

Forum: Social, Humanitarian and Cultural Committee

Issue: The question of government’s right to limit civil liberties in times of conflict

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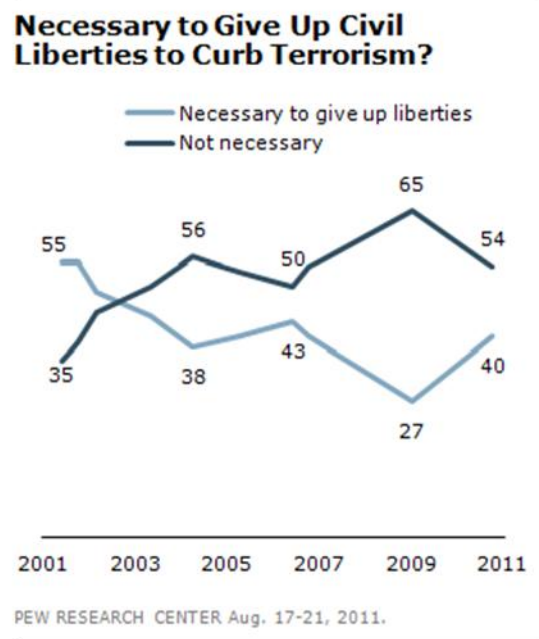
INTRODUCTION

In modern liberal societies all men and women have civil liberties simply because they are humans. These liberties are nowadays considered necessities rather than luxuries, although they have been frequently and in various ways limited or even abolished in the past. Even in today’s societies, civil liberties are being restricted or even abrogated for some social groups. For example, prisoners do not have the right to vote and their freedom of speech is limited while serving their time. It should also be noted that most prisoners are afforded a minimum standard of living. Nevertheless, these limitations of civil liberties by a government is widely accepted, which begs the question as to whether or not a government has the right to do the same in times of conflict.

Times of conflict are hard and stressful not only for society as a whole but also for the government. During these trying times, the people look to the government for guidance and solutions to their issues. It is the government’s role to keep its citizens safe and maintain order.

However, in times of conflict the order is disrupted and fear takes over. Crises put a government to the test whether or not it can handle them effectively and efficiently. Many people fear that the conflict will affect their lives should events turn out negatively. Governments usually decide to tackle the issue by limiting people’s civil liberties. These restrictions range from the ban on demonstrations to extrajudicial imprisonment. Citizens on their part oftentimes accept this because they think their government has the best intentions and can solve the conflicts quickly. The question is whether or not a government has the right to do so. On the one hand, the government is mainly an elected body the people

Graph shows the proportion of Americans and their views on the importance of civil liberties



trust to keep them safe; on the other hand, the question is whether or not civil liberties should be violated and sacrificed on the altar of safety.

DEFINITION OF KEY TERMS

Civil liberty

Civil liberties are different from civil rights in that all humans are entitled to them. These liberties mainly refer to freedom of speech, freedom of the press, freedom of expression, freedom from torture and freedom of assembly¹. However, many rights are constituted as civil liberties, such as the right to a fair trial, the right to privacy, the right to marry, the right to liberty and security and the right to vote². In many countries, it is unconstitutional to limit or alter civil liberties.

Civil rights

Civil rights differ from civil liberties because they refer to the fundamental right to be free from unequal treatment based on certain characteristics, such as gender, race, disability, etc. Such rights are applicable in the workplace, public facilities, homes and educational institutions.

Conflict

It is defined as an "active disagreement between people with opposing opinions or principles"³. More often than not, when this occurs between countries a war breaks out. This can also happen internally leading to a civil war or general political unrest.

Totalitarian Regime

This is a type of regime in which the government has complete control of society and the latter unconditionally obey it (mainly out of fear). Though this cannot be achieved 100%, it is considered a form of a dictatorship, and thus it is not encouraged in any country. Limiting civil liberties is a step towards a totalitarian regime.

Extrajudicial

This term is referring to a conviction outside a court or a trial. This often happens in times of conflict when war criminals are sentenced without having a fair trial. It is a complete deprivation of liberty as in the infamous case of Guantanamo Bay where this has frequently occurred.

