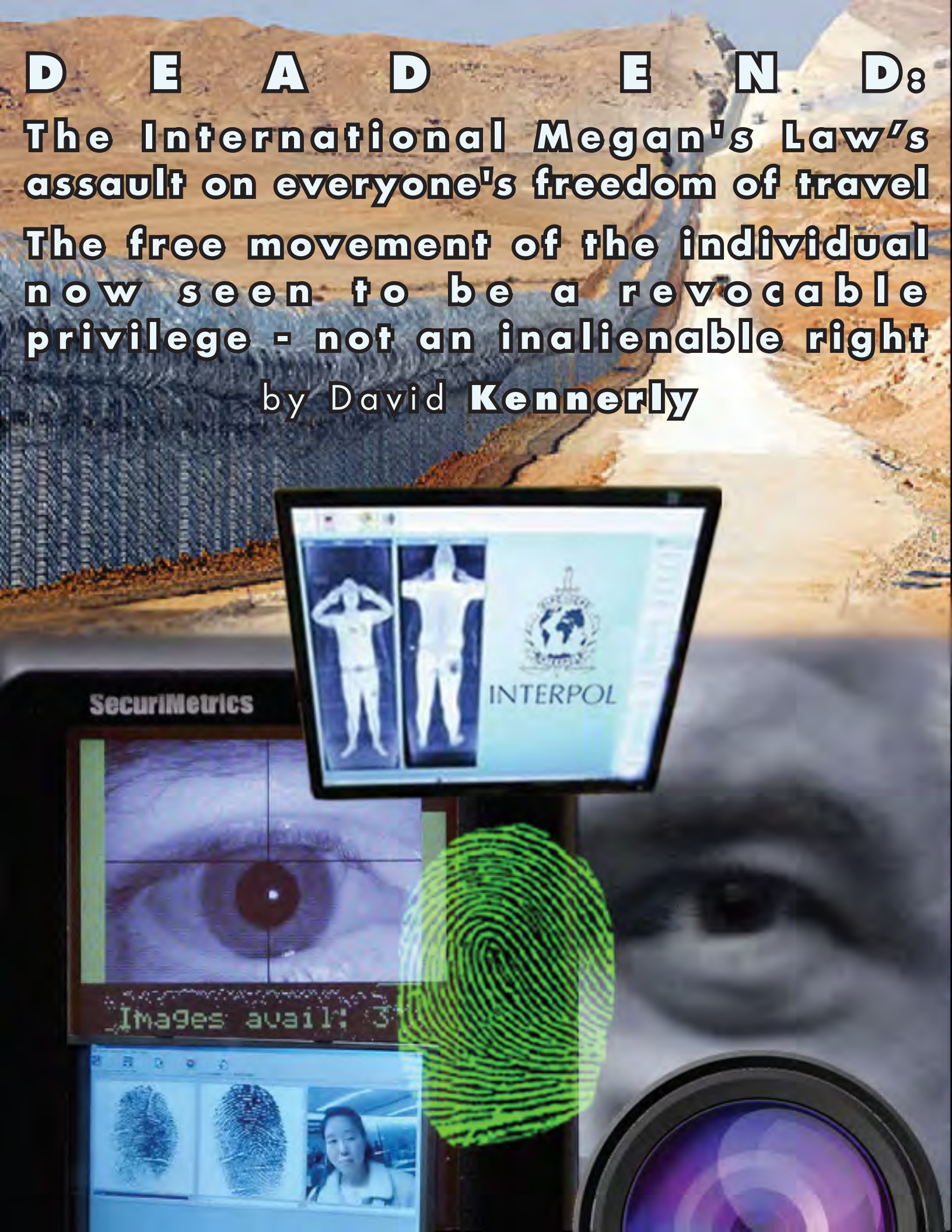


D E A D E N D:

The International Megan's Law's assault on everyone's freedom of travel

The free movement of the individual now seen to be a revocable privilege - not an inalienable right

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We are, all of us, standing on a civil liberties precipice. The systematic degradation of the rights of all citizens is now well underway. Through the pretext of safeguarding safety and security and, ironically, our “way of life,” governments worldwide are imposing limitations (and, within the U.S., *unprecedented* limitations) on our freedom of movement; rights stripped from us in the name of safety and security.

That the worst of these violations are, for the time being, born disproportionately by those occupying society's margins and whose social value is seen, and treated, as *inferior to all others* should provide us no comfort nor assurances for our future. Nor does it relieve us of the burden of our complicity or of our conscience.

The emergent “zero tolerant” society has taken, as its central conceit, the proposition that all human affairs must now be intensely scrutinized, and *mediated*, through the obsessive ministrations of government. The utility of fear in facilitating this continuous erosion, especially the obligatory appeal that all such fearful erosions are “for the benefit of children”, has become the time-honored mechanism through which the rights of all people are routinely diminished.

We should be especially dubious of that appeal when the victims of these laws are, increasingly, children, themselves. Children who are routinely deprived of their own liberty, and permanently and dramatically diminished - as citizens - for crimes that often consisted of nothing more than mutual exploration; explorations once accommodated within a rational society which had yet to lose all sense of fairness or proportion.

The Snowden Alarm Which Finally Woke Us

We have learned, in extraordinary detail, of the wanton illegality in which our governments now engage through the remarkable revelations of Edward Snowden as well as those of Bradley Manning, William Binney, Thomas Drake and others. They have all taken a courageous stand to insist that government must be held to account for policies which identify liberty as incompatible with the interests of safety and security, policies which are, in any case (at least, in the United States) *unconstitutional and illegal*.¹

We have also learned, from the treatment of journalists such as American documentary filmmaker and recent Polk Award recipient (and Academy Award and Emmy Award Nominee), Laura Poitras, of the power of the U.S. government, through its Border & Customs authority, to subject anyone, including journalists, whose message they find inconvenient or embarrassing (such as Poitras' searing reporting on U.S. involvement in Iraq and Afghanistan) to repeated harassment upon their return to the United States.^{2,3} Poitras has had to endure hours of detention and threatening interrogation (without benefit of counsel) as well as the repeated search and seizure of her laptop computers and electronic devices along with the digital data found within them. [See the companion piece to this article: “HOMELAND SECURITY'S' ASSAULT ON FREEDOM OF MOVEMENT: *How America's sex laws endanger your, your children's and everyone's freedom to travel.*”]

