# Resolved: A just government ought to prioritize civil liberties over national security.

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# TOPIC OVERVIEW

The debate between civil liberties and national security is nothing new. Enlightened thinkers such as Thomas Hobbes and John Locke spent much of their time discussing this topic in the form of the social contract. Governments by their very nature must always find a balance between protecting the natural rights of its citizens and providing an environment where citizens are safe and secure. Any government who provides one without the other can be criticized and even deemed illegitimate.

The global war on terrorism has resurrected the debate. Historically, during times of war, citizens have been expected to relinquish such rights as the freedom to privacy, freedom of movement, and freedom of speech. In most cases, democratic governments have restored these rights as soon as the internal or external threat had been dealt with. In the modern world, citizens are more cautious about movements to restrict natural rights by governments under the motive of providing a secure environment. In fact, as you research this topic, you’ll find nearly all research and writings that have been produced after September 11th, 2001 support the protections of civil liberties.

The affirmative in this debate has the burden of proof. They must show that civil liberties must be given priority over national security whereas the negation can show either both objectives can be reached in harmony or that national security should take priority. The affirmative does have the advantage in front of most lay judges. The current sentiment in the United States seems to be that the Patriot Act has created a great distrust in the government.

Affirmative strategies could be:

• Civil liberties needed to protect citizens from their own government. Governments tend to want more control over the liberties of their citizens and there is no guarantee that governments will restore civil liberties after security threats are over.

• A secure environment means very little when civil liberties are removed. Think of the world George Orwell creates in the novel 1984. The ability to protect citizens’ freedom through civil liberties is always most important.

• The average citizen has very little access to information about security threats. This means that governments have the potential to overreach in limiting civil liberties when no real risk is present. Governments might even use security as an excuse to act out of prejudice sentiments. Refer to the internment of the Japanese Americans during World War II as an example.

 A stated above, the negation only needs to show that civil liberties are not more important than security. This means that the neg can argue that both should be given equal attention or that security is more important.

 Negation strategies could be:

• Human life is more important than civil liberties. What good are civil liberties if you can’t protect human life?

• Insecure governments cannot protect civil liberties. Neither can civil liberties be realized in an unsafe environment.

• The restrictions of civil liberties are only temporary when security is threatened. Governments are committed to restoring all civil liberties once the threat has been dealt with.

# AFF CASE

## AC

Ji 2004 (Shun-jie [Professor, Graduate Institute of Futures Studies, Tamkang University] “Civil liberties vs. national security: Lessons from September 11th attacks on America. Tamkang Journal of International Affairs, 8(2), 133-159.)

It is nothing unusual to see governments always search for responsive actions after a disaster or facing a crisis. They tend to focus on short-term gain or immediately political capital to silence the public critics or suppress pressure from the opposition force. Such responsive policies usually result in some bigger disaster or more complicate situations. The fundamental prescription for a disaster is to face its origin, root, and recent factors then to develop some preventive measures, instead of responsive ones. September 11th attacks was a tremendous setback for human rights and human security not only because innocent people were murdered, but also for all of us who have to face tougher and broader regulations and restrictions on our civil liberties. National security is fatal to a state's survival. On the other hand, civil liberties are the foundation of all kinds of security. What distinguish a democracy from a dictatorship is how secure people feel when facing all kinds of potential threats from internal and external regimes. Human security is more than traditional national security ideas, including protection for people from foreign forces and also from domestic disturbances. State sometimes plays the wrong role as a threat of people, not the protector of people. When we say state is necessarily evil, we are referring to its abuse with people’s delegation power that forms the social contract between the rule and the ruled. Anti-terrorism is a war we must fight for good ends but it should not be used to expand the state's power. If the state abused its authority over civil liberties, the state will become one of the human security's most significant threats. Moreover, the definition of terrorism and the labeling of terrorist group are open to discuss to all parties involved. If anti-terrorism climate encouraged all conflicting groups to categorize terrorists at their own will is a legitimate concern. Governments are likely to use terror as a convenient excuse for tightening laws and restricting freedoms in order to crack down in areas such as immigration, drug smuggling, fraud, etc, with insufficient public debate. Such an erosion of liberties has a long-term impact and, in practices, is unlikely ever be reversed as it is not the nature of state bureaucracies ever to give up power. Democratic mandates are insufficient reason to erode liberties; a key purpose of civil liberties is to protect minorities from the tyranny of the majority.

It is for the reasoning behind Ji’s statement that I affirm the resolution “A just government ought to prioritize civil liberties over national security.

