

In 1989, Congress authorized the INS to develop an automated fingerprint-based system to identify and track aliens.[34] The system was conceived to identify those aliens who are serial border crossers and to identify criminal aliens. In 1994, Congress appropriated large sums for the INS to develop and deploy a biometric database which grew into the IDENT system. IDENT was first deployed in the San Diego sector of the Border Patrol; by the end of 1995 it was installed at 52 Southwest border sites; by the end of 1999 it was deployed at 408 INS sites including all Border Patrol stations.[35]

Today, the Border Patrol continues to use IDENT to identify and track illegal aliens. IDENT combines a photograph, two flat fingerprints, and biographical data into two databases which can

be used to track repeat entrants and better identify criminal aliens. The INS settled on a two fingerprint-based system because it was deemed adequate for identification purposes and also due to concerns about the time it would take to process the thousands of aliens apprehended each day with a 10-rolled fingerprint system. This has made the IDENT system difficult to integrate with criminal databases such as the FBI's Integrated Automated Fingerprint Identification System (IAFIS), which are based on a 10-rolled fingerprint database (IDENT/IAFIS integration will be discussed in more detail later in this report)

The IDENT system is administered in the field by Border Patrol agents using a dedicated workstation that features a digital camera and an electronic fingerprint scanner. After an alien's two fingerprints, photograph, and biographical information are entered into the IDENT

workstation, the system electronically sends the information to the main IDENT database at the Justice Data Center. The fingerprints are then checked against the two separate databases that form the integral part of the IDENT system: the lookout and recidivist databases. The biometric information entered into the system is first checked against the lookout database of criminal aliens. Aliens are entered into the lookout database if they are convicted of an aggravated felony, multiple crimes, or crimes of moral turpitude; are known or suspected to be narcotics, weapons, or human smugglers; or are inadmissible due to security concerns (including terrorists) or other related grounds. If the alien registers as a hit on the lookout database, Border Patrol agents are authorized to arrest and remand them to the proper authorities.

The fingerprints are also checked against a recidivist database of aliens that have been apprehended trying to enter the country multiple times. Each time an alien is apprehended, his picture, fingerprints, and biographical information are added to the recidivist database. IDENT takes about two minutes to search both databases for an apprehended alien's fingerprints. When a potential match is determined, the IDENT terminal will display the fingerprints, photographs, and biographical information of the apprehended alien and the possible matches. The Border Patrol agent is then responsible for determining, based on his examination of the fingerprints and photographs, whether the match is in fact correct.[36] Most aliens are apprehended five to ten times before they are charged with misdemeanor illegal entry. Once an alien has been charged with a misdemeanor entry, the next apprehension brings a felony entry charge.[37]

Lastly, interoperable IDENT/IAFIS workstations been deployed to all Border Patrol stations.[38] This allows Border Patrol agents to check the FBI's database of criminal fingerprints and outstanding warrants in order to ascertain whether the apprehended alien has committed a criminal offense somewhere in the country. At the end of FY2009, IDENT stored more than 106 million fingerprint records of individuals and contained biometric data for legitimate travelers to the United States, immigration benefit seekers, and immigration violators.[39]

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28 U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Homeland Security Department's Budget Submission for Fiscal Year 2011*, 111th Cong., 1st sess., February 24, 2010.
29 Of this total, $1.2 billion comes from the FY2007 DHS Appropriation Act, P.L. 109-295, and $300 million comes from the Emergency Supplemental Appropriations Act, P.L. 109-234.
30 H.Rept. 109-699, p. 124.
31 Division E of P.L. 110-161.
32 This spending plan should include 12 specific components, among them: a detailed accounting of the program's implementation to date; a description of how the expenditure plan allocates funding to the highest priority border security needs, addresses northern border security needs, and works towards obtaining operational control of the entire border; certifications by the Chief Procurement Officer and the Chief Information Officer at DHS; an analysis, for each 15 miles of fencing or tactical infrastructure, of how the selected approach compares to other alternative means of achieving operational control; and a review by the Government Accountability Office. H.R. 2638, as Enrolled by the House and the Senate, pp. 83-84.
33 *FY2011 DHS Congressional Budget Justifications*, the *FY2011 DHS Budget in Brief.*
34 Immigration Act of 1990 (P.L. 101-649), Sec. 503 (b).
35 U.S. Department of Justice, Office of the Inspector General, *The Rafael Resendez-Ramirez Case: A Review of the INS's Actions and the Operation of Its IDENT Automated Fingerprint Identification System*, USDOJ/OIG Special Report, March 2000, Appendix B.