We now know that the U.S. Government routinely uses U.S. Customs' warrantless powers of search to record all data contained on the laptops, cellphones and other digital devices of anti-war activists, political dissidents, journalists or of anyone else whom they wish, especially when they possess no probable cause to obtain that information through other means. This is a deliberate program in which law enforcement, and perhaps *any government agency*, can alert Customs officials to intercept specific individuals in the event that they travel internationally. That most people now store enormous amounts of data - often inadvertently - on their cellphones and laptops represents an opportunity for government to lay claim to the myriad details of their lives when reentering the U.S.⁴

In Poitras' case, she has endured this treatment more than forty times and with such regularity that she simply picked-up and moved to Berlin; rarely returning to the U.S. where she finds her treatment, at her own government's hands, deeply frightening and disturbing. And this, even **before** she met or became aware of Edward Snowden (who she then introduced to her colleague, Glenn Greenwald) in what would become one of the most extraordinary journalistic collaborations and achievements of all time.

The Next Step Down The Road To Oblivion

It is into this civil liberties and constitutional milieu which International Megan's Law, not yet enacted (but already *partially* in force), now emerges; as an additional power of the advanced global security state to strip citizens of the fundamental right to travel and of the expanded powers of two agencies within the Department of Homeland Security (DHS): Customs and Border Patrol (CBP) and Immigration and Customs Enforcement (ICE) and which are the faces of its implementation. The stark implications for freedom imposed by this law have, thus far, escaped the serious attentions of civil libertarians. It is my hope to make them aware of its dangers which go well beyond its stated goals and which pose a grave threat to the free movement of people today and with even broader implications for the future.

Understanding “International Megan's Law”

“It is imperative that we take the lessons we have learned on how to protect our children from known child sex predators within our borders and expand those protections globally,” declared a triumphant U.S. Representative Chris Smith, Republican of New Jersey after successfully pushing his bill, the “International Megan's Law” through the U.S. House of Representatives.

“Child predators thrive on secrecy, a secrecy that allows them to commit heinous crimes against children with impunity and without any real accountability. Megan's Law must go global to protect American children and children worldwide.”

Smith has been introducing one version after the other of this bill, named after a child murder victim for whom any number of federal and state laws have been named, for the past six years, but without much success. That is, until this year.

Having finally passed in The House and now being considered by The Senate, “International Megan's Law to Prevent Child Sex Trafficking” is half-way to its goal. Halfway, since it is unimaginable that President Obama would not grace it with his signature were it to reach his desk after a win in both Houses of Congress.

Following the wildly successful formula of adorning criminal statutes with the names of murdered child crime victims, this bill is, nevertheless, something new altogether.

Since the appalling Supreme Court decision in 2002 in “Smith v. Doe”⁵⁶ in which the Justices held, in a six-to-three decision, that sex offender registration laws were perfectly constitutional since they do not represent retroactive *ex post facto punishment* (in the *criminal* sense) but *civil regulation* as a means of ensuring *public safety* (yet imposing criminal sanctions for non-compliance) there has been a succession of laws blithely unencumbered by constitutional concerns for sex offenders which restrict where they can live, work, visit and even who they can associate with as well as dictate the frequency with which they must report the myriad details of their lives to law enforcement.

Most of those constitutionally *suspect* laws have, until now, concerned themselves with regulating the lives of registered sex offenders *within* the borders of the United States.

“International Megan's Law” represents a breathtaking leap beyond those constraints which burden sex offenders with domestic restrictions on where they can live, work or visit in the U.S., and expands them to the world, as a whole.

Its primary purpose is twofold: first, to prevent **all** child sex offenders *from leaving* the United States and visiting other countries where they *might* commit an illegal sexual act (as anyone *might* do) and secondly, to provide U.S. authorities with similar notice from other countries when a child sex offender plans to visit the U.S. (as if that is a problem unaddressed by law enforcement today). It is important to note that the U.S. **already bars** all alien convicted sex offenders from entering the U.S. when it is able to identify them as such. This bill, by alerting foreign nations to the intended visit to their country of an American sex offender, makes fully bilateral the reciprocal exchange of the criminal background of travelers.

Following is a synopsis of this bill which conveys its essential elements as well as its intent:⁷

“The International Megan's Law”, An Analysis

To “eliminate the demand” for child sex tourism and child sexual exploitation outside of the U.S. by making it extremely difficult, if not impossible, for American child sex offenders to be permitted entry to any foreign country and, further, as a *quid pro quo* to ensure that similar information be provided to the U.S. from foreign governments whose own “child sex offenders” intend to visit the U.S. (where they **will** be refused entry). Its effect will certainly be to virtually eliminate child sex offenders leaving the U.S.

The following is what this law will do:

