

Third General Assembly

The question of governments' right to limit civil liberties in times of conflict



Forum: General Assembly 3

Issue: The question of governments' right to limit civil liberties in times of conflict

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Introduction

In times of conflict or in the case of national emergencies, governments often face the rigorous challenge of balancing national security and the protection of civil liberties. The question of whether, and to what extent, governments have the right to limit civil liberties during such periods is a complex issue which has far-reaching implications for democracy worldwide. This research report aims to touch on the fundamental principles of governance, human rights, and the social contract between citizens and the state.

It is clear that throughout history, there are countless examples of governments needing to make these delicate decisions. Perceived threats may result in wartime measures, anti-terrorism legislation and much more. While proponents argue that such actions are critical for ensuring public safety and national security, critics contend that said actions can lead to an abuse of power and erosion of democratic values. The challenge lies within the delicate balance which needs to be found where security concerns are met with swift action without compromising the freedoms that form the bedrock of democratic societies.

This research report will look at the intricate nature of the problem posed by looking at the many viewpoints of the different stakeholders, historical precedents as well as the complex legal framework. By analyzing past events, current policies put in place by governments as well as a range of possible future scenarios, this report seeks to provide a comprehensive overview on the complexities of the matter.



Definition of Key Terms

Civil Liberties

Civil liberties are defined as the fundamental rights for freedom. Said freedom is protected by law from unwarranted government interference through constitutions, legislations, or judicial interpretation. Civil liberties include but are not limited to; freedom of speech, religion, and the press, as well as a right to privacy and due processes.

Civil Rights

Civil rights are the rights of an individual or a group of individuals to receive equal treatment under the law and to be free from discrimination. While often used interchangeably with Civil liberties, it is important to note that civil rights focus more on the protection against discrimination based on personal characteristics such as race, gender, or religion.

Conflict

A conflict in the context of this research report can be defined as a state of serious disagreement, often involving armed struggle between two or more parties. Such conflicts can refer to situations that threaten national security such as war, civil unrest or terrorist threats.

Liberal Democracy

A democratic form of governance where the rule of law limits the use of political power and individuals rights and freedom are formally recognised and safeguarded.

Habeas Corpus

Habeas Corpus can be defined as a fundamental constitutional privilege that guards against wrongful and unjustified detention



General Overview

In our interconnected and volatile society, the balance between maintaining national security and protecting civil liberties is a contentious issue. Major crises from terrorist attacks to epidemic outbreaks bring the attention to the trade-off between individual civil liberties and societal wellbeing into sharp relief.

The two sides of the Spectrum

A prominent discussion in both the complex political and academic discourse comes in the form of the counterterrorism laws and policies which have arisen in the aftermath of the September 11th attacks (9/11). The question whether, and to what extent, it was (and is) necessary to curtail civil liberties to combat terrorism effectively is crucial to explore. On one side, it is argued that civil liberal democracy itself is targeted as the enemy. According to Philip Ruddock, an Australian Attorney General, “[t]he terrorists are driven by ideological obsession and a desire to destroy Western liberal democratic societies. They want to wage war against all those who do not conform to their perverted and corrupted view of Islam. All countries and people who value peace and freedom are terrorist targets.” Thus, the side argues that the unprecedented threat to our way of life is to warrant restrictions of civil liberties and human rights for the greater good of national and international security. It is crucial to note that every mechanism put in place to protect individuals from excessive state power and external threats does not hamper the government’s ability to respond efficiently to the threat. Therefore, civil liberties, so the argument runs, are seen as political conveniences for enjoyment in times of peace and should not, under any circumstances, constitute restraints for governments in times of emergency and national danger to do what is seen as a fix to said dangers and emergencies. The other side of the spectrum shows commentators maintaining the view that it is particularly in times of crisis, that the liberal democratic state must adhere to the states key principles. The view argues that human rights would lose all effect in the case that they were easily revocable in situations of crisis and emergency. Furthermore, it can be argued that to believe depriving citizens of their individual rights and freedoms is necessary to maintain security is to put oneself on the same moral plane as members of terrorist organizations. Even further, it is important