36 U.S. Department of Justice, Office of the Inspector General, *Status of IDENT/IAFIS Integration*, USDOJ/OIG I-2003-05, p. 3.
37 CRS Report RL32366, *Terrorist Identification, Screening, and Tracking Under Homeland Security Presidential Directive 6*, by William J. Krouse.
38 From CBP Congressional Affairs.
39 U.S. Department of Homeland Security, *FY2011 Congressional Budget Justifications, US-VISIT*, p. US-VISIT-1.

REID v. COVERT, 354 U.S. 1 (1957)
MR. JUSTICE FRANKFURTER, concurring in the result

Historians have traced grants of extraterritorial rights as far back as the permission given by Egypt in the 12th or 13th century B. C. to the merchants of Tyre to establish factories on the Nile and to live under their own law and practice their own religion. Numerous other instances of persons living under their own law in foreign lands existed in the later pre-Christian era and during the Roman Empire and the so-called Dark and Middle Ages - Greeks in [354 U.S. 1, 59] Egypt, all sorts of foreigners in Rome, inhabitants of Christian cities and states in the Byzantine Empire, the Latin kingdoms of the Levant, and other Christian cities and states, Mohammedans in the Byzantine Empire and China, and many others lived in foreign lands under their own law. While the origins of this extraterritorial jurisdiction may have differed in each country, the notion that law was for the benefit of the citizens of a country and its advantages not for foreigners appears to have been an important factor. Thus, there existed a long-established custom of extraterritorial jurisdiction at the beginning of the 15th century when the complete conquest of the Byzantine Empire by the Turks and the establishment of the Ottoman Empire substantially altered political relations between Christian Europe and the Near East. But commercial relations continued, and in 1535 Francis I of France negotiated a treaty with Suleiman I of Turkey that provided for numerous extraterritorial rights, including criminal and civil jurisdiction over all disputes among French subjects. 1 Ernest Charriere, Negociations de la France dans le Levant 283. Other nations and eventually the United States in 1830, 8 Stat. 408, later negotiated similar treaties with the Turks. (For a more complete history of the development of extraterritorial rights and consular jurisdiction see 1 Calvo, Le Droit International Theorique et Pratique (5th ed., Rousseau, 1896), 2-18, 2 id., 9-12; Hinckley, American Consular Jurisdiction in the Orient, 1-9; 1 Miltitz, Manuel des Consuls passim; Ravndal, The Origin of the Capitulations and of the Consular Institution, S. Doc. No. 34, 67th Cong., 1st Sess. 5-45, 56-96; Shih Shun Liu, Extraterritoriality, 23-66, 118 Studies in History, Economics and Public Law, Columbia University (1925); Twiss, The Law of Nations (Rev. ed. 1884), 443-457.) [354 U.S. 1, 60]

The emergence of the nation-state in Europe and the growth of the doctrine of absolute territorial sovereignty changed the nature of extraterritorial rights. No longer were strangers to be denied the advantages of local law. Indeed, territorial sovereignty meant the exercise of sovereignty over all residents within the borders of the state, and the system of extraterritorial consular jurisdiction tended to die out among Christian nations in the 18th and 19th centuries. But a new justification was found for the continuation of that jurisdiction in those countries whose systems of justice were considered inferior, and it was this strong feeling with respect to Moslem and Far Eastern countries that was reflected, as we have seen, in the Ross opinion.

Until 1842, China had asserted control over all foreigners within its territory, Shih Shun Liu, op. cit. supra, 76-89, but, as a result of the Opium War, Great Britain negotiated a treaty with China whereby she obtained consular offices in five open ports and was granted extraterritorial rights over her citizens. On July 3, 1844, Caleb Cushing negotiated a similar treaty on behalf of the United States. 8 Stat. 592. In a letter to Secretary of State Calhoun, he explained: "I entered China with the formed general conviction that the United States ought not to concede to any foreign state, under any circumstances, jurisdiction over the life and liberty of a citizen of the United States, unless that foreign state be of our own family of nations, - in a word, a Christian state." Quoted in 7 Op. Atty. Gen. 495, 496-497. Later treaties continued the extraterritorial rights of the United States, and the Treaty of 1903 contained the following article demonstrating the purpose of those rights:

> "The Government of China having expressed a strong desire to reform its judicial system and to bring it into accord with that of Western nations, the [354 U.S. 1, 61] United States agrees to give every assistance to such reform and will also be prepared to relinquish extraterritorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration, and other considerations warrant it in doing so." 33 Stat. 2208, 2215.