### Value

My value for this debate will be morality. Governments who choose to limit civil liberties to address either internal or external threats are acting in an immoral manor. As already stated governments use times of panic and fear to crack down on areas such as immigration and race without public debate AND it is unlikely that these efforts will ever be reversed as it is not the nature of state bureaucracies ever to give up power.

### Criterion

For a criterion, I choose consequentialism. Governments cannot and should not use internal or foreign threats to justify taking away civil liberties. Doing so will have negative consequences for the community, especially those in the minority. This case will show that government policies which limit civil liberties under the banner of national security result in larger problems for citizens without providing an increase in security. Therefore, the consequences of such actions are immoral and unjustified.

### Observation One

If the affirmative can show that the violation of civil liberties under the motive of national security does not provide for a more secure nation and that national security measures are used as a means for nations to curtail civil liberties, than the affirmative wins this debate.

### Observation Two

Even though the United States is only one country among many in this world, its actions as a government are not unique. The question regarding the place of civil liberties in the course of national security can be studied through the lens of the United States but is not limited to the United States. The examples in today’s debate are specific but have been found in similar instances across the world and across human history.

### Contention One

#### Racial Profiling is a violation of civil liberties

Ryberg 2011 (Jesper [University of Roskilde, Denmark], Racial profiling and criminal justice, Journal of Ethics, 2011, Issue 15, 79-88.)

A person who is stopped and searched by the police may well find this highly inconvenient and uncomfortable. If the person has reason to believe that she is stopped partly because of her race, this may further contribute to feelings of frustration or humiliation. Thus an assessment of on-the-spot effects on well-being may show stops and searches as a result of racial profiling to be more costly than stops and searches carried out randomly or in accordance with other sorts of selection procedure. Moreover, many theorists agree that an on-the-spot assessment of well-being does not present an exhaustive picture of the costs of racial profiling. For instance, R. Kennedy has pointed to the more general feeling of resentment, the sense of hurt, and a loss of trust in the police among groups subjected to increased police attention as a result of racial profiling. (Kennedy 1999: Chapter 4) And even though such feelings and mistrust may only partly result from the use of racial profiling, most theorists nevertheless seem to agree that there is more to the costs than an on-the-spot evaluation reveals. A particularly noteworthy set of consequences relates to the possible self-perpetuating effects of the use of racial profiling. If the police increase their attention on a particular minority group then, obviously, more criminal members of this group will be apprehended. However, an uncritical reading of criminal justice statistics showing an over-representation of this minority may lead politicians and others to believe that members of this group are more criminal than those of another group; and this may be so even though the overrepresentation is simply the result of the increased police attention. (Johnson 1995) Now, this may itself reinforce the practice of racial profiling and, more importantly, it may contribute to the general perception in the populace of members of this group being criminal. In this way, the use of racial profiling may result in or strengthen the fact that race is being used as a proxy of crime, which may thus contribute to discriminatory tendencies in the society. And, as is well-known, racial discrimination may have various harmful effects on those discriminated against. Thus, on the one hand, it may be correct—as pointed out by Risse and Zeckhauser—that an important contributor to the harm involved in racial profiling may be the existing underlying racism in the society. (Risse and Zeckhauser 2004: 143f) On the other hand, the use of racial profiling may itself—due to the outlined sort of mechanism involved—initiate or contribute to racism in the society. Now I shall not engage further in the discussion of the possible ways in which racial profiling may cause harm. What is important here is to give some support to the claim that racial profiling may be more costly than random procedures or other ways of profiling. Given this claim, we can now return to the utilitarian analysis.

Reiman 2011 (Jeffrey [Professor of Philosophy, American University], Is racial profiling just? Making criminal justice policy in the original position, Journal of Ethics, 2011, Issue 15, 3-19)

Even if carried out in a respectful and expeditious manner, racial profiling will inconvenience those who are investigated, and thus it will inconvenience more members of the targeted race than others. And many of those so inconvenienced will be innocent. This is potentially objectionable on three grounds: (a) inconveniencing the innocent, (b) inconveniencing the innocent on general grounds rather than because of their own behavior, (c) inconveniencing the innocent on grounds of race per se.