- Burdens the Child Sex Offender (includes those convicted of possessing or viewing child pornography and other *non-contact* offenses), with the legal obligation to notify authorities, in advance, of their intention to travel internationally along with extensive travel plans and destinations. Failure to provide such information will result in felony criminal prosecution and imprisonment.
- Establishes a new office, The “Angel Watch Center” within ICE (Immigration & Customs Enforcement, Department of Homeland Security) which acts as an intermediary between the U.S., foreign governments and Interpol. However, this bill *does not directly reference Interpol*, even though it is clearly designed to integrate directly with Interpol and its own much publicized program to identify sex offenders in international travel. Discussions amongst policymakers clearly identify Interpol as the intermediary which facilitates such notifications. One could surmise why they fail to mention Interpol but I would suggest it is because its formal role in U.S. law would strike many Americans (including this one) as an advance towards “world government”. ICE will also act with final authority in issuing notifications to foreign governments, other agencies of the U.S. government, such as the U.S. Marshall’s National Sex Offender Targeting Office and the U.S. Department of State as well as to American sex offenders themselves. Needless to say, the “Angel Watch Office” will come with a very big “database” (actually, many databases) with vast inter-connectivity.
- Through the “Angel Watch Center”,⁸ provides advance warning to foreign destination countries of the travel plans of American child sex offenders, alerting them to their arrival and of the entirety of their travel plans and locations and affording that government the opportunity to refuse them entry. If the destination country were to allow them entry (perhaps to enable a “criminal investigation”, as helpfully suggested in House hearings), they will be, as Rep. Smith has said, “watched like a hawk while they're there.” We are assured that (as an inducement for Americans to urge its passage) the receipt of advance notice of travel and criminal background of travelers to the U.S. will be conditioned upon the U.S. reciprocating in providing foreign governments the criminal records of Americans who travel outside of the U.S.
- The “Angel Watch Center” will consult with non-governmental organizations, including those which are “faith-based”, who are said to have “expertise” in matters of “child sex trafficking” and other “sex crimes” and who will also liaise with those organizations in conducting criminal investigations, such as covertly surveilling identified American sex offenders in “hot spots” said to be rife with “sex trafficking” (in one scenario enthusiastically envisioned by Rep. Smith). “Faith-based” is a clear reference to fundamentalist Christian organizations who have explicitly religious missions to advance a “social-purity” agenda with some actively proselytizing native peoples (who, in Asia, are often Buddhist, Hindu or Muslim).
- Purports to simply transmit criminal conviction data to foreign governments without the expectation that it will necessarily result in the sex offender having his (or her, increasingly) travel rights restricted. But the speeches on the floor of the House tell a different story with Rep. Smith explicitly identifying refusal of entry, and keeping sex offenders confined within the U.S., as a clearly desirable goal and preferred outcome.
- Purports to provide “constructive notice” to sex offenders which will include a good-faith attempt to advise them prior

to their departure if the Office believes they are likely to be refused entry (as a result of foreign government notification). It exempts itself from such reporting when the sex offender is the target of an ongoing investigation, in which case he may well be walking into a trap set by the U.S. in conjunction with a foreign government or NGO. This vague assurance (with no real teeth) is one of the few “bones” being thrown to those with constitutional reservations about this bill. It was one of the tepid “compromises” hammered out before House passage to which Smith could point as emblematic of both the unanimity and “bipartisanship” behind this issue.

- Purports to provide an appeals process although one which appears to offer no actual remedy (coming, as it would, after foreign entry and travel had already been refused) and is entirely *ex-parte* that is, the sex offender is not present during the process and the “Angel Watchers” word is final.
- Provides “technical assistance” to foreign authorities to enable them to participate in the global program.
- In part, appears simply to be codifying practices **already in place** within the U.S. government in cooperation with Interpol and other nations. By that I mean: for some unknown (to this writer) period of time but at least since March, 2013, the U.S. has **already been providing** data about child sex offenders to those governments to which they travel as it is able to do so. Many such U.S. policies have been introduced “administratively” i.e. under broad discretionary powers of federal departments, rather than by law. This timeframe coincides with Interpol's stated (in 2013) timetable for the implementation of its own program to issue “Green Notices”,^{9 10 11} to be available worldwide, when *sex offenders* travel internationally. This current practice lacks several crucial elements which they wish to implement and which this law will achieve:
 1. Makes more rigorous and thorough the process of monitoring the movement of sex offenders.
 2. Gets the information to foreign governments well in advance of the sex offender's arrival so as to better enable the foreign country to *refuse them entry* which is, after all, the explicit goal of the bill's author (in his remarks to The House).
 3. Codifies the practice of providing this information to foreign countries and demonstrates (to their minds) both a degree of “due process” extended to the sex offender as well as establishing the framework for a reciprocal international agreement.
 4. Current practice does not provide for the *criminalization* of the sex offender to travel without having provided government with advance travel intentions (UNLESS they are resident in a “SORNA-compliant” state, in which case it is already a legal obligation). In this way, International Megan's Law can be seen to be an end-run around most individual states' failure to comply with the SORNA requirements of the Adam Walsh Act. [Note: SORNA refers to the “Sex Offender Registration and Notification Act” which is part of the Adam Walsh Child Protection and Safety Act (AWA). SORNA provisions were a sweeping expansion of federal laws and restrictions imposed on registered sex offenders and represented a major incursion into what had once been almost entirely the sole authority of individual states. States failing to comply with Adam Walsh/SORNA face losing federal monies as a consequence. Years after its passage, most states - in a rare instance of “push-back” which can be seen as an index of the Fed's extreme overreach with AWA - still have not complied with all the law's elements. Nevertheless, sex offenders in those non-compliant states are still subject to many of AWA's provisions.]¹²

The “Exterminating Angel” In the Driver's Seat

This is an extraordinarily powerful law that will further degrade the liberty and citizenship of those Americans who have once been convicted of any kind of “child sexual offense”, permanently exiling them to within the borders of the U.S., regardless of their reason or need to travel and regardless of the number of years that have elapsed since their conviction and completion of sentence. Because of the judicial and legislative conceit that sex offender registration laws are “civil and not criminal”, they have no right of appeal in challenging their status and are subject to any additional regulations and restrictions which an election-year politician might imagine (2014 being such a year) because they are not protected by *ex post facto* limitations on punishment.

This bill should be seen as of a piece with concerted global and law enforcement efforts (which include both statutes as well as the very broad powers of authority typically granted immigration authorities to issue administrative policy) to fully internationalize America's approach to the total marginalization of the sex offender which has emerged as the dominant standard to which all countries are now judged and expected to conform. Many countries have already enacted laws which hold their citizens criminally prosecutable for sex crimes committed in foreign countries and with the stunning assertion that individuals, when traveling abroad, are to be held accountable to *their home countries'* criminal laws (and prosecuted *in their home country*), not those of the country where the alleged offense took place.