The first treaty with Japan was negotiated by Commodore Perry in 1854. 11 Stat. 597. It opened two ports, but did not provide for any exercise of judicial powers by United States officials. Under the Treaty of 1857, 11 Stat. 723, such power was given, and later treaties, which opened up further Japanese cities for trade and residence by United States citizens, retained these rights. The treaty of 1894, effective on July 17, 1899, however, ended these extraterritorial rights and Japan, even though a "non-Christian" nation, came to occupy the same status as Christian nations. 29 Stat. 848. The exercise of criminal jurisdiction by consuls over United States citizens was also provided for, at one time or another, in treaties with Borneo, 10 Stat. 909, 910; Siam, 11 Stat. 683, 684; Madagascar, 15 Stat. 491, 492; Samoan Islands, 20 Stat. 704; Korea, 23 Stat. 720, 721; Tonga Islands, 25 Stat. 1440, 1442, and, by virtue of most-favored-nation clauses, in treaties with Tripoli, 8 Stat. 154; Persia, 11 Stat. 709; the Congo, 27 Stat. 926; and Ethiopia, 33 Stat. 2254. The exercise of criminal jurisdiction was also provided for in a treaty with Morocco, 8 Stat. 100, by virtue of a most-favored-nation clause and by virtue of a clause granting jurisdiction if "any . . . citizens of the United States . . . shall have any disputes with each other." The word "disputes" has been interpreted by the International Court of Justice to comprehend criminal as well as civil disputes. France v. United States, I. C. J. Reports 1952, pp. 176, 188-189. The treaties with Algiers, 8 Stat. 133, 224, 244; Tunis, 8 Stat. [354 U.S. 1, 62] 157; and Muscat, 8 Stat. 458, contained similar "disputes" clauses.[9]

The judicial power exercised by consuls was defined by statute and was sweeping:

> "Jurisdiction in both criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all citizens of the United States in those countries, and over all others to the extent that the terms of the treaties, respectively, justify or require. But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the ministers in those countries, respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies." Rev. Stat. 4086.

The consuls, then, exercised not only executive and judicial power, but legislative power as well.

The number of people subject to the jurisdiction of these courts during their most active periods appears to [354 U.S. 1, 63] have been fairly small. In the Chronicle & Directory for China, Japan, & the Philippines, for the year 1870, there is a listing of the total number of foreign, not just United States, residents in these three places. The list is 81 pages long, with a total of some 4,500 persons. (Pp. 54-134.) This same publication gives the following information about Japan: "The number of foreigners settled in Japan is as yet very small. At the end of the year 1862, the foreign community at Kanagawa, the principal of the three ports of Japan open to aliens, consisted of . . . thirty-eight Americans . . . and in the latter part of 1864 the permanent foreign residents at Kanagawa had increased to 300, not counting soldiers, of which number . . . about 80 [were] Americans . . . . At Nagasaki, the second port of Japan thrown open to foreign trade by the government, the number of alien settlers was as follows on the 1st of January, 1866: - . . . American citizens 32 . . . . A third port opened to European and American traders, that of Hakodadi, in the north of Japan, was deserted, after a lengthened trial, by nearly all the foreign merchants settled there . . . ." (Appendix, p. 353.) The Statesman's Yearbook of 1890 shows: China at the end of 1888: 1,020 Americans (p. 411); Japan in 1887: 711 Americans (p. 709); Morocco, 1889 estimate: "The number of Christians is very small, not exceeding 1,500." (P. 739.) The Statesman's Yearbook of 1901 shows: China at the end of 1899: 2,335 Americans (p. 484); Japan, December 31, 1898, just before the termination of our extraterritorial rights: 1,165 Americans (p. 809); Morocco: "The number of Christians does not exceed 6,000; the Christian population of Tangier alone probably amounts to 5,000." (P. 851.) These figures of course do not include those civilians temporarily in the country coming within consular jurisdiction. [354 U.S. 1, 64]

The consular court jurisdiction, then, was exercised in countries whose legal systems at the time were considered so inferior that justice could not be obtained in them by our citizens. The existence of these

courts was based on long-established custom and they were justified as the best possible means for securing justice for the few Americans present in those countries. The Ross case, therefore, arose out of, and rests on, very special, confined circumstances, and cannot be applied automatically to the present situation, involving hundreds of thousands of American citizens in countries with civilized systems of justice. If Congress had established consular courts or some other non-military procedure for trial that did not contain all the protections afforded by Article III and the Fifth and Sixth Amendments for the trial of civilian dependents of military personnel abroad, we would be forced to a detailed analysis of the situation of the civilian dependent population abroad in deciding whether the Ross case should be extended to cover such a case. It is not necessary to do this in the present cases in view of our decision that the form of trial here provided cannot constitutionally be justified.

The Government, apparently recognizing the constitutional basis for the decision in Ross, has, on rehearing, sought to show that civilians in general and civilian dependents in particular have been subject to military order and discipline ever since the colonial period. The materials it has submitted seem too episodic, too meager, to form a solid basis in history, preceding and contemporaneous with the framing of the Constitution, for constitutional adjudication. What has been urged on us falls far too short of proving a well-established practice - to be deemed to be infused into the Constitution - of court-martial jurisdiction, certainly not in capital cases, over such civilians in time of peace.