to note the common ground between the two sides. They both believe that they can turn to history to seek vindication for their claims. A good example is in the US where commentators who are supporters of draconian domestic measures against terrorism, who often refer to President Lincoln's suspension of habeas corpus, which occurred during the civil war and it argues that democracies have survived precisely because they have occasionally suspended traditional rights. The opponents of repressive measures, which represent the other side of the spectrum, refer to the history books, more specifically the arbitrary and debated internment of Japanese Americans during the Second World War. A quote used by this view is that of Benjamin Franklin, who reminded his fellow colonists in 1759 that "they that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety". This debate can be put into context on a global scale. Similarly to the US, in Europe the debate continues. For instance, both sides of the debate turn to the left-wing as well as separatist terrorism which was prominent in the 1970s. Some argue that the temporary suspension of civil liberties as well as human rights in previous terrorism emergencies actually resulted in a strengthening in liberal democracy and positively contributed significantly to a reduction in terrorism. However, what is most striking is the fact that the great majority of analysts at either side of the spectrum agree that in order to "save" liberal democracy from the scourge of international terrorism, a strong balance must be struck between protecting national security, and civil liberties.

Past Instances

In times of conflict and national emergencies, many governments deem it necessary to take action through the limitation of civil liberties either actively or by acts of omission. For the majority of cases, this happens as a result of a belief that this is the easiest method to assure safety for the public without the worry about uprisings and/or civil unrest; allowing them to focus on the solving of the conflict. However, these beliefs and actions taken by governments have not always worked efficiently in the past, and thus has received major backlash from citizens whose freedom has been suppressed. For example, in 1919 Great Britain introduced the Rowlatt Act, also known as the Black Act, which resulted in old wartime emergency measures to be imposed and gave power to the police to arrest any individual without any given reason. These measures were imposed in Bombay, Bengal and the Punjab during times of peace. Injustices such as imprisonment without trial, trials by judges sitting alone without the presence of a jury, the censorship and house arrest of suspects. These restrictions were imposed with the hope to calm rioting issues as well as contributing to a more totalitarian regime. However, there was an uproar upon the unreasonable act by the majority of India, where



Mahatma Gandhi supported a non-violent civil disobedience against the law and decided to start a hartal on the 6th of April 1919. Peaceful rallies were organized in a range of cities with groups organizing hartals all over the country in protest of the Rowlatt Act and 17% of shops in said cities had to temporarily shut down as a result of the protests. This is an example on how the removal of Civil Liberties can result in civil unrest on a large scale.

Furthermore, another past instance showing the limitation of civil liberties is the 2014 restriction imposed in France on protesting. Over 300,000 individuals supported the protesting over Israel's actions in the Gaza Strip. Demonstrators who were supporting palestine took to the streets of france despite the ban and the situation turned violent, as a result of the ban.

Current Instances

Although multiple constitutions have been passed to ensure civil liberties remain as a basic human right, there are a range of current instances where said rights have been removed by governments to try to ensure national security. Since its start in 2001, the Afghanistan Conflict has led to the abolishment of many civil liberties with torture, kidnapping and execution threatening the safety of individuals. Yemen is another example of where Civil liberties have been removed. The situation in Yemen has only worsened for its youth with a 2022 Report showing that 370 kids being recruited as soldiers with a further 1729 killed and 275 denied access to Humanitarian aid. One more current struggle, because of which residents' thoughtful freedoms have been restricted by the government is the civil war in Syria. Syria currently has a very bad civil record. Liberties are at risk because two out of sixty of them have been eliminated. Freedom of speech and freedom of religion have suffered as a result of severe restrictions in government-controlled areas. Opportunity of the press alongside scholarly opportunity is additionally vigorously restricted by the authorities. Additionally, Chile has a long history of restricting the civil liberties of its people and presently continues to do so, particularly for indigenous peoples. Common freedoms, such as assembly freedom, are avoided, but there are numerous problems with unions being prevented from forming or protesting. Chile has additionally suffered from forced labor of foreign nationals living in domestic, agricultural, and mining areas 6 whereas the The government has remained idly by. This is on the grounds that the current conflict has led to the government's focus elsewhere from these problems, and it has led to further civil restrictions, freedoms, with the example of the right to speak freely.



Major Parties Involved

United States of America

Numerous presidents have restricted civil liberties in the past to deal with a variety of pressing issues in the hope that they would keep the peace inside. One of those Adams, Wilson, Lincoln, and Bush were presidents who jailed people for their opinions, respectively. and Obama, who all detained individuals without charging them. The United States government also had a history of censoring the press during wars, such as the Korean War or the Iran-Contra scandal, when press freedom was restricted.

China

In 2019, China restricted protesting over the Hong Kong-Central area China struggle. In spite of the administrative boycott, fights and revolting went on over time sometimes becoming violent. China has a long history of frequently restricting individuals' freedoms.