The more recent efforts to prevent anyone previously convicted of sex offenses to travel internationally is driven by numerous governments, the United Nations, the European Union, Interpol, international abuse and trafficking conferences and NGOs worldwide and include a number of countries who have specifically barred foreign sex offenders from entering their countries for any reason. ^{13 14 15 16 17 18 19 20 21 22 23 24 25 26 27}

In this juggernaut, the media has played a vital role in propagating misinformation spoon-fed to it by these many players through the wholesale abandonment of basic journalistic principles. In clarifying its own code of journalistic ethics, the Los Angeles Time's sole recommendation, when reporting on sex offenses, is that the name of victims should rarely, if ever, be mentioned. ²⁸

The Poynter Institute, a U.S. journalism school and foundation dedicated to “journalistic excellence” appears to have few, if any, concerns for the state of reporting on “sex offenders” with the exception of its sharply critical dressing-down of “The Boston Globe” for failing to report that, in a story about two “Occupy” protesters who fell in love after meeting at an Occupy demonstration, the man was a *registered sex offender!* ²⁹ They seem to have been utterly silent on that same newspaper's scurrilous treatment of Fr. Paul Shanley who had been convicted on the strength of the - already widely discredited - pseudo-science of recovered memories.

In the U.S., the bill's justification can be discerned in the “The Commerce Clause, Article I, Section 8, Clause 3, of the U.S. Constitution” which reads, simply: “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” ^{30 31 32} It is under the authority of the “Commerce Clause” that the backers of International Megan's Law now assert its legitimacy. Without the ongoing support of the Supreme Court in affirming the Commerce Clause' applicability in all manner of human activity (which clearly lie beyond the scope of governmental authority) this law, and many others, would be unable to usurp the rights of so many Americans.

PART II

The Actors:

The National Security State, Post Snowden and Greenwald (& Manning & Assange & Scahill & Binney & Drake)

It has been one year since the revelations of Edward Snowden in which a shocked world began to learn of the scope and extent of U.S. government surveillance upon the world's citizens, one which is conducted without regard for either their privacy interests or their capacity for terrorism. These bombshell revelations have made absolutely clear that the U.S. has targeted the concept of privacy, itself, and as a concept, both too 'quaint' and too inconvenient to the exigencies of fighting terrorism or, as we are coming to realize, *crime*.

As governments arrogate to themselves the power to collect every telephone conversation, email, instant message, blog post or financial transaction of both its own, as well as others', citizens then the exchange of historical criminal records between, *essentially*, all the world's governments with the goal of permanently immobilizing anyone with a criminal sex conviction (if not any criminal conviction at all) can be seen as (through their eyes), a logical extension to an existing model and as a reasonable proposition to secure public safety and security in a modern world.

Already, defendants have been prosecuted in criminal courts, not on terrorism charges, but on drug charges, based upon intelligence illegally obtained by U.S. intelligence agencies (for the stated purpose of national defense) but forwarded on to the D.E.A. (Drug Enforcement Agency) for use in its own *purely criminal* investigations. In a process known as "parallel construction", the surveillance material thus gathered - unambiguously *illegal* as a *work product* in a criminal prosecution - is disguised to appear as leads from informants or intelligence lawfully obtained by wiretaps or other means that might be legitimately gathered in the course of a criminal investigation.³³

The agencies colluding in this disturbing practice claim that a "national consensus" has emerged which necessitates their adoption of this method of creating a fictitious second chain-of-evidence; a clearly illegal practice.

Glenn Greenwald, in an August 5, 2013 interview with *Democracy Now!*'s Amy Goodman, described it like this: "It's a full-frontal assault on the Fourth, Fifth and Sixth Amendments and on the integrity of the judicial process, because they're deceiving everyone involved in criminal prosecutions about how this information has been obtained."³⁴

Greenwald's recent release of Powerpoint slides from the NSA indicates that the agency's explicit goal is to "See it all, collect it all, know it all and exploit it all."^{35 36}

The "Five Eyes"^{37 38 39}

We have known for some years that the Anglophone nations: U.S., U.K., Canada, Australia and New Zealand (known, eerily, within intelligence circles, as the "Five Eyes"), have legalistically circumvented irksome restrictions on monitoring one's own citizens by entering into a multilateral pact in which each acts on behalf of the other, much like in the Hitchcock film, "Strangers On A Train" in which two strangers agree to kill one another's problematic family members. Having spied on each other's citizens, they would simply hand-off the purloined data to their "rightful owners". Very clever! When the cover for this arrangement was blown several years ago it was, at the time, a shocking revelation of governments at their most cynical (or so we thought). This was, of course, before the Snowden revelations which would break all previous records for justified outrage.

[Note: since Snowden, we now know that the NSA appears no longer constrained within the limits of the "Five Eyes" agreement, i.e. the need for such requisite 'plausible deniability', since we now know it also simply spies on Americans, directly. Regardless, there is every reason to believe that the "Five Eyes" continue to enthusiastically harvest information using the clever 'Strangers On a Train' method.]

Extending the Security State To Sex Offenders

It is now widely known that "The Five Eyes" block sex offenders from entering each others' countries (and perhaps other nations, as well) and has been the case for a number of years now, although one imagines it having become more thoroughgoing, over time. This is supported both by anecdotal reports of those having been refused entry as well as smidgions of information (with as few details as possible) the governments provide to the press.

So, given the precedent of the *oh-so-clever* mutual-spying regime instituted by "The "Five Eyes" as well as these more recent NSA revelations by Edward Snowden, we must conclude that the model of nation-states as clients to one another, rather than as custodians of the rights of their own citizens, accommodates, in the minds of the security-obsessive, the systematic erosion of liberty through programs such as 'International Megan's Law'.

Its adoption would represent an egregious inversion of the historic and sacred relationship between American citizens and the

government whose mandate it is to serve its citizens rather than for its citizens to serve them. In so doing, we can only see the U.S. to be actively undermining individual liberty by furnishing any nation whose borders its citizens might cross with information which could imperil their safety, erode their liberties and deny their freedom of movement.

It appears to have been the *Five Eyes* “model” of cooperation between countries and the network which facilitates the exchange of information necessary for its implementation, upon which International Megan's Law, and the many equivalent such laws (and rules) which are beginning to propagate worldwide, is based. Interpol can be seen as an organizing force behind this global push to share criminal records between its 190 different member states. It is also becoming clear that this data may not be limited to sex offenders alone but will likely extend to other criminal categories. It's entirely reasonable to assume, based upon the slightest understanding of “mission creep” (especially when the mission is that of government) that information on any and all types of crimes will inevitably be freely exchanged on this network.

