

## **THE INS MUST BE HELD ACCOUNTABLE**

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### **Body**

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A stringent new immigration law became fully effective six months ago. Some of its fundamental features -- elimination of judicial review in many cases, restrictions on asylum, retroactive application -- are being tested in the courts. But it is possible to make a few preliminary observations on how the Immigration and Naturalization Service is carrying out the new law.

First, the statute creates a system of "expedited removal" of people arriving at our borders. In that process, a single immigration agent may deny entry to someone, and ban him or her from the United States for five years, without a hearing or appeal.

The provision was aimed originally at people who arrived at ports of entry with fraudulent documents, notably asylum claimants who might not really be fleeing persecution. But it is in fact being applied primarily to ordinary visitors.

Since the new law took effect in April, thousands of people with valid U.S. visas have been summarily turned away because an INS officer thought, for example, that their frequent previous stays showed an intention to do more than visit.

Putting a decision of such importance in the hands of a single official is a sharp break with the tradition of American law that anyone affected by a government ruling is entitled to a hearing. But even under the new summary process it is possible to insist upon a minimum of fairness and accountability.

INS officers could and should be required to tell each excluded visitor clearly why she is being removed, and give her a chance to answer. As it is, those denied entry too frequently complain of a Kafkaesque inability to find out what they have done wrong.

Second, anyone stopped at an airport because of doubts about his admissibility is entitled to decent treatment while the inquiry goes on. There are too many reports of visitors who have been treated in inhumane ways: imprisoned, held without food or water, denied the right to use the toilet.

INS policy is to imprison, while they are investigated, only suspected criminals or others presenting a risk. But people plainly not in those categories have been imprisoned. One about whom I wrote was Martina Diederich Thompson, a young German wife of a Louisiana contractor, who arrived without the proper visa and was held in the notorious New Orleans Parish Prison for a week.

In several cases described to me, people stopped at the Miami Airport were refused permission for many hours by INS agents to use the toilet. That practice can only be intended to torment and humiliate. It was used by the KGB.

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Such mistreatment seems to reflect an endemic problem in the INS. Like policemen hardened by the viciousness they see in criminals, some immigration agents generalize from fraudulent aliens to a skepticism of all. The great power given to individual agents by the new law increases the chance of abuse.

Third, U.S. immigration laws, regulations and forms are hard for anyone to understand. When someone makes a mistake without wrongful intent, he or she should be allowed to correct the mistake without being punished.

Martina Thompson, for example, plainly wanted to stay with her husband in Louisiana. But she came as a visitor, so she was inadmissible; still, there was no reason to handcuff and imprison her. INS officers should simply have explained her mistake and told her to go back to where she started and file the correct documents.

Indeed, it is INS policy to do just that. Of those turned away at the border, 30 percent are allowed to withdraw their entry applications and leave without penalty. But not all INS officers are following the policy.

Accountability is what the INS needs, more than ever because of the new law's summary process. INS Commissioner Doris Meissner is trying to assure that while she carries out the new law, respecting the need for both vigilance and fairness. But it is not easy in a sprawling agency that deals with millions of people under exigent conditions. And it is the harder because of anti-immigrant feeling in Congress and the country.

When I wrote about the imprisonment of Martina Thompson as she tried to reach her husband in Louisiana, a California doctor sent me a copy of the column on which he had written in red ink: "Bull. Bleeding heart liberals are responsible for we Californians paying through the nose for goof-offs."

## Notes

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### OPINION

Anthony Lewis is a columnist for the New York Times.

## Graphic

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Drawing;

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