United Kingdom

In the past, the UK government has restricted civil liberties. A major illustration is India's British Raj, which deprived a lot of Indians of their civil liberties, like the right to vote, and it offered no assistance to its citizens. The occasions in India under English rule show that, by restricting individuals' respectful freedoms, common distress and uprising are undeniable.

United Nations High Commissioner for Refugees (UNHCR)

The UNHCR has given a great deal of life-saving guide to the uprooted individuals in Yemen and helped other people whose rights and freedoms were violated. NGO's are essential for providing out individuals who have been abused or overlooked by their administration in the midst of emergency; As a result, it is absolutely necessary for them to continue their efforts and work in nations like Yemen.



International Committee of the Red Cross (ICRC)

In the past, the ICRC has given a lot of humanitarian aid during times of conflict, especially when people's liberties and rights have been violated. They work by working on legitimate systems and providing assistance to the most vulnerable individuals when governments fail to do so.

Timeline of Key Events

1789, Alien and Sedition Acts Signed Into Law - During the war for independence, the USA's leaders believed that a free press was necessary, but when they are in power, they have a different perspective. The Alien and Sedition Acts are enacted by Congress, which is dominated by Federalists.

1861, Lincoln Suspends Habeas Corpus For All States - The writ of habeas corpus is revoked for all states by President Abraham Lincoln because of threats to the Union. A suspension of this kind is only allowed "when in cases of rebellion or invasion the public safety may require it," as stated in Article I, Section 9 of the Constitution. (The Latin phrase "Habeas corpus" refers to the writ used to challenge the legality of a prisoner's detention.) Despite the U.S. Later, the Supreme Court will decide that only Congress can suspend the writ, but Lincoln ignores the high court.

1917, The US Congress Passes Espionage Act of 1917 - President Woodrow Wilson proposes the Espionage Act of 1917 during World War I to safeguard the nation from propaganda related to internal conflict. Congress passes the demonstration, which makes it a wrongdoing to purposefully disrupt military powers, enrolling or selection or "cause or endeavor to cause rebellion, traitorousness, revolt, or refusal of obligation, in the military or maritime powers of the US." A maximum fine of \$10,000, a maximum sentence of 20 years in prison, or both are possible punishments. Additionally, mailings urging treason are outlawed by the act.



1934, The Liberty Foundation is Formed - Ronald Kidd founded Liberty as the National Council for Civil Liberties (NCCL), inspired by the "general and alarming tendency to encroach on the liberty of the citizen" and police brutality against peaceful protesters during the Hunger Marches. E and Vera Brittain were among the early members. Scaffardi Combating fascism's rise in the UK was one of the early priorities of the NCCL. While British troops were fighting for democracy and freedom abroad, anti-Semitism and fascism were on the rise at home.

1949, The Trial of the Carrington House Case Takes Place - When NCCL defends 14 black men charged with affray in the Carrington House case, it reveals widespread racial discrimination and an effective "color bar." The Colonial Office directed approximately fifty West African immigrants to Carrington House, a hostel in Deptford. The local community's animosity toward the men grew, and it was hard for them to get jobs or food. In 1949 14 of the men were captured for 'affray.' The majority of them were found not guilty after the NCCL organized their defense, revealing severe race discrimination.

1960, Mass Police Brutality Against Civil Liberties Protesting in Favor for the CND - The right to speak freely of discourse and gathering turns into a significant common freedoms issue following the public authority reaction to the exercises of the Mission for Atomic Demilitarization (CND) and the Board of 100 (an enemy of war bunch).

1st November 1955 - 20th April 1975, The Vietnamese War - One of the most devastating conflicts to the extent that hardship and impediment of common Concerning liberties, which include torture, executions and imprisonments without a trial.

15th March 2019 - Present, The Formal Banning of Protests over the Independence of Hong Kong - Protests over the Hong Kong-Central area Conflicts with China are prohibited.



UN involvement, Relevant Resolutions, Treaties and Events

- **United Nations Security Council Resolution, November 9th 2001 (1376)** - This resolution addresses the Democratic Republic of the Congo (DRC) expressing UN concern regarding the situation of living in a state of fear in areas with many civil liberties but under the control of rebel groups restricted. The resolution aims to assist those in need and address the situation as a result.
- **United Nations General Assembly Resolution, February 24th 2006 (61/154)** - Coming as a result of violations of Human Rights in the war between Israel and Lebanon. It recognizes that the Israel-Lebanon struggle can have an impact on the people who live nearby and the restriction of Civil Liberties goes against the OHCHR
- **United Nations Security Council Resolution, September 30th 2009 (1888)** - this Resolution confirms that laws concerning human rights and civil liberties still apply to women during armed conflicts. It aims to protect their civil liberties in times of conflict and provide aid in any way possible.