Interpol's Big Makeover [40](#) [41](#) [42](#) [43](#) [44](#) [45](#) [46](#)

Before 9/11, Interpol had been seen as a backwater of an international agency whose continued relevance was in grave doubt. Most people had little or no awareness of it except, perhaps, as a global police force last heard from during the Cold War.

With the emergence of the “war on terror”, however, Interpol seized the perfect opportunity to insinuate itself into all matters related to crossing borders between nations. Governments around the world were reminded that it could play a valuable role, and provide the imprimatur of global legitimacy, in their efforts to track and intercept globe-trotting terrorists, criminals and, of course, pedophiles.

Having now reemerged as a fully 21st Century global police force with all of today's advanced tools at its disposal, Interpol has now adopted a high media profile more befitting its new, more muscular self. It is now a thoroughly modern investigative agency; one that could be said to be “on steroids”. Interpol's “makeover” mirrors the transformation of the American “beat cop” or the English “bobby” into the militarized SWAT teams of today.

While terrorism was the excuse it needed to recapture the public's imagination and to expand its empire, “human trafficking”, “child prostitution” and “child pornography” now jockey for top position with “terrorism”, “drug networks” and “financial crimes” as Interpol's now, very public, mission.

Interpol can be seen as fully congruent with the “international consensus on pedophilia” and to be taking an essential seat at the table in the campaign for its eradication, right alongside the U.N., U.S. and E.U. as well as the myriad NGO's who have defined themselves as the mission's “boots-on-the-ground”.

In an age in which “networking” is everything and the Internet is seen as fundamental to all human activity, Interpol will be “that network” which ties together all of the governmental (and non-governmental) players into a cohesive and unbeatable team.

It has already played a role in intercepting American sex offenders in Europe and Asia who simply “got out of Dodge” and failed to re-register, enabling countries which previously would not have known they had crossed their borders to identify them immediately and to arrest them for extradition back to the “land of freedom”. We can now see that simply failing to register as a sex offender in the United States on ones birthday now triggers a truly international incident, one which requires no other crime (or any victim) to warrant the kind of response once reserved for the capture of Adolph Eichmann.

And it is Interpol, the stateless police *network*, which will be the intelligence and enforcement coordination backbone of International Megan's Law, enabling all nations who comprise it to share detailed information about their own citizens with one another, towards whichever purpose they choose, including those we are likely to never discover.

The Special Role of the Media In Driving the Sex Panic

“News that shocks, scandalizes, or evokes fear and dread brings temporary relief from the tedium of modern life.” - Georg Simmel

Just so! The media's collaboration (with politicians and other non-governmental moral *entrepreneurs*) in advancing sex offender hysteria over many decades cannot be overstated. Without its outsized influence and enthusiastic willingness to abandon basic journalistic principles, we might well have retained a realistic perception of threat, both existential and merely troublesome, as well as a keener sense of their relative proportions and of their capacity for harm.

We know the power of media, not only to shape public opinion, but to destroy entire cultures, as we learned from the propaganda of German newspaper *Der Stürmer* in 1930's Germany and from *Radio-Television Libre* of Rwanda which fed, to the ethnic Hutu, a steady diet of ever-escalating hatred which culminated in the slaughter of as many as a million ethnic Tutsi due, in large measure, to the on-air exhortations of the genocide's architects.

While a thorough accounting of the media's role in distorting reality, shaping public opinion and in establishing an agenda expedient to its obsessive architects is beyond the scope of this piece, it is essential to note its central and dominant influence in shaping the present sex offender moral panic (or, as Frank Furedi prefers, “moral crusade”).⁴⁷ The more recent addition to that “crusade”, i.e. the push to enact the “International Megan's Law”, not only on a national level but internationally, is a case study in the danger of media facilitating the destruction of freedom.

CNN's “Freedom Project” (asserted, with no apparent irony), is a breathless, self-congratulatory multi-year crusade against the evils of “human trafficking” and seems to locate only those outrages which can be quantified as “just the tip of the iceberg.” That its more crisp and polished and, undoubtedly, more journalistically credible British cousin, the BBC, is itself given to grotesque over-the-top mis-characterizations and exaggerations of anything having to do with child sexual abuse or “human trafficking” says much about the state-of-affairs of television-sourced news. Few newspapers are much better with just a smattering of rare exceptions, such as *The Economist*, to help us maintain at least *some* grip on reality (although, as I write this, their own grip appears to be *slipping*⁴⁸).

Several years ago, during a rare moment in which I watched CNN, its purported business travel “expert”, Richard Quest, triumphantly boasted about his (and others') campaign to conscript business travelers, hotel desk clerks, flight attendants, Hollywood celebrities, etc., to report any suspicions which they might have of “Western tourists” who strikes them as a bit dodgy and who may, possibly, be “sexually exploiting” native (and, invariably, “vulnerable”) youth. Any pretense of journalistic objectivity went out the window when he exhorted his viewers to contact law enforcement authorities or organizations working against child prostitution “immediately” with their suspicions.

In an interview with the Executive Director of one of those organizations, Carol Smolenski of ECPAT,⁴⁹ he expressed shock and incredulity that any corporation would not take the “ECPAT Code of Conduct” pledge that commits companies to: insert ECPAT's rules of sexual conduct into their own employee manuals, rewrite employee contracts with child sexual misconduct clauses(!), provide specific ECPAT training to their employees, report back annually to ECPAT with “progress” they have made (as well as to pay them steep annual fees) and adopt a policy that would require their traveling executives to act as police informants on other travelers.

In his loudest, most outraged voice, (which is to say, his normal speaking voice) Quest declared “Hold on, Carol, isn't it time to begin *naming and shaming* those companies that have been invited to sign the code but have refused to do so? You can't make an omelet without breaking eggs!”

The “omelette” aphorism, no doubt, struck Quest as incisively relevant to the discussion at hand, although it left me scratching my head. Would that Richard Quest and CNN were isolated examples of media flying behind the moral entrepreneurs and not unremarkable “birds of a feather.” But they are unexceptional specimens amongst the global media flock who are, *themselves*, moral entrepreneurs. The lines between journalism and advocacy are not just blurred, they no longer exist.