### Contention Two

#### The PATRIOT Act promotes racial profiling

Pitt 2011 (Cassady [Law professor, Bowling Green State University], US patriot act and racial profiling: Are there consequences of discrimination?, Michigan Sociological Review, 25(2011): 53-69)

Since September 11, 2001 an association between Islam and terrorism became an overwhelming concern for many Americans. New laws pertaining to terrorism and counterterrorism were executed and have challenged our ideals about constitutional laws protecting against racial profiling and discrimination. Most predominately the US Patriot Act incorporates many of these new anti-terrorism policies. The US Patriot Act stand for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism. The US Patriot Act includes national security policies that some argue restricts citizens civil liberties and often violates the US Constitution amendments such as Forth Amendment, which protects people from “unreasonable search” and removable of personal belongings unless there is “probable cause”. Most notably, numerous incidents perpetrated by the US patriot Act have targeted Muslim Americans as profiled terrorists in airport security searches, banking, investments, and expressing freedom of religion as a means of providing national security. Implementation of specific policies and laws like the US Patriot Act has made is possible to allow such discrimination to occur. Further backed by our society’s acceptance of profiling, Arab descent men as an appropriate tactic to fight terrorism. Moore found that Americans tend to be in favor of the US Patriot Act wiretapping when it is applied to Arab or Muslim Americans. Additionally, during the controversial building of the NYC Mosque a poll by Pew Forum in 2010 indicated that majority of Americans fear Islam at some level. It can be concluded that this fear perpetuates our acceptance of racial profiling to occur on the basis of national security threat.

Whitehead and Aden provided a constitutional analysis of the US patriot Act’s power over individuals by specifically evaluating how it violates more than one amendment of the US Constitution when addressing Muslims. First , the US Patriot Act gives certain immigration policies the power to regulate which nationalities are admitted into the United States, a technique used in the 1950’s referred to as “blacklisting”. This policy allows laws to be made in violation of First Amendment rights of Muslims to practice free exercise of religion, including religious clothing attire. Second, the expansion of searches noted in the Patriot Act refers to allowance for seizure of property even if only suspected terrorist related rather than a “reasonable probable cause” as stated in the Fourth Amendment of the Constitution. This could include personal items like home computers or cell phones and business items. The Council on Islamic Relations noted in 2006 and 2007 the rising law enforcement discrimination toward American Muslims as implementation of the US Patriot Act procedures. A large proportion of these complaint occurred in violation of the US Constitution of unreasonable arrests, detentions, search/seizures, and interrogations. While all American are subjected to these laws, most often Muslims and Arabs experience more extreme versions due to the stereotypes associated with Islam and terrorism.

### Contention Three

#### Racial profiling is not beneficial in promoting national security

Kleiner 2010 (Yevgenia [JD Boston College, Editor] Racial profiling in the name of national security: Protecting minority travelers’ civil liberties in the age of terrorism, Boston College Third World Law Journal, Winter 2010, Vol. 30(1), 103-144)

While no one definition of racial profiling can be held above others as the most accurate, government agencies, non-profit groups, and bills proposed in Congress have all attempted to define the phrase. Although the definitions entail varying levels of contempt for racial profiling, all hold that the use of criteria based on race, national origin, religion or ethnicity as the sole rationale for scrutinizing and searching certain individuals constitutes unlawful racial profiling based on the erroneous belief that these individuals are more likely than others to engage in proscribed conduct. Not surprisingly, overt racism brought to light is loudly and vehemently condemned by the courts and in the media. But whereas law enforcement agents rarely target individuals solely based on race, empirical evidence indicates that race is often "the" decisive factor in law enforcement decisions regarding who should be searched and questioned. It is the position of this Note that racial profiling is wrong because it is both ineffective in ensuring security and constitutionally unlawful.

In his introduction to the 2004 Amnesty International (AIUSA) report. Threat and Humiliation: Racial Profiling, Domestic Security and Human Rights in the United States, the Honorable Timothy K. Lewis admonished the U.S. government that "focusing on race, ethnicity, national origin, or religion as a proxy for criminal behavior has always failed as a means to protect society from criminal activity." Instead, profiling has left society more susceptible to discriminatory abuse. The AIUSA report identified racial profiling as a threat to U.S. national security, finding that targeting millions of innocent Americans has "undermined ... law enforcement agencies' ability to detect actual domestic security threats and apprehend serial killers, assassins, and other purveyors of terror." Race-based profiling jeopardizes the effectiveness of antiterrorist security measures because it prevents law enforcement officials from focusing on the real target—dangerous behaviors and legitimate threats—and poses great risks to our society’s criminal justice system and constitutional protections. Despite the hidden risks racial profiling poses to national security, AIUSA's report conservatively estimates that one in three people living in the United States, or approximately eighty- seven million individuals out of a population of approximately 281 million, are at risk of being subjected to some form of racial profiling. Although racial profiling implies the identification and singling-out of suspects of color, the reality is that anybody can be a terrorist, regardless of background, age, sex, ethnicity, education and economic status." The recent cases of alleged "American Taliban "John Walker Lindh and British "shoe bomber" Richard Reid, for example, revealed that Al Qaeda has the ability to recruit sympathizers of diverse backgrounds. Lindh, a white U.S. citizen, and Reid, a British citizen, would not have necessarily been identified by existing programs like the National Security Entry Exit Registration System (NSEERS) and US-\TSIT, which target Arab, Muslim and South Asian men and boys. Like Lindh and Reid, Oklahoma City Bomber Timothy McVeigh eluded arrest in 1995 while law enforcement searched for Arab suspects and detained a Jordanian.