¹ "Civil Liberties." Legal Dictionary, 14 Feb. 2019, www.legaldictionary.net/civil-liberties/.

² "Civil Rights Vs. Civil Liberties." Findlaw, 11 Oct. 2019, www.civilrights.findlaw.com/civil-rights-overview/civil-rights-vs-civil-liberties.html.

³ "CONFLICT | Meaning in the Cambridge English Dictionary." Cambridge Dictionary | English Dictionary, Translations & Thesaurus, www.dictionary.cambridge.org/dictionary/english/conflict.

BACKGROUND INFORMATION

Past Instances

In times of conflict, many governments deem it necessary to limit civil liberties either actively or by acts of omission. For the most part, this happens because they believe it is the easiest way of keeping the public safe without having to worry about uprisings or civil unrest; so they can focus on solving the conflict faster and more efficiently. However, this stance has not always worked effectively in the past, and thus has received much criticism. For example, in 1919, Britain introduced the infamous Rowlatt Act or Black Act, according to which old wartime emergency measures were imposed in Bengal, Bombay and the Punjab during peacetime. Measures, such as imprisonment without trial, trials by judges sitting alone without a jury, censorship and house arrest of suspects (which had already been occurring throughout the World War I) were imposed in order to calm the rioting down and contributed to the installation of a more totalitarian regime. Another important issue concerns the protection of civil liberties of foreigners visiting their country during a time of conflict. After 9/11 and during the war in Afghanistan, the US has been accused of extrajudicially imprisoning Afghans without indicting them officially. When criticized, the US denied all accusations that their actions of depriving these men civil liberties were unconstitutional because they were imprisoned not on American soil but in Guantanamo Bay, and thus they were not breaking any of their national laws.

There have been many instances in the past where governments have banned protesting in times of conflicts. This is a breach of civil liberties, but most governments consider it necessary in order to maintain peace. Protests often disrupt peace and turn governments' attention away from their current affairs, therefore making it hard for them to deal with

conflicts. In 2014, protests were banned in France over Israel's actions regarding the Gaza strip. Pro- Palestinians demonstrators took to the streets despite the ban and the situation turned violent. A similar event took place in 2019 in Hong Kong where once again demonstrations had been banned.



Image showing protesters clash with the police forces in France, 2014.

During both WW I and WW II civil liberties were limited. The right to protesting was restricted to a great extent while during the WW II freedom of speech was limited and severely punished. Minority groups were the ones that suffered the most and were left with few liberties. In WW II, Jews and other minority groups were persecuted and deprived of their freedom of speech, extrajudicially imprisoned and forced out of their homes into ghettos. Governments' hatred of these groups and their fear of an uprising were the two main reasons for these atrocious acts. This shows how the governments can abuse their right to limit civil liberties. These actions were intensified in Germany when the Enabling Act of 1933 granted Hitler plenary powers. By limiting civil liberties, he managed to install

a complete totalitarian state.

Current Conflicts

There are still ongoing conflicts, due to which civil liberties are being restricted. Since 2001, the conflict in Afghanistan has led to the abolishment of many civil liberties. Torture, kidnapping and execution threaten the lives of people living in the nearby areas of conflict without having guaranteed protection from their government which has currently not helped the situation but rather looked the other way when the people's civil liberties have been limited.

Yemen is also a country where human rights and civil liberties are being put aside and denied to the masses. The situation is particularly bad for children with 370 of them being recruited and used as soldiers, 1689 killed or maimed and 275 denied any humanitarian access⁴. To add to that, the United Nations has reported 96 young boys who have been deprived of their liberty. These people and children had to rely on various NGOs (Non-Governmental Organizations) in order to safeguard the basic civil liberties and human rights that their government has simply not provided.