Roger Lancaster, in his 2011 book “Sex Panic and the Punitive State” said this: ⁵⁰

“In the 1960s rising crime rates and urban turbulence fostered the perception that crime was everywhere. As fear became routinized, crime became politicized. The mass media played a role in coordinating this trend. By the 1970s television dramas, news reportage, and political entrepreneurs all were focusing on the plight of the victim; these approaches reinforced visceral emotional responses and gave everyone a sense of personal investment in crime control.

“Fear of crime became reflexive, ingrained, and habitual. Once implanted in everyday life, the crime-control worldview proved resistant to change and continued to grow even after crime rates declined in the 1990s. Fear of crime gradually has been institutionalized, and the open society, which is mobile and porous, has given way to the crime-control society, which is closed off, locked down, and strives to keep strangers at bay. Punishment, which had been gradually deemphasized in favor of rehabilitation, staged a spectacular and unanticipated comeback.”

And thus, the culture begins to shift as we became suffused with hate, fear, revenge and - dare I say - *titillation*?

“Americans clamor for punishment because they have learned to be always afraid and to be afraid of risks so remote as to defy reason. They feel comfortable venting vindictive rages that only a few years ago would have been deemed shameful because an elaborate institutional apparatus has taught them to think of themselves as victims or potential crime victims—and to strike out militantly as a first resort against presumed or potential victimizers.”

Despite the enviable record attained, over many centuries, of each “present-era” being safer than the preceding one, we are assured that “everything changed after 9/11” and should accept a drastically pared-down conception of freedom-of-movement, without complaint. ⁵¹

Non-Governmental Organizations

While varying widely in size and influence, those NGOs taking, as their brief, the saving of children from sexual abuse constitute a vast growth industry. Some, like ECPAT, are enormous with chapters and affiliates, as well as the ears of lawmakers and celebrities, worldwide.

Somaly Mam ⁵², the founder of one anti-trafficking organization based in Cambodia, had gained world-wide acclaim with the help of journalists such as Nick Kristof of the *New York Times*. Within the last several weeks she has been revealed to be a serial liar and abuse-inventing fantasist raking in big bucks from credulous donors while treating those whom she has “saved” as indentured servants who live and work within sweatshop conditions. Most have said that they never were “trafficked” for sex, just exploited by Mam for their labor. ⁵³

Newsweek reported: “Another of Mam’s biggest “stars” was Meas Ratha, who as a teenager gave a chilling performance on French television in 1998, describing how she had been sold to a brothel and held against her will as a sex slave.

Late last year, Ratha finally confessed that her story was fabricated and carefully rehearsed for the cameras under Mam’s instruction, and only after she was chosen from a group of girls who had been put through an audition.” ^{54 55}

Anne Elizabeth Moore, of *Newsweek*, reported: “An acquaintance at the U.S. State Department noted a shift in priorities from counter-terrorism to anti-human trafficking [within the State Department]: Similar interests and many of the same staff police borders with the same old tools under a supposedly new agenda.” ⁵⁶

Indeed, many Westerners actually living in places like Cambodia and whose organizations really do work towards goals of social reform complain that the reports of widespread “pedophilia” and “sex tourists” are grossly exaggerated and that the presence of the organizations said to be fighting sex trafficking have actually weakened civil society and acted as a source for graft and corruption, especially for the local police forces.

One expat, ⁵⁷ with a Cambodian wife (and two children), recounted how he had been followed and photographed by one tourist

- infused with self-righteous anger - who accused of him of being a pedophile while he was out with his own two children. She told him she was going to post his pictures on the Internet, identifying him as a “pedo”. Such is the prevalence of the hysteria which now grips much of the world and which diverts scarce resources away from genuine social ills.

As he wrote, recounting the event: “If this Italian woman isn’t simply a racist, her mind has probably been twisted by the constant stream of sensational, repetitive and often wildly-overstated stories of western pedophiles and abused children in Cambodia. And not only by the western press but by NGOs that profit from it and feed the beast with exaggerated stats and a constant stream of rehashed horrors stories that keep the funds flowing and the presses humming.”

An Australian woman who ran another NGO,⁵⁸ one with an enviable foreign donor base, recently fled the country after Cambodian police raided her Phnom Penh orphanage based on the stories of physical beatings and rampant neglect reported by kids who had run away. They found children who suffered from malnutrition, tuberculosis and anemia. All endured infestations of head-lice. Human waste went unremoved. Oddly, some of the little boys in the orphanage's care were dressed, coiffed, and fingernail-painted like little girls.

Her Christian fanaticism was much in evidence in the miserable lives she compelled the children to endure which included hours of daily religious instruction and prayer. All but one of the children reported that they had been beaten with sticks. Her God-infused proclamations of “love” for “her kids” are reminiscent of pathological hoarders or women who can never say “no” to a stray cat and collect hundreds of them in squalid and filthy conditions.

The “anti-pedo” charities in Phnom Penh are an open scandal amongst the expat community with the head of another charity, notorious for his instability and violent impulses, having once held the staff and customers of a local expat watering-hole hostage until they revealed the source of one of his detractor's online identity. His primary defense appears to be, when questioned about his or his charity's actions, to loudly accuse the questioner of being “a pedo” - much as in the online world, it would seem.

The founder of the large, well-publicized and well-financed Visayan Forum Foundation in the Philippines, Cecilia Flores-Oebanda, was recently forced to resign after being accused of rampant fraud in another high-visibility NGO implosion.

NGO's focused upon the “human trafficking epidemic” are, increasingly, coming under more scrutiny than in the past. Those who lavish money upon their directors while physically abusing and neglecting the children in their care are now being documented and revealed.

Congress

Congressman Chris Smith, a Republican, is the author of International Megan's Law. Republicans are more likely to author anti-sex offender laws than Democrats but it takes very little for Democrats to hop on those bandwagons, especially when it is an election year, as this year is. The 2014 mid-term election sees all U.S. House seats and 33 out of the 100 Senate seats up for grabs. Little wonder that a fully internationalized “*Megan*” has passed the House this year!