### Contention Four

#### Racial profiling creates harm without any benefit

Stone 2007 (Geoffrey [Law professor, University of Chicago], National security v. civil liberties, California Law Review 2007.

An egregious violation of civil liberties carried out in the name of national security is the interment of hundreds of thousands of Japanese American during World War II.

The critical civil liberties issue in World War II arose out of the Japanese internment. On February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066, which authorized the Army to designate military areas from which "any or all persons may be excluded." Although the words "Japanese" or "Japanese American" never appeared in the Order, it was understood to apply only to persons of Japanese ancestry. Over the next eight months, almost 120,000 individuals of Japanese descent were forced to leave their homes in California, Washington, Oregon and Arizona. Two-thirds of these men, women and children were American citizens, representing almost 90% of all Japanese Americans. No charges were brought against these individuals; there were no hearings; and they did not know where they were going, how long they would be detained, what conditions they would face, or what fate would await them. They were told to bring only what they could carry. Many families lost everything. The internees were transported to one of ten permanent internment camps and placed in overcrowded rooms with no furniture other than cots. Surrounded by barbed wire and military police, they remained in these detention camps for some three years.

Why did this happen? Certainly, the days following Pearl Harbor were dark days for the American spirit. Fear of possible Japanese sabotage and espionage was rampant, and an outraged public felt an understandable instinct to lash out at those who had attacked the country. But this act was also very much an extension of more than a century of racial prejudice against the "yellow peril." Racist statements and sentiments permeated the debate from December 1941 to February 1942 about how to deal with individuals of Japanese descent. Although the Department of Justice maintained that a mass evacuation of Japanese Americans was both unnecessary and unconstitutional, and although FBI director J. Edgar Hoover reported to Attorney General Biddle that the demand for mass evacuation was based on "public hysteria" rather than fact, FDR nonetheless signed the Executive Order, largely for political reasons. 1942 was an election year, and Roosevelt did not want to alienate voters on the West Coast.

In the years after World War II, attitudes about the Japanese internment began to shift. On February 19, 1976, as part of the celebration of the Bicentennial of the Constitution, President Gerald Ford issued Presidential Proclamation 4417, in which he acknowledged that, in the spirit of celebrating our Constitution, we must recognize "our national mistakes as well as our national achievements." "February 1 9 th,'' he noted, "is the anniversary of a sad day in American history," for "[i]t was on that date in 1942 ... that Executive Order 9066 was issued.", President Ford observed that "[w]e now know what we should have known then"-that the evacuation and internment of loyal Japanese Americans was "wrong. “

In 1980, Congress established the Commission on Wartime Relocation and Internment of Civilians to review the implementation of Executive Order 9066. 22 The Commission, composed of former members of Congress, the Supreme Court and the Cabinet, as well as several distinguished private citizens, unanimously concluded that the factors that shaped the internment decision "were race prejudice, war hysteria and a failure of political leadership," rather than military necessity. Several years later, President Ronald Reagan signed the Civil Liberties Restoration Act of 1988, which officially declared that the Japanese internment was a "grave injustice" and offered an official Presidential apology and reparations to each of the Japanese American internees who had suffered discrimination, loss of liberty, loss of property, and personal humiliation because of the actions of the United States government. 24 Over the years, Korematsu has become a constitutional pariah. The Supreme Court has never cited it with approval of its result.