Another current conflict, due to which citizens' civil liberties have been limited by the government, is the Syrian civil war. Syria currently has a very poor record as far as civil liberties are concerned as 2 of 60 of them have been abolished⁵. Freedom of expression and freedom of belief have taken a hit because they are heavily restricted in government-held regions. Freedom of the press along with academic freedom is also heavily limited by the government. Chile has also a long history of curtailing its people's civil liberties and continues to do so up to now, particularly those of the indigenous people. Civil liberties,

such as freedom of assembly, are shunned, while there are many issues with trade unions not being allowed to form or protest. Chile has further experienced forced labor of foreign citizens in the agricultural, domestic and mining sectors⁶, whilst the government has idly stood by. This is because the current conflict has drawn the government's attention away from such issues and has led to further limitations of civil liberties, such as the freedom of speech.



Protesters show flags and banners

President Sebastián Piñera on 21 October 2019, in Santiago, Chile.

⁴ "Yemen." United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict | To Promote and Protect the Rights of All Children Affected by Armed Conflict, 16 Aug. 2019, www.childrenandarmedconflict.un.org/where-we-work/yemen/.

⁵ "Syria." Freedom House, 28 Feb. 2020, www.freedomhouse.org/country/syria/freedom-world/2017.

⁶ United Nations High Commissioner for Refugees. "Freedom in the World 2018 - Chile." Refworld, 8 June 2020, www.refworld.org/docid/5b7bcc954.html.

The current conflict in Venezuela is another example of a government that restricts its people's civil liberties either actively or by acts of omission. This situation has forced more than 650,000 Venezuelans to seek asylum neighboring countries because they have been abused to the point of losing their homes. The people currently have only 14 of 60 civil liberties⁷. They have little to no political civil rights. Furthermore, there is no independent judiciary and as a result no change can be made without major constitutional reforms.

Legislation Issues

In many countries, the existing legislation allows government or members of the government to limit people's civil liberties. For example, in the U.S. Constitution, the President can be granted emergency powers in times of conflict and can use these powers to restrict civil liberties. Such actions do not need to be voted upon and as a result they cannot be overruled. Many other countries, such as Germany, Sweden, and the U.K., have similar legislations allowing government to tighten control over its people in times of crisis. Although these emergency powers help governments to curb crises, the latter have been abusively used them with the most typical example being that of Interwar Germany. In any case, this is a very complicated issue which cannot easily be tackled because entire laws would have to be removed from constitutions and new legislations would have to be enacted as alternative solutions to the problems governments face in times of conflict.

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

United States of America

In the past, many presidents have limited civil liberties in order to deal with various pressing situations in the hope that they would maintain internal peace. Among those presidents were Adams, Wilson (who both imprisoned people for dissent), Lincoln, Bush and Obama who all locked people up with no charges. The American government has also been known to censor the press during conflicts as, for example, the Korean War or the Iran-Contra affair, when the freedom of the press has been curtailed.

Afghanistan

Due to the state of war, the Afghan government has neglected its people's rights and limited their civil liberties. More specifically, citizens' rights to security or to a fair trial were abolished.

⁷ "Venezuela." Freedom House, 28 Feb. 2020, www.freedomhouse.org/country/venezuela/freedom-world/2020.

China

In 2019, China has banned protesting over the Hong Kong-Mainland China conflict. Despite the governmental ban, protests and rioting continued throughout the year occasionally turning violent. China has a history of overpowering governments frequently limiting people's liberties.

Syria

During the Syrian civil war, 4,5 million people have been forced to flee the country. This has caused a great humanitarian crisis in both Syria and the European countries to which the refugees have fled. In European countries, refugees do not enjoy all civil liberties and they cannot protest against it. In Syria, on the other hand, with the government struggling to cope with the situation, people's civil liberties have been sacrificed.

UK (United Kingdom)

The UK government has been guilty of limiting civil liberties in the past. One major example is the British Raj in India which deprived many Indians of their civil liberties, such as the right to vote, and provided no support for its people. The events in India under British rule show that, by limiting people's civil liberties, civil unrest and uprising are unavoidable.

ICRC (International Committee of the Red Cross)

The ICRC has provided in the past much humanitarian aid in times of conflict, especially when people have been deprived of their rights and liberties. They work by improving legal systems and assisting those most vulnerable when governments turn their back on them.