The videos available of House “debates” on International Megan's Law betray no sense of discord between the two parties. They are all in agreement. Their assumptions about sex offenders obviously warrant no debate nor can they imagine a sex offender traveling outside of the U.S. for anything but “predatory” purposes. Surely, no “sex offender” would have a job which takes them overseas nor family or friends who would delight in his visit. For our elected representatives, that's just *a given*.

Nor does one get a sense that anyone in The House either questions the legitimacy or premise of this bill nor entertains any reservations about its constitutionality. In other words, it is the perfect opportunity for them to demonstrate their “good faith” and “bipartisanship”.

In their more candid moments, it is clear that lawmakers routinely promise constituents the opportunity to put sex offenders back in jail (and on the thinnest of pretenses). Any slip-up in the confusing minefield of regulations through which the “sex offender” must step offers another opportunity to “put them back where they belong.”

This is the cynical reason behind these laws, the message behind each of which is clear: "We didn't get to put you away for life the first time, so we're going to try like hell to do it now!"

This bill, as with all of the "civil, not criminal" sex offender "civil regulations" is careful not to suggest that its purpose lies in further punishing the sex offender; only in regulating his behavior for the interest of public safety. Because to suggest otherwise would be to force the courts to strike it down. Better that the lawmakers should "wink" at the judiciary who will, in all likelihood, accommodatingly "wink" in return.

We await The Senate's response to this bill while recognizing that, so far, no one (to my knowledge) has lost an election yet because they were seen as being "too hard" on sex offenders!

PART III:

An Inescapable Conclusion

Would the "Underground Railway", a covert (and dangerous) network facilitating the escape of slaves in mid-nineteenth century America, be possible today given the seamless integration of a vastly more intrusive government with the now ubiquitous technology of surveillance?

Eben Moglen, Professor of Law and Legal History at Columbia University and noted advocate for Internet freedom, anonymity and robust safeguards against government intrusion, has recently asked, in a piece in *The Guardian*, "*What if the underground railroad had been constantly under efforts of penetration by the United States government on behalf of slavery?*"

Indeed! And given the application of today's technology to those efforts? The unavoidable conclusion should leave us extremely uneasy.

When those Nineteenth Century Americans of conscience could correctly perceive slavery as the great evil that it was and were willing to expose themselves to considerable risks in undermining it as a system by covertly lending essential aid to those attempting to escape its clutches, they were sacrificing their immediate safety and security for the cause of liberty, a cause to which they recognized they owed much.

A few brave people, today, recognize that a modern injustice, now being deployed worldwide, threatens to undermine the cause of liberty. Brave, because any attempt to speak up for the rights of sex offenders is widely viewed as tantamount, itself, to being an admission of pedophilia, with angry denunciations swiftly heaped upon anyone so courageous (or so foolhardy).

There are those who are genuinely outraged at this injustice but who do not, understandably, possess the necessary confidence to openly challenge either it or the hysteria from which it arose.

It seems safe to say that sex offenders have no *underground railway* through which to flee an often miserable existence. They are not handed-off, from one station-master along its route to the next, to be hidden in a succession of cleverly concealed compartments, or skillfully guided through an elaborate network of tunnels by those willing to risk their own freedom in its perilous operation.

And while there may be, today, few souls brave enough to comprise such a network, it is also clear that they would be right to be skeptical of its potential for success, given the ruthless thoroughness of our government in leaving few remaining opportunities for concealment. The extraordinary power of technology to dramatically expand communication, to improve safety and security and to enrich lives with a wealth of information also empowers government to eliminate blind-spots within its vigilant field-of-view and to liberally distribute, in effect, identity tracking and anonymity-destroying "choke-points" in a proliferation once unimaginable.

We have reached a point where it appears extremely difficult for anyone, and especially "sex offenders", to run away. If this is no longer an option, then perhaps more people will put greater effort into fighting these terrible laws and the delusions which give

rise to them. ⁵⁹

The many “gaps” which once limited government's ability to see all that it desired, and essential to the viability of any underground railway, have been gradually filled-in through the liberal application of the same stunning technological breakthroughs that gave us YouTube and instantaneous global inter-connectivity.

The design goals of the “panopticon”, a radical nineteenth Century approach to arranging prison cells so as to afford continuous visual monitoring of as many prisoners as possible (while utilizing as few staff as possible) have now been achieved *electronically* - yet deployed *universally*. That is, the power of omniscience is no longer limited in its application to prisons or prisoners. It now extends, through digital technology, to everyone, everywhere. The digital revolution has succeeded where architectural engineering proved impractical.

Government has created this *virtual* panopticon because it now **can** do so. The technology which makes ubiquitous its ability to see and to hear all has become very cheap, very easy and “off the shelf”.

Regardless of the capabilities of government to crush dissent and to bring all within its field-of-view (and its reach) to its submission, there remains the impulse of free peoples of conscience to support the liberty of their fellows against the blind tyranny of their government.

Today, there is, at least within some segments of society, an emerging moral dissonance which finds in the escalating sex offender hysteria resonances with the guilt many were beginning to feel for slavery in the Nineteenth Century.

Again, here's Eben Moglen: *“But there is a second constitutional tradition. It was made by people who were brought here against their will, or who were born into slavery, and who had to run away, here, in order to be free. This second constitutional tradition is slightly different in its nature from the first, although it conduces, eventually, to similar conclusions.*

Running away from slavery is a group activity. Running away from slavery requires the assistance of those who believe that slavery is wrong. People in the United States have forgotten how much of our constitutional tradition was made in the contact between people who needed to run away in order to be free and people who knew that they needed to help, because slavery is wrong.

We have now forgotten that in the summer of 1854, when Anthony Burns – who had run away from slavery in Richmond, Virginia – was returned to slavery by a state judge acting as a federal commissioner under the second fugitive slave act, Boston itself had to be placed under martial law for three whole days. Federal troops lined the streets, as Burns was marched down to Boston Harbor and put aboard a ship to be sent back to slavery. If Boston had not been held down by force, it would have risen.

When Frederick Douglass ran away from slavery in 1838, he had the help of his beloved Anna Murray, who sent him part of her savings and the sailor's clothing that he wore. He had the help of a free black seaman who gave him identity papers. Many dedicated people risked much to help him reach New York.

