

General Assembly 3 - Social, Humanitarian and Cultural

The question of government's
rights to limit civil liberties in
times of conflict



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Introduction

Since the dawn of age man has been in conflict with one another, with recent technological development and global interconnectivity conflicts have become more complex and dangerous to livelihoods. Conjointly, the International Community has reacted and come together in the face of the increasing complexity. Many conventions and treaties have been made in order to regulate conflicts and give civilians certain rights.

However, this does pose the question of how restricted governments are in ensuring national security. Many states feel that they have full right to limit certain liberties in order to ensure national security. This would mean implementing censorship upon all media outlets in order to keep popular spirit or opinion on a certain topic in a desirable way, keep constant taps on people who might be a high security threat, and even harsh anti-spying measures against people with foreign relations.

Other states have laws implemented that prevent them from intervening in liberties, although this, of course, is no certainty that such practices do not take place. Many NGO's align themselves with these nations, seeing their mostly mote protective nature to civilians. It is arguable that a nation is absolutely not secure if a government needs to monitor and limit its civilians in order to maintain peace.

This issue creates a massive stir in international diplomacy seeing the juxtaposition of many involved nations, due to the still unregulated nature of said issue. Moreover, is it a quite sensitive subject seeing that it directly interacts with the sovereignty of nations and their ways to maintain national security, which of course makes the discussion and the influence of the UN quite limited.



Definition of Key Terms

Censorship

Censorship is a practice in which the suppression or prohibition of any parts of books, films, websites, etc that are considered obscene, politically unacceptable, a threat to security, or inconvenient. There are many cases in which censorship is ethical or even encouraged, frequently when there is a threat to national security. However, sometimes it is used by a ruling party in order to stay in power or enhance their grip upon their civilians. This kind of censorship is used when certain information or even access to certain for a are deemed 'inconvenient' to the ruling party.

Civilian

A person not actively involved in a current military operation. This definition can extend to retired military personnel, and even current serving personnel who are not taking part in the conflict.

Conflict

The word 'conflict' is derived from the Latin verb 'conficere', which means "to engage in a fight". A conflict can be described as a confrontation between two or more parties with competitive or incompatible aims. Conflicts might lead to violence, although they can also end mutually satisfactory. There are three general forms of conflict: interstate conflicts, which include disputes between nations over, for example, disputed territories or energy sources, intra-state or internal conflicts, which include ethnic wars, anti-colonial struggles and civil conflicts caused by political crises, economic distress or inequalities, which can lead to a lack of government legitimacy and can stimulate the creation of armed criminal groups, and trans-state conflicts, which are international and can include international terrorism, cyber-attacks and economic sabotage.

Geneva Convention

First drafted in the latter decades of the nineteenth century, this collection of treaties and agreements are effectively "the rules of warfare". The Convention lists types of weapons



and practices that are not allowed in combat. The most recent addition to the Convention, Protocol III, adds laws about the treatment of medical personnel in a war zone. Contravention of the Geneva Convention is the official definition of “War Crime”.

Post-conflict

Post-conflict is a situation in which warfare has come to an end. Such situations in nations are extremely unstable, with many dangers still intact. The political situation is far from ideal and many people still face the harsh consequences of war.

Universal Declaration of Human Rights

Signed after the end of World War II in 1948, the Declaration states all basic rights a Human should have at all times. It furthermore strengthens civilians’ stance in times of conflict.

General Overview

Today’s world is complex and intertwined, when an event happens, how small it may be, someone on the other side of the world would be able to know about it in seconds. This also plays a factor in conflicts, when something happens how far away it still might be it unnecessarily distresses people. Only is it not their right to know what happens around them?

Moreover, during conflict times mistrusts roams and controls everything and everyone. Diplomats of certain nations are labeled “persona not gratia” and incensed to return to their home country. Civilians with many foreign ties are seen as possible spies or seen as not having national interest at heart. Would this be enough to surveil them constantly and infringe on their privacy?

Furthermore, the balance between national security and individual rights is weighed in this issue. Almost impossible to determine, due to many different ethical problems, which one is more important. Compromising on both will have positive and negative effects, so an ultimate idea is still not somprised.



Limiting the media

The misuse of information can have deadly consequences in armed conflicts, just as information correctly employed can save lives. The hate media, when used to incite genocide such as in Rwanda, is an extreme example of the way information can be manipulated to promote conflict and incite mass violence. Hate speech, misinformation and hostile propaganda continue to be used as blunt instruments. Many nations implement temporary censorship on certain issues or opinions even during times of conflict. Limiting journalists and infringing on their integrity and duty to the people.

The media has the sacred duty to inform the nation, the people of what happens in the surrounding world or their own government. This is essential in any democracy, seeing that the people are the power and their voices and opinions matter greatly. So when civilians are ill or even un-informed the democracy stops functioning correctly.

