

# Canada's No-fly List: a False Sense of National Security

The list will cross-fertilize with U.S watch lists

By [Faisal Kutty](#)

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"Nothing personal sir, but your packages are not allowed on passenger airlines," said a United Parcel Service customer service agent, sitting in an American call centre. She was explaining to me that my package could not be delivered on an "early a.m." basis from Toronto to Peterborough.

I was interrogating the agent about why this was so, since I had been using UPS without any problems since starting my practice in 1996. Initially reluctant, the agent eventually confessed that when my account number was entered into their system, the "Flight Guardian" software flashed a red signal.

"Sir," she said, "after 9/11 we can only pick up packages if the green light is given."

The next day I called the UPS head office and inquired about the situation. The supervisor apologized and informed me that I could use the expedited service within Canada, but that I did not have the requisite clearance to use this service to the U.S.

We will never know how many Canadians have been so specially designated on more than a dozen lists maintained by the United States. The proliferation of these watch lists around the globe has been a troubling development in the "war on terror."

Now the Canadian government will complicate the situation even more by introducing its own no-fly list (set to be launched on June 18, 2007), which will inevitably be shaped by, and be available to, the Americans and perhaps even others.

As we consider the need to improve our intelligence and law enforcement systems, we must have an open and informed dialogue about what measures truly make us safer while ensuring that our fundamental values and liberties are not sacrificed.

The proper forum for such a debate is our legislature.

Bypassing this necessary debate in introducing the cleverly named “Passenger protect program” is irresponsible and cavalier, particularly given what we learned from the case of Maher Arar, the Canadian citizen who was rendered to Syria for torture while in transit through New York.

This charge is not being made lightly, as the information- sharing protocols and mechanisms, which were criticized by Justice Dennis O’Connor in the Arar inquiry findings, have not been improved or addressed – yet Ottawa is pushing ahead with its list.

Though the government has claimed national security privilege in refusing to confirm or deny this, the Smart Border Declaration and the Security and Prosperity Partnership of North America, as well as intelligence agreements, make it certain that the list will cross-fertilize with U.S., and perhaps even other nations’ lists.

Making lengthy watch lists based on subjective and political criteria and then giving the power to add and remove names to agencies that have a vested interest in the national security agenda is akin to asking the fox to guard the hen house.

Such lists – they will inevitably fill up quickly with “false positives,” political dissidents, those whom our friends and neighbours subjectively view as threats – have not yet, as far as the public is aware, caught any terrorists in the U.S.

Indeed, common sense should make us wonder how someone can be too guilty to fly and yet be too innocent to be charged. Should those who pose a threat to our security be kept off our flights, but be free to roam our streets?

To make matters worse, real terrorists may not even be placed on the list for fear of tipping them off; no kidding, this is the official U.S. position.

How can such a list provide anything more than a false sense of security while leaving it rife for blacklisting innocent people as well as racial and religious profiling?

The no-fly list will threaten many basic rights and leave little practical recourse.

Yes, in theory there is the office of reconsideration. But the inability to know whether you are on the list until boarding time, the potential use of secret evidence as well as the use of unreliable and illegally obtained information by foreign sources, will make it near impossible to get off the list in many cases.

This is based on a close review of the U.S. experience as well as the plight of individuals who are already encountering difficulties in flying within Canada without Ottawa even having an official list of our own yet.

The extraterritorial application of U.S. watch lists is already impacting us; how will we fare once we have our own list interacting with, confirming and/or merging with other lists?

Hasty and ill-considered national security initiatives, which are essentially aimed at managing public perceptions more than they are in really addressing legitimate and manageable security concerns, will not move us forward in the fight to disrupt terrorism. It will only complicate the lives of innocent Canadians and increase the opportunity for religious and racial profiling.

No matter how vigorously it is denied, racial/religious profiling is too often the reality for a growing number among Canada’s Muslim and Arab communities and certainly in the national security context.

The experience of many Canadians who have already been caught up in the web of watch lists, in areas other than flying – be it for opening bank accounts, wiring money, sending courier packages, etc. – does not bode well for the no-fly list.

And my package? The one that was flagged by “Flight Guardian?”

Well, I drove to a depot close to my office and sent it off – without using an account number and by paying cash.

So much for the security offered by a watch list.

*Faisal Kutty, a Toronto lawyer ([www.ksmlaw.ca](http://www.ksmlaw.ca)) and doctoral candidate at Osgoode Hall Law School at York University, is also vice-chair and counsel to the Canadian Council on American Relations.*

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