Our constitutional tradition is not merely contained in the negative rights found in the bill of rights. It is also contained in the history of a communal, often formally illegal, struggle for liberty against slavery. This part of our tradition says that liberty from oppressive control must be accorded people everywhere, as a right. It says that slavery is simply wrong, that it cannot be tolerated or justified by the master's fear or need for security.

So the constitutional tradition Americans should be defending now is a tradition that extends far beyond whatever boundary the fourth amendment has in space, place, or time. Americans should be defending not merely a right to be free from the oppressive attentions of the national government, not merely fighting for something embodied in the due process clause of the 14th amendment. We should rather be fighting against the procedures of totalitarianism because slavery is wrong. Because fastening the surveillance of the master on the whole human race is wrong. Because providing the energy, the money, the technology, the system for subduing everybody's privacy around the world – for destroying sanctuary in American freedom of speech – is wrong.”

Restless Natives

It has become increasingly apparent, in recent years, that the United States can no longer countenance the possibility that some of its sex offenders may wish, simply, to “vote with their feet” and *quit its borders* altogether, and permanently. That some would now be willing to do so through the irrevocable act of relinquishing ones citizenship, but one which is vastly degraded beyond that of other Americans and which - uniquely - imposes upon them ceaseless and escalating demands that makes their lives increasingly unbearable, could hardly come as a surprise.

It is a curious development that *non-sex* offender Americans are now giving up their citizenship in record numbers and for a variety of reasons, not the least being a deep and growing dissatisfaction with the increasingly ominous and illiberal path down which their government seems, inexorably, to be descending. Many intelligent, educated and rational people, indeed, many *students of history*, are rightly concerned as to where that path appears leading.⁶⁰

So we should not be very surprised to learn that the U.S., using every agency at its disposal (including the Internal Revenue Service) have made the act of relinquishment of ones citizenship difficult, under the best of circumstances and, for the sex offender, nearly impossible.

But now, sex offenders find that their right to take leave of their country, *even briefly*, say, for a few weeks on holiday in Spain or a one-week business trip to Hong Kong, may be about to become as *verboden* as living within two thousand feet of a school or park in California.

If passed, the enforcement of International Megan's Law - given the digital dragnet which now swathes and encompasses the globe (and dominated by the sole remaining *superpower*), and with Homeland Security staffing levels at staggeringly high, post-9-11 levels - are confidently assured.⁶¹

Presumption Of Future Guilt Of Those Said To Be Victimiziers and of Eternal Saintliness of Those Said To Be Victims

Apart from the question of whether or not this law would be effective in “eliminating the demand for child sexual abuse” in foreign countries (and its constitutionally dubious assertion of “jurisdiction expansion” which the law implicitly endorses and which must be [but is not being] vigorously challenged) is the question at the heart of the film “The Minority Report”. The trope of “pre-crime” and the unquestioned assertion of its legitimacy - as a validly actionable intelligence signal (although one with an appallingly low signal-to-noise ratio) - has yet to be *successfully* challenged on a constitutional basis in its use against sex offenders, though many civil libertarians believe it to be *manifestly* unconstitutional.

There is, to most legal scholars, a great, red, flashing neon sign which says “You Must Not Punish People For Crimes They Haven't Committed (even if you believe them capable of doing so)” but which American citizens and Supreme Court Justices alike, in a massive display of tribal solidarity, have chosen to ignore, and out of a dangerous misperception of threat and a perverse sense of criminological expedience.

If our citizens are prone to believing the very worst of those cast out as child sex offenders, then they are, in equal measure, predisposed to imbuing in their ostensible victims, as well as in those who claim to be their selfless supporters, the virtue of unassailable honesty and the probity of saintliness.

Hardly more Manichean could be its view of the players in this drama. They exist as caricatures, the product of visions heavily refracted through the *zeitgeist*. The accolades showered upon those said to be childhood's defenders have no upper limit in *effusiveness* and the condemnations heaped upon those said to be its perpetrators know no *attainable depths*.

Most educated people now know that there weren't tens of thousands, let alone hundreds of thousands, of children being abducted by crazed sex demons in the U.S. in any of the years during which those ridiculous claims were made (back in the 1980's). In fact, there weren't even “thousands” or even “hundreds”. And yet, dramatically more punitive statutes, still on the books, exist on the strength of those frightening numbers to assuage an alarmed public. Those *abuse-industrialists* who lobbied for their passage were catapulted into lifetime careers and celebrated as heroes. In every salient respect, it is as if those invented

victim statistics had never been revealed as lies. One might conclude that many simply *want them to be true*, in a world where evil is useful if only to define oneself *in its opposition*.

Sex offenders find themselves in the position, in attempting to challenge both unsubstantiated numbers and apocryphal legends, of having to prove that many of the things attributed to sex offenders, *as a class*, simply never happened. And of those horrors which did occur, they are baffled by a society's willingness to hold vast swathes of individuals responsible, *en masse*, as if they, together, defined an amorphous monstrosity to be punished without distinction and undeserving of the slightest mercy.

In the precise way in which we saw society fail to distinguish between radically different behaviors and people in the first wave of the sex abuse panic so many years ago, we see them just as willing to do the same now in order to prevent their freedom of movement.

The *victimist* agenda has been thoroughly and successfully propagated by academia, government funding, the U.N., impassioned N.G.O.'s and ratings-poisoned media barons (and baronesses). It has been adorned with the patina of "human rights" and represented as politically neutral. Indeed, this movement has benefited from a remarkably broad alliance of those on both the left and the right. But, whether consciously or not, in its bipartisan heart lies fear of liberty and its undervaluation.

This agenda has been wildly successful, almost regardless of where it has been implemented, whether in the first- or third-worlds. That it has been so enthusiastically embraced in the developing world has much to do with the conditions placed upon foreign aid assistance.

But it's more than that, too. If you scare people enough with lurid tales of the boogeyman and his designs upon their children and are willing to lie, distort and to create the phantoms necessary to sustain his mythology, they will tend to believe you, no matter their culture, no matter where they live and no matter their station in life.

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