### Contention Five

#### Other nations have used fear of terrorism to promote national security policies that justify violations of civil liberties

Joyner 2004 (Christopher [Professor of Government an Foreign Service, Georgetown University], The united nations and terrorism: Rethinking legal tensions between national security, human rights, and civil liberties, International Studies Perspectives, 2004, Vol. 5, 240-257)

A second dimension for UN concern pertains to repression by governments in the name of enhanced national security. In the months after September 11, the world community focused on efforts to bring those responsible to justice and to prevent additional attacks. Many governments, however, took advantage of this struggle to combat terrorist activities by cracking down on political opponents, separatists, and religious groups. Human Rights Watch has vigorously complained in its Annual Reports since 2001 about these efforts by governments to suppress dissident minorities and curtail human rights and cites particular unlawful actions by certain states. For example, included among this blacklist of government activities are the following:

* Australia used the attacks in the United States in late 2001 (United States, 2001) to deny asylum seekers (coincidentally from Afghanistan) permission to enter Australia (Human Rights Watch, 2004b).
* China linked the world campaign against terrorism to suppress groups of Turkish-speaking Muslims, especially the Uighurs, in their northwestern provinces (Pan, 2002).
* The democratic Indian government has used its Prevention of Terrorism Ordinance, originally enacted in October 2001 and made permanent in March 2002, to detain political critics without formal charge (Human Rights Watch, 2004b).
* Egypt undertook crackdown and arrests of hundreds of suspected Islamists, who were critics of the Mubarak regime, under a declared state of emergency rule and proceeded to detain them without charges. When trials were held, many of these civilian persons were subjected to military courts (Human Rights Watch, 2004b).
* In Malaysia, an Internal Security Act was used by the government in a campaign to imprison pro-democracy activists, students, alleged Muslim extremists, and supporters of the jailed former Deputy Prime Minister Answar Ibrahim (Human Rights Watch, 2004b).
* In Russia, the anti-terrorist campaign provided new opportunities for punishing dissidents in Chechnya, as scores of arrests, extrajudicial executions, and attacks on civilians by Russian military forces were reported (Human Rights Watch, 2004a).
* In Zimbabwe, at least six foreign journalists who wrote stories on government-inspired attacks on whites and rising political violence were arrested and told they were to be treated as terrorists by the government (Human Rights Watch, 2004b).

The point here is that some governments seized opportunities under the guise of the world anti-terrorism campaign to persecute and punish certain persons or groups in their societies who are perceived as being critics of the governments, and therefore political threats to the regime in power. This list contains both democracies and authoritarian regimes, many of which were encouraged and aided through seminars and draft legislation by the United States (U.S.) Departments of State and Justice. Ironically, these governments claimed objectives in line with the first UN concern, namely that terrorism cannot be tolerated because it destroys human rights and fundamental freedoms; yet, government actions are the very basis for the second UN concern that states will overstep boundaries in the name of security and, in turn, deny fundamental freedoms to legitimate dissident groups and to individuals.

# NEG CASE

## NC

“If the people cannot trust their government to do the job for which it exists - to protect them and to promote their common welfare - all else is lost” – President Barack Obama

All people have a desire for security and order. We all want to secure self-protection and self-preservation, and avoid misery and pain. This led our earliest ancestors to enter into a social contact. Thomas Hobbes has pointed out that in order to achieve the desire for self-protection, men have “voluntarily surrendered all their rights and freedoms” to a greater authority in which we pledge our obedience. This greater authority is known as a government. As a result, the government’s “mightiest authority is to protect and preserve their lives and property.”

If the goal of men is to protect himself from violence and harm, a government needs to have the resources necessary to protect its people. Therefore, we must negate the resolution; “A just government ought to prioritize civil liberties over national security.”

We need to focus on the very basic desires of all human kind. Of course, food, water, and shelter are the very basic need humans have. Once we have those, people seek after security and safety. Without these basic needs, life means very little. So why would a government prioritize protecting such civil liberties as the freedom of speech and the freedom to assemble when their lives are at risk and internal or external forces are threatening their general security. It is the fundamental purpose of the government to protect its citizens. Failure to provide protection detracts from a person’s sense of security and therefore other needs in life such as love, belonging, and self-actualization become meaningless.

### Value

My value for this debate is security. Security is the state of being free from danger or threat. Only when a person feels secure can they come to understand and appreciate the value of civil liberties. Without security, civil liberties are neither guaranteed nor appreciated.

### Criterion

The reason we must value security above all else is eudemonism. Eudemonism is the understanding that the highest ethical goal is happiness and personal well-being. Happiness is the greatest goal in life. Without security, happiness is not possible.

The basic civil liberties in this debate are the three natural rights listed in so many enlightened documents. Life, liberty, and the pursuit of property are all rights that provide happiness and personal well-being.