Previous Attempts to solve the Issue

Taking care of this problem means going against the rights and interests of governments. As a result, it makes sense that no official efforts to resolve it have been made in the past. It will have been extremely risky in proposing solutions that challenge the authority of governments to limit freedom of speech. However, it is important to note that now civilians are more inclined than ever before to question their governments rights to limit Civil Liberties

Possible Solutions

Possible solutions to such a complex problem require the perceiving that democratization is a practical and commendable objective, the test confronted is triumphing over the frequently turbulent democratic transition process and the dilemmas that occasionally arise from this procedure. It ought to be reviewed in order to accomplish this. the setting in which the majority of democratization takes place and the reasons why democrats are so inclined to breaking faith. Furthermore, the support of peaceful protests is needed for civilians to be able to easily express their views, concerns and emotions towards the government's actions. To promote a democratic world, civil liberties must be protected even through times of conflict.



The Enhancement of Transparency and Accountability

When finding a solution to the question of governments rights to limit civil liberties in time of conflict, the United Nations Sustainability Goal 17 of “Partnership and Goals” provides a foundation to increase the transparency and accountability of governments in times of limiting civil liberties, if such occurs. A constitutional change which requires governments to publicly disclose the reasons for civil liberties as well as providing regular updates on the cause of the limitation would decrease unrest and complications involving these limitations. Moreover, the introduction of an independent body managed by the United Nations which would serve as a pivotal point in the monitoring of emergency measures and ensuring they are not abusive of basic Human Rights implemented by the HRC.

Strengthening of Human Right Protections

To further strengthen the rights of civilians, even in times of conflict, the United Nations could urge member states to introduce and protect Non-Derogable Rights which cannot be suspended even in times of conflicts. Furthermore, the provision of training by the United Nations to security forces which aims to educate on human rights principles and legal limits of emergency measures.

Bibliography

American Civil Liberties Union. “American Civil Liberties Union.” American Civil Liberties Union, American Civil Liberties Union, 2024, www.aclu.org/.

“Civil Liberties.” Annenberg Classroom, 5 May 2017, www.annenbergclassroom.org/resource/civil-liberties/.

“Civil Rights and Civil Liberties | U.S. Senator Christopher Coons of Delaware.” www.coons.senate.gov, www.coons.senate.gov/about/priorities/civil-rights-and-civil-liberties. Department of Justice. “Life and Liberty Archive.” Justice.gov, 2019,



www.justice.gov/archive/ll/archive.htm.

FindLaw. "Civil Rights: Timeline of Events." Findlaw, 25 July 2017,

www.findlaw.com/civilrights/civil-rights-overview/civil-rights-timeline-of-events.html. Forum: Social, Humanitarian and Cultural Committee.

Freeman, Michael. "Terrorism and Civil Liberties in the United States: How to Have Both Freedom and Security." *Democracy and Security*, vol. 2, no. 2, 2006, pp. 231–262, www.jstor.org/stable/48602574.

Human Rights Watch. "Hong Kong Protests | Human Rights Watch." [Www.hrw.org](http://www.hrw.org), Human Rights Watch, 6 Dec. 2019, www.hrw.org/blog-feed/hong-kong-protests.

Michaelsen, Christopher. *BALANCING CIVIL LIBERTIES against NATIONAL SECURITY? A CRITIQUE of COUNTERTERRORISM RHETORIC*. 2006.

Nulman, Alex. "What Are Civil Liberties: Definition, Examples, Role | Liberties.eu." Liberties.eu, 4 Oct. 2022, www.liberties.eu/en/stories/civil-liberties-definition/44448. "Safeguarding Civil Liberties." Ro Khanna for Congress, 19 Sept. 2014,

www.rokhanna.com/issues/safeguarding-civil-liberties.

"Security, Civil Liberties, and Terrorism." SPICE Store,

spicestore.stanford.edu/products/security-civil-liberties-and-terrorism.

"Where Democracy Is Most at Risk." *The Economist*, 14 Feb. 2024,

www.economist.com/graphic-detail/2024/02/14/four-lessons-from-the-2023-democracy-index.