UNHCR (United Nations High Commissioner for Refugees)

The UNHCR has provided a lot of life-saving aid to the displaced people in Yemen and assisted others whose rights and civil liberties have been violated. NGOs are vital in helping out people who have been mistreated or ignored by their government in times of crisis; therefore, it is essential that they continue their work and efforts in countries, such as Yemen.

TIMELINE OF EVENTS

DATE	DESCRIPTION OF EVENT
1919	The Rowlatt Act is enacted in India indefinitely extending emergency wartime limitations of civil liberties.
24 March 1933	The Enabling Act granted Hitler plenary powers in order to act without going through parliament. This Act was used to limit civil liberties of German people.
25 June 1950 – 27 July 1953	The Korean war, during which the government either misinformed or entirely disregarded the press while many people were kidnapped and extrajudicially imprisoned.
1 November 1955 – 30 April 1975	The Vietnam War —one of the worst wars as far as deprivation and limitation of civil liberties are concerned, involving torture, extrajudicial imprisonments and executions.
20 August 1985 – 4 March 1987	The Iran-Contra affair refers to President Reagan and his administration's efforts to provide the radical opposition group Contra in Nicaragua with weapons by facilitating the sale of arms to the Khomeini government of Iran. The whole affair was hidden from the press and the public.
19 July 2014	Protests were banned in France over Israel's activities in Gaza, and, when Pro-Palestinian demonstrators took to the streets, they clashed with the police.
15 March 2019 - Present	Protests over the Hong Kong-Mainland China conflict have been banned.

RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

United Nations Security Council Resolution 1376

Adopted on 9 September 2001 this resolution refers to the situation in the Democratic Republic of Congo (DRC) expressing UN's concern about the fate of the populations living in fear in territories under control of the rebel groups and having many civil liberties restricted. The resolution aims at helping those populations in need and addressing the situation accordingly.

United Nations General Assembly Resolution 61/154

Adopted on 14 February 2006, this Resolution is concerned about the human rights violations in the Israel-Lebanon conflict. It acknowledges that the Israel-Lebanon conflict can affect the people living in the nearby area.

United Nations Security Council Resolution 1888

Adopted on 30 September 2009, 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 RESOLVE THE ISSUE

Tackling this issue means going against governments' rights and interests. Therefore, it is understandable why there have been no official attempts to resolve it in the past. It would have been extremely risky to propose solutions that question governments' right to limit civil liberties. People usually vote for governments in order to take the right decisions; so, why do they have to go against their right to limit civil liberties? This explains the fact that there have been no previous attempts to resolve the issue. However, people are recently more and more inclined to question their governments' right to limit civil liberties.

POSSIBLE SOLUTIONS

There are many different ways to tackle this issue depending on the type of government. This will lead to two different lines of argumentation: one in favor of and one against removing governments' right to limit civil liberties. For those in favor of the first line of reasoning, a new legislation needs to be enacted in order to take away governments' power to limit civil liberties in times of conflict.

A way this can be done is by removing the 'special powers' granted to whoever is head of the government (president/prime minister). Further legislation can be established forbidding the limitation or the abolishment of civil liberties and at the same time imposing the punishment of all politicians attempting to violate or abrogate the law.

On the other hand, those in favor of the second line of argumentation have to come up with a convincing reasoning as to why it is justifiable to limit civil liberties.

Humanitarian aid can be provided to help people who are living in areas where their

liberties are being infringed upon. This aid can come in the form of food, safety zones and shelter, just to name a few. These people can also be encouraged to protest for their civil liberties rather than stay on the sidelines, in order that governments have no longer the right to ban protests.

Delegates on their part may draft resolutions on the basis of which governments can maintain their right to restrict civil liberties, provided that this right must be actively regulated. In many countries, people are willing to give up some of their civil liberties in order to secure their safety. When safety is governments' main priority, it is understandable that they need to make sacrifices for the greater good. By allowing their governments to limit civil liberties conflicts may be tackled more easily. This can be achieved in various ways, such as limiting protesting and public gatherings or postponing elections in times of conflict.

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