### Contention One

#### Government actions to promote security promote civil liberties such as freedom

Amy 2007 (Douglas [Professor of politics, Mount Holyke College], More government does not mean less freedom, Government is Good, An unapologetic defense of a vital institution.

So there is not an inherent trade-off between government and freedom. Much of what government does is not coercive at all, and expansion of government programs is not going to lead us down a slippery slope to totalitarian rule. But all of this is not to deny that some government activities do curtail our freedom. Conservatives are correct to say that many laws and regulations are inherently coercive – they prevent people and organizations from doing what they want to do. But anti-government conservatives seem to think this coercion is a bad thing. It is not.

What anti-government zealots fail to appreciate is that when our democratic government restricts people’s behavior, this is usually a very good thing. We want the government to restrict the freedom of many people – people who would otherwise do a great deal of damage to us, our families, and our society. We don’t want burglars free to rob, or rapists free to attack women, or murders free to kill people. Nor do we want shady businessmen free to defraud investors and customers, or factories free to dump poisons in our air and water, or drug companies free to sell dangerous or worthless medicines. To create an ordered, prosperous, and just society – something we all want – we inevitably have to have a government that will not let everyone do what they want. In short, restricting some people’s freedom is in the public interest. Naturally, we don’t always agree on when these coercive measures are justified. Sometimes the harm to individuals may not be worth the gains to the public interest. But while we can disagree on such matters, what is not disputable is that oftentimes it is entirely legitimate to restrict people's freedom in pursuit of the public interest – and that we are all much safer and better off for it.

While most conservatives will readily admit that the government is legitimate in restricting criminal behavior, they do not think it is legitimate for it to restrict the freedom of normal, law-abiding citizens. For example, they believe it's wrong for the government to use zoning laws to restrict how people use their private property, and for it to force people to wear motorcycle helmets or to prevent them from smoking in public facilities. They invoke the specter of “Big Brother” intruding into the private lives of citizens – telling us what to do in our everyday lives. But in virtually every case in which government tries to regulate the behavior of ordinary citizens, it does so for the same reason it restricts the freedom of criminals – to prevent harm and to promote the good of society as a whole. When people's actions only affect themselves, we usually could care less what they do. But when individuals’ actions begin to harm others, then we do care and we want to stop it. No one cares if you smoke in your own home; but if you do it in a public place your secondhand smoke can harm others – as has been shown by numerous studies.

### Contention Two

#### Civil liberties cannot be exercised if citizens are threatened by breaches of security

Inbau 1999 [Fred [Professor of Law], *Public safety v. individual civil liberties: The prosecutor’s stand*, Journal of Criminal Law and Criminology, 89(4), 1413-1420)

We can't have "domestic tranquility" and "promote the general welfare" as prescribed in the Preamble to the Constitution when all the concern is upon "individual civil liberties." Individual rights and liberties cannot exist in a vacuum. Alongside of them we must have a stable society, a safe society; otherwise there will be no medium in which to exercise such rights and liberties. To have "rights" without safety of life, limb, and property is a meaningless thing. Individual civil liberties, considered apart from their relationship to public safety and security, are the labels on empty bottles. This truism that we can't have unbridled individual liberties and at the same time have a safe, stable society is the first message that we must get across to the public. I am fed up with such platitudes as "the right to be let alone"-when it is used as though it were an unconditional right. Sure, as individuals, we all would like to be let alone. You and I at times would like to do as we please. If we are in a hurry to go somewhere in our car, we might want to run a red light or to exceed the speed limit and be let alone after we do it. The burglar, the robber, the rapist would also like to be let alone. But in the interest of public safety and public welfare, there must be reasonable restraints upon the conduct and activities of all of us.

### Contention Three

#### Civil liberties can be reinstated once security threats have ended

Esman 2007 (Milton, [Professor of International Studies, Cornell], *Toward the American garrison state*, Peace Review, 2007, Vol. 19(3), 407-416

Wartime emergencies and threats to national security have frequently been accompanied by hysteria, fear of subversion, abridgment of civil liberties, and centralization of power in the Presidency. After the emergency passed, the armed forces were demobilized, Congress and the courts regained their power, civil liberties were restored, and civilian needs and values reasserted their precedence in public policy. The Alien and Sedition Laws of 1798 expired in 1801 and were allowed to die, Lincoln’s suspension of habeas corpus was nullified by the Supreme Court, the Palmer red hunt during and after the first World War was terminated as the nation reverted to “normalcy,” Japanese-Americans were released from internment after World War II and subsequently received a Congressional apology and financial compensation. There can, however, be no assurance that this pattern will be reproduced. The War on Terror with its persistent threat to the homeland promises to be of indefinite duration. As long as the nation remains thus at war, civil liberties will remain at risk.