Therefore, the protection of journalists and media crew is fundamental. All journalists and media crew are classed as civilians, having the same rights as each civilian. It should therefore be the foremost objective to work for improved compliance with their rights. This requires proper training and instructions for those who have to implement them

In spite of said above in some cases one could argue if it were not in favour of democracy to implement censorship during certain times. After all government officials are educated in such a way that they are able to well handle these situations. Civilians on the other hand are far more irrational and unexperienced when in those situations. They could react extremely and irrationally to certain developments causing even more issues, which would not benefit the problem.

Conflicting surveillance

In June 2013 Edward Snowden blew the whistle on the National Security Agency (NSA). He leaked classified information on the mass surveillance of hundreds of millions of people, whose phone calls, emails and searches were stored. There was a direct court order to Verizon to hand over all its telephone data to the NSA on an “on-going daily basis”. Furthermore, the NSA tapped directly into the servers of nine Internet firms, including Facebook, Google and Yahoo, which had as goal to track online communication in a surveillance program known as Prism.



This surveillance was enacted in name of national security even though there was no ongoing conflict within the USA at that time. This surveillance was of course implemented for national security, however there was no direct threat to it, making the actions taken by the NSA even more condemnable.

Mistrust in a nation's own civilians or even diplomats of other nations only fosters more conflict. The infringement scares civilians and enrages diplomats, due to their diplomatic immunity as well. Making this kind of surveillance a very slippery slope.

Major Parties Involved

China

China is an important factor in this issue due to its already limited civil liberties. China has an organisation entirely devoted to the censorship of its civilians. It keeps track of its civilians overseas and diplomats of other nations within its border in the interest of national security. China is an example of how nations could limit civil liberties in times of conflict, even though China maintains this standard even when not in conflict.

Human Rights Watch (HRW)

This organisation has been tasked with ensure that the Universal Declaration on Human Rights is upheld all over the world. It has been an important organisation in the battle against the misuse of civilians and their liberties. It facilitates the conversation that needs to be held in order to find solutions to this problem, due to its third-party status with no interest in maintaining national security and being a direct voice for the UDHR.

United States of America (USA)

The USA is a significant part of this issue, duet to its constitution but also due to its extensive secret service agencies. The US constitution grants their citizens an extreme amount of freedom, independency, and constant freedom of speech. It is based upon the individual person and not the collectiveness of the nation, making actions to limit liberties near impossible due to its foundation.



Despite this the USA has a vast network of secret service agencies responsible of national security. These organisations are notorious for mass surveillance and wiretapping phones of possible criminals or terrorists. This shows the duplicity of this issue well. Essentially the USA emphasises the need for absolute respect for civil liberties, however these may be infringed if absolutely necessary.

Timeline of Key Events

| Date | Description of event |
|-----------------------------------|--|
| 10 th of December 1948 | The Universal Declaration of Human Rights (UDHR) was adopted. |
| 4 th of November 1952 | The National Security Agency of the United States (NSA) was founded. |
| 2007 | US Congress passes an anti-terror surveillance bill, allowing the PRISM program. |
| 5 th of June 2013 | Edward Snowden releases NSA documents sparking huge controversy. |

Previous Attempts to solve the Issue

In trying to solve this issue two camps have created: on the one hand the nations that feel it pertinent to respect liberties under any circumstances, and on the other hand nations that feel they have the right to infringe on said liberties in any case which might concern national security. Thus, no steps towards a consensus or an international agreement have yet been made.

Possible Solutions

A first and probably hardest solution one could consider is finding a way to implement said infringement or respect of liberties into the Declaration. Of course, the UDHR is the



centrepiece of international law and the UN itself, one could find ways to perhaps update it to the modern world.

A second solution one could consider is defining when national interest supersedes individual rights. Logically, one would say that Human Rights are a concept more important than any other. However, in certain situations one could argue that the interest of the entire nation is at stake. It is an ethically difficult solution, seeing the complexity of defining when does one have the right to put the groups interest above rights.

A third solution one could consider is what kind of measures a government may ethically take in order to keep civil peace and rest. A government would always be interested in ensuring for the least amount of chaos in the nation and ensuring trust in the government, especially in times of conflict. May governments limit media attention or commentary on certain issues in order to keep unrest to a minimum? May governments infringe on privacy regulation if allegations of endangering national security occur? These are the vital questions one needs to consider.

A fourth solution one could consider is creating an international regulation on how much a government may infringe liberties in certain situations. This would be a difficult feat to achieve seeing that many nations and organisations have juxtapositions, or even constitutions that do not allow them to even take such actions.

A fifth and perhaps unorthodox solution one could consider is asking the ICC or ICJ to rule on certain liberties infringement cases in order to independently decide whether or not a state has handled the case correctly. Arguably a difficult solution both because of its unorthodoxy and that not all nations are a member to the Rome Statue.

A final solution one could consider is to look at the issue from the other side when does a government need to respect liberties, seeing that this will help with creating peace and stability. This could create interesting insight into these issues to see it from an extremely different position.



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Appendix

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