

The challenges associated with the united states patriotic act

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Liberty Without Confidence

The question of how far civil liberties can be violated, and if they are worth being violated for the safety of a country's citizens, is a hazy area. Torture and abuse is undoubtedly ugly and horrendous, a "cruel, inhuman, and degrading treatment... an international crime, and every country in the world must pass legislation to make it a crime" (Ratner & Ray, 2004, p. 30). Racial profiling to generalize a whole group of people is groundless. In order to gain information for the safety of a country's citizens, alternatives such as surveillance is more acceptable. Americans were much more susceptible and willing to accept protection against terrorism in exchange for some of their civil rights. This was made evident of that fact that the PATRIOT Act passed quickly because citizens were fearful of another attack that could happen at any moment (Soma, Nichols, Rynerson, Maish, & Rogers, 2004, p. 315). Such an Act that allows surveillance is justifiable compared to torture and racial profiling, which is degradation of humanity itself.

Ratner & Ray mentions in their dialog that torture should never be done, and that "'no exceptional circumstances whatsoever' - whether a state of war or a threat of war, political instability, or any other public emergency - may be evoked as a justification of torture" (p. 31). What defines torture, however? Torture, according to the Bush Administration, is a "war crime" that is defined to "include any grave breach of [Geneva Convention III on the Treatment of Prisoners of War] or any violation of common Article 3 thereof (such as "outrages against personal dignity [and inhuman treatment])" (Gonzales, 2002, p. 2). It is such a betrayal to humanity itself where people

are abused physically and mentally to the extreme driving point of suicide. Nothing can justify the act of torture. An example of this cruelty is when Hersh describes the account of American soldiers torturing Iraqis: " Abu Ghraib was now a U. S military prison. Most of the prisoners... were civilians, many of whom had been picked up in random military sweeps and at highway checkpoints" (2004, p. 1). American soldiers testified of what they saw being done to the innocent civilians, where many were bound naked, beaten, and forced to commit sexual acts on one another (Hersh, 2004, p. 2). " Such dehumanization is unacceptable in any culture, but it is especially so in the Arab world. Homosexual acts are against Islamic law and it is humiliating for men to be naked in front of other men..." (Hersh, 2004, p. 3). There was no need or justification in the first place to explain the abuse of these civilians, not even to get any information out of them. There was no cause other than for the sake of torturing those people, and that is why not even in war should this attack on humanity should ever occur.

An individual by the name of Alan Derhowitz attempted to bring some rationality to the use of torture in order to gain information. He said, " look, if they are going to use torture anyway, why don't we have a system, where you have to go to a court and get warrant to be allowed to torture someone. Then, he says, we could control its use" (Ratner & Ray, 2004, p. 34). Anyone may consider this option viable, reasonable, and possibly logical.

Hypothetically, if the government can control torture to this kind of extent, then it will be an effective method of interrogation. However, Ratner & Ray mention an interesting observation, where "[a]nother critical aspect about

torture is that, as many law enforcement officials acknowledge, you are not getting information that is accurate... They are not going to cooperate; worse, they are going to turn against you.” (p. 34). This means that using torture as an interrogation technique is self-destructive. The very technique that attempts to grab intel would backfire, and “ the fact is that eventually many of the victims do cooperate, although cooperation may often lead to the signing of false confessions” (Ratner & Ray, 2004, p. 35). The fact that those tortured will either turn against the torturers or give lies in order to stop the abuse leaves no rationality of the act. Being in wartime or not brings no excuse and reason of whether or not this type of treatment should ever occur. “ The claim that torture should somehow be justified is really an attack on the very dignity of humanity” (Ratner & Ray, 2004 p. 35).

Another violation of civil liberties that occurs in wartime is racial profiling. Consider the case of *Korematsu v. United States*, where an American born citizen of Japanese descent became a criminal during WWII. He had not committed any crimes against America, yet was labeled to be dangerous and a threat to the country for the reason that “ a citizen’s presence in the locality, however, was made a crime only if his parents were of Japanese birth” (Jackson, 1944, p. 1). History states that the U. S. government forced all Japanese Americans into internment camps in fear of any type of attack, and in the situation of *Korematsu*, the court upheld the ruling that he should be contained (Jackson, 1944, p. 3). It makes no sense for a person to be convicted based on his or her race and should only be if evidence is brought forth that the person is a threat and danger to society. Justice Jackson

stated, " Now, if any fundamental assumption underlies our system, it is that guilt is personal and not inheritable" (1944, p. 1). Jackson makes a good point in that a person cannot be held accountable for who their parents were and what they cannot control from birth. Racial profiling caused an otherwise innocent citizen to be considered a criminal, and that is not justifiable even in war.

Instead of using torture or racial profiling as methods to gain intel for the protection of a country's citizens, the use of surveillance is much more agreeable and effective. Intelligence agencies are as needed as physical force in war. " It has been announced that domestic counter-terrorism efforts by the Federal Bureau of Investigations (FBI) and other law enforcement agencies are as important as the use of military force abroad" (Soma et al., 2005, p. 288). Specifically, the PATRIOT Act was passed in order to grant the government the tools to perform more extensive surveillance. " Proponents of the PATRIOT Act claim that if earlier proposed legislation had been enacted prior to the tragic events of 9/11, then the disaster could have been prevented" (Soma et al., 2005, p. 288). Previous worries and stipulation that the invasion of privacy does not merit protection provided by the government quickly went away after the terrorist attacks. "[The] proposals introduced in the aftermath of the attacks went straight through Congress without any discussion, debate, or hearings, as many Americans feared further terrorist attacks were imminent" (Soma et al., 2005, p. 308). This supports that the exchange of civil rights to an extent for protection and good of a country is understood by the citizens themselves. Attacks could

have possibly been prevented had agencies been able to observe for any danger aimed at the country. Concerns over if the PATRIOT Act is merely for the government to abuse power as a “big brother” is understandable, however, the main purpose of the Act “focuses a great deal more on the ‘soft’ aspects of anti-terrorism, such as the disruption of money laundering and other methods of financing terrorism” (Soma et al., 2005, p. 300). Take for example an incident where the PATRIOT Act allowed authorities to arrest a man who maliciously made MSN TV users dial 911 every time the users went online. This caused authorities to respond to fake calls which is a threat to public health and safety (Soma et al., 2005, p. 325). Also consider the case of *Stoutt v. Banco de Puerto Rico*, where Stoutt entered a large loan with the bank, and the bank alerted the FBI of this suspicious activity. Stoutt was charged with bank fraud, however the charge was later dropped and he sued the bank for damages. The bank won for the reason that they receive immunity when reporting suspected illegal activity under the PATRIOT Act (Soma et al., 2005, p. 323) These incidents would not have been resolved had the PATRIOT Act not existed or authorities did not have the power to address them. Violation of civil rights and privacy to an extent in this regard is acceptable and justifiable to allow government to protect its country from harm.

Torture and racial profiling are the ends of a spectrum that disregard the integrity of humanity itself, and they should never be used even in wartime. Surveillance and the PATRIOT Act are better alternatives to helping to provide protection. Although these methods all violate civil liberties, there is

no black and white area that can be assigned. The violations are a very wild and hot debate as to whether they are justifiable and rationally sound, however in times of need, these violations are necessary to the extent of protecting the people. Excluding torture and racial profiling, it is thus acceptable that surveillance and the PATRIOT Act are put to use in times of war for the good of a country and its citizens.