# AFF CARDS

#### Governments use anti-terrorism laws to limit civil liberties on religion

USCIRS 2016 (United States Commission on International Religious Freedom, *Russia: USCIRF Condemns enactment of anti-terrorism laws,* Press Release, July 8, 2016, Found online <http://www.uscirf.gov/news-room/press-releases/russia-uscirf-condemns-enactment-anti-terrorism-laws>

Russian President Vladimir Putin on July 7 signed into law a package of anti-terrorism measures the Russian State Duma passed in late June. The U.S. Commission on International Religious Freedom (USCIRF) strongly condemns these measures. Under the guise of confronting terrorism, they would grant authorities sweeping powers to curtail civil liberties, including setting broad restrictions on religious practices that would make it very difficult for religious groups to operate. On June 23, President Putin signed into law yet another problematic measure: It authorizes the police to arrest people suspected of violating “generally accepted norms of social behavior,” thereby giving authorities another weapon to use against disfavored groups, including religious organizations.

“These deeply flawed anti-terrorism measures will buttress the Russian government’s war against human rights and religious freedom,” said USCIRF Chair Thomas J. Reese, S.J. “They will make it easier for Russian authorities to repress religious communities, stifle peaceful dissent, and detain and imprison people. Neither these measures nor the currently existing anti-extremism law meet international human rights and religious freedom standards.”

The anti-terrorism measures would, among other provisions, amend the 1997 Russian religion law by redefining “missionary activities” as religious practices that take place outside of state-sanctioned sites. The new law thus would ban preaching, praying, proselytizing, and disseminating religious materials outside of these officially-designated sites, and authorize fines of up to $15,000 for these activities conducted in private residences or distributed through mass print, broadcast or online media. Foreign missionaries also must prove they were invited by state-registered religious groups and must operate only in regions where their sponsoring organizations are registered; those found in violation face deportation and major fines.

The Russian government uses its current anti-extremism law to target religious communities because the legal definition of extremism does not require the threat or use of violence. “Extremism” charges can include the peaceful promotion of “the superiority of one’s own religion,” and have resulted in religious texts being banned and members of non-violent Muslims groups and Jehovah’s Witnesses imprisoned. The proposed anti-terrorism measures would increase prison terms under the current extremism law.

#### Governments not protecting civil liberties cause insecurity

Nzongola-Ntalaja 1994 (Georges [Professor, President of the African Studies Association], *Violation of democratic rights in Zaire*, Cambridge University Press, A Journal of Opinion, Vol. 22(2), 9-11)

This broader definition of human rights as civil, political, economic, social, cultural, and people's rights, including women's and children's rights as well as the rights of the elderly and the disabled, is preferable to the narrow definition of human rights as civil liberties. For the latter would be meaningless or even immaterial in the absence of the people's basic rights to self-determination security, and material well-being. These are the rights that governments like Mobutu's have violated on a constant basis, either directly through repressive acts or indirectly by neglect. And the effects of the neglect or outright violations of more basic rights may be more serious for society as a whole because they are long-lasting and do affect larger numbers of people. Such effects include malnutrition and its negative consequences for the mental and physical development of children, not to mention the immediate danger of rising mortality and morbidity rates, and the debilitating effect of the collapse of the economic and social infrastructures on the ability of millions of people to lead normal lives.

#### The war on terror is not a temporary restriction of civil rights

Appollonia 2012 (Ariane [Professor, Rutgers University], *Researching the civil rights and liberties of western Muslims*, Review of Middle East Studies, Vol. 46(2), 200-215)

Some drivers of discrimination are unique to one target group and do not lend themselves to a comparative study. The ongoing dynamics of securitization, for example, does not seem to have an end in sight. Unlike prior times of emergency, the war on terror is a conflict without end, and without limits. Japanese Americans, for example, had their civil liberties restored, if only after the end of hostilities. The war on terror offers no comparable prospect of victory and thus little likelihood of a comparable restoration of rights. Each terrorist attack, from Times Square to Islamabad, makes it more difficult for Muslims to assert their rights.

# NEG CARDS

#### Racial profiling is justified under the theory of original position

Reiman 2011 (Jeffrey [Professor of Philosophy, American University], *Is racial profiling just? Making criminal justice policy in the original position*, Journal of Ethics, 2011, Vol. 15(3), 3-19)

The parties in our original position take seriously the notion that crime is a harm, not just to an individual, but to society as a whole. They know that crime is costly to all members of society, not just to victims, but, of course, especially to victims. That crime is costly to victims needs no special arguments. It harms society generally by sowing fear, adding to risks faced by all, forcing people to limit their activities to certain areas and times of day, and to take often costly measures to protect themselves. And this applies even to criminals, since they also do not want to be victims of crime. What is important for us here is that crime is a harm to everyone in society, including the members of the group singled out by racial profiling. Indeed, since most crime is intra-racial, in the settings where racial profiling is appropriate because members of some race have higher-than-average crime rates, crime will be a greater harm to members of that race than to the rest of society. This last point is central to Risse and Zeckhauser’s defense of racial profiling (Risse and Zeckhauser 2004: 162–169), but not to mine. For my argument, it lends additional support, but it is not necessary. It suffices that crime is a harm to everyone in society.

#### Government surveillance critical to prevent terror attacks

Sulmasy, 13 ([Professor of Law and Governmental Affairs Officer at Coast Guard Academy] (6/10/2013, Glenn, “Why we need government surveillance,” <http://www.cnn.com/2013/06/10/opinion/sulmasy-nsa-snowden/>))

The current threat by al Qaeda and jihadists is one that requires aggressive intelligence collection and efforts. One has to look no further than the disruption of the New York City subway bombers (the one being touted by DNI Clapper) or the Boston Marathon bombers to know that the war on al Qaeda is coming home to us**, to our** citizens, to our students, to our streets and our subways.This 21st century war is different and requires new ways and methods of gathering information. As technology has increased, so has our ability to gather valuable, often actionable, intelligence. However, the move toward "home-grown" terror will necessarily require, **by accident or** purposefully**,** collections of U.S. citizens' conversations with potential overseas persons of interest. An open society, such as the United States, ironically needs to use this technology to protect itself. This truth is naturally uncomfortable for a country with a Constitution that prevents the federal government from conducting "unreasonable searches and seizures." American historical resistance towards such activities is a bedrock of our laws, policies and police procedures. But what might have been reasonable 10 years ago is not the same any longer. The constant armed struggle against the jihadists has adjusted our beliefs on what we think our government can, and must, do in order to protect its citizens.

#### Empirically proven – NSA surveillance stops attacks

Dozier 2013 (Kimberly [Associated Press], “NSA: Surveillance Programs Foiled Some 50 Terrorist Plots Worldwide”, June 18, http://www.huffingtonpost.com/2013/06/18/nsa-surveillance\_n\_3460106.html]

The director of the National Security Agency insisted on Tuesday that the government's sweeping surveillance programs have foiled some 50 terrorist plots worldwide in a forceful defense echoed by the leaders of the House Intelligence Committee. Army Gen. Keith Alexander said the two recently disclosed programs – one that gathers U.S. phone records and another that is designed to track the use of U.S.-based Internet servers by foreigners with possible links to terrorism – are critical in the terrorism fight. Intelligence officials have disclosed some details on two thwarted attacks, and Alexander promised additional information to the panel on thwarted attacks that the programs helped stop. He provided few additional details. The programs "assist the intelligence community to connect the dots," Alexander told the committee in a rare, open Capitol Hill hearing. Alexander got no disagreement from the leaders of the panel, who have been outspoken in backing the programs since Edward Snowden, a 29-year-old former contractor with Booz Allen Hamilton, disclosed information to The Washington Post and the Guardian newspapers. Rep. Mike Rogers, R-Mich., chairman of the committee, and Rep. C.A. Dutch Ruppersberger of Maryland, the panel's top Democrat, said the programs were vital to the intelligence community and assailed Snowden's actions as criminal. "It is at times like these where our enemies within become almost as damaging as our enemies on the outside," Rogers said. Ruppersberger said the "brazen disclosures" put the United States and its allies at risk. The general counsel for the intelligence community said the NSA cannot target phone conversations between callers inside the U.S. – even if one of those callers was someone they were targeting for surveillance when outside the country.

# Additional Web Resources

1) Pew Research Center - Balancing Act: National Security and Civil Liberties in Post-9/11 Era

http://www.pewresearch.org/fact-tank/2013/06/07/balancing-act-national-security-and-civil-liberties-in-post-911-era/

2) PBS – America at a Crossroads

http://www.pbs.org/weta/crossroads/about/show\_security\_vs\_liberty.html

3) Tom Richey – Thomas Hobbes vs. John Locke (Video)

https://www.youtube.com/watch?v=N2LVcu01QEU