

States seek to take away civil liberties in times of emergency

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Introduction:

In times of emergency, it is not uncommon for states to take away civil liberties in the name of protecting public safety. This is especially true in times of war, other conflicts, natural disasters or pandemics where it can be easier for a ruling authority to take control of citizens' lives and reduce their individual rights to promote a sense of security. This can range from simple measures like curfews to more extreme restrictions of basic freedoms and rights. Like restrictions on freedom of movement and speech, the restriction of access to certain public spaces, and the suspension of certain rights. Though some would name these measures necessary and beneficial, they do come with a cost. The latest example of Covid-19 pandemic has once again proved it.

In this essay I would like to explore why do the states tend to act like these, how do they see civil liberties, what historical examples do we know and what is the cost of providing security during an emergency.

Negative and positive liberties:

To start our discussion, it is vital to understand the concept of liberty and what we might mean when we use it. I would like to address Isaiah Berlin's "Two Concepts of Liberty" lecture (Berlin et al. 2002). According to him the liberty might be understood as the following:

Negative liberty is freedom from external restraint and the freedom to act without interference or constraint from other sources. It is often used to describe the absence of oppressive social restrictions and government control.

Positive liberty is the power and opportunity to act upon one's free will, to be autonomous and self-determining. It is the ability to act upon choices and to make decisions that shape one's life. It is the power to realize one's potential and to be in control of one's life.

In their relations to the state we can say that positive liberties are rights or freedoms that are granted by the state, such as the right to education, healthcare, and employment. Negative liberties, on the other hand, are rights or freedoms that are not granted or imposed by the state, but are instead protected from state interference. Examples of negative liberties include freedom of speech, press, and religion.

How states see liberty:

Exploring how the states see liberties, we have to acknowledge that most states declare to guarantee both types of liberties. In "The State" by Christopher W. Morris the role of the state in promoting justice, both domestically and internationally as well as promoting human rights and to provide security is considered. Morris concludes by discussing the implications of the state for contemporary political philosophy. He argues that the state is a powerful tool for both promoting justice and protecting citizens' rights, but it requires careful management and supervision (Morris 2011).

However, in the 20th century the situation was very much different. Positive liberties generally considered as rather leftist ideas and for example in the Soviet Union there were lots of positive liberties (such as the right to free education and health care, the right to work and receive a salary) but the negative liberties were very much oppressed (the lack of freedom of speech and press, the lack of freedom of assembly and association). On the other hand, in 20th century democracies mostly negative liberties were guaranteed while positive liberties were rarely provided.

In Europe positive liberties began to emerge in the mid-20th century with the development of the idea of the welfare state. This was a period of increased government intervention in the economy and society, and the introduction of social security, unemployment benefits, and other forms of government assistance. This period also saw the emergence of civil rights legislation, which provided for the protection of individual rights and freedoms. In modern day democracies as examined by Merck E. Warren in "Democracy and the State" the ways in which civil liberties can be protected in a democracy and how this can be reconciled with the demands of the state. He also looks at the implications of different types of democratic systems for civil liberties, and how democracy can be used to address issues of inequality and injustice within a state (Warren 2008).

States also typically acknowledge the importance of negative liberties and strive to protect them as a fundamental right of citizens. Negative liberties are often enshrined in the constitutions of states and other laws, such as the Bill of Rights in the United States. In some cases, states have been known to try and limit or restrict negative liberties in order to protect public safety or other interests.

We all know the popular phrase: “So this is how liberty dies...with thunderous applause.” spoken by Senator Padme Amidala in Star Wars Episode III. The Republic and democracy died in a galaxy far, far away exactly “In order to ensure our security and continuing stability” during an emergency (Lucas 2005). But do states actually do something like this in real life?

Historical Arguments:

We know numerous historical examples when in times of emergency states tried to limit liberties of people. Mainly the negative ones are in danger as they are the most vulnerable in the face of government interference.

The most well-known example of civil liberties being taken away by a government is during World War II, when Japanese-American citizens were placed in detainment camps. Thousands of people had to abandon their lives, homes, and businesses overnight and relocate to camps across the country. Although the camps were often considered to be for the safety of the citizens, their civil liberties were severely limited.

Other examples of civil liberties being taken away in times of emergency include the Patriot Act of the United States and the War Measures Acts in Canada. These laws allowed governments to enhance their powers of surveillance and detention, as well as allow for search and seizures that would otherwise be forbidden by the Constitution. Additionally, recent events such as the pandemic have seen governments restrict freedom of movement, implement continued lockdowns, and even temporarily suspend habeas corpus in some places.

More modern example of China during Covid-19. China has implemented a wide range of restrictions on civil liberties since the outbreak of the COVID-19 pandemic. These include: Travel restrictions: The Chinese government has imposed travel restrictions and quarantines on people traveling within and between cities. Surveillance: The Chinese government has implemented extensive surveillance measures, including the use of facial recognition technology and “health codes,” which track citizens’ movements and health status. Censorship: The Chinese government has censored information about the pandemic and suppressed reports of the outbreak in the early stages. Detention and arrests: The Chinese government has detained and arrested people for violating quarantine measures, spreading false information about the virus, and criticizing the government’s handling of the pandemic.

But not only authoritarian China introduced strict restrictions. The harshest restrictions of liberties in democratic countries (France, Germany, Italy, India, and the United Kingdom) during the COVID-19 pandemic have included the implementation of travel bans and quarantines, mandatory workplace closures, and

stay-at-home orders. Some countries have also implemented curfews, restricted public gatherings, and even mandatory mask-wearing. In addition, many countries have suspended civil liberties such as the right to protest and the right to freedom of assembly in an effort to prevent the spread of the virus.

Therefore, states in general (not only authoritarian but democratic as well) tend to restrict civil liberties during emergencies.

Why do they do so?

But why do states tend to act like these? There might be different explanations.

First one is considered with higher “efficiency” in dealing with the emergency. The effectiveness of a state’s response to an emergency is dependent upon the ability of its government to coordinate and mobilize resources in a timely manner. The role of the media in emergencies is becoming increasingly important in providing information to the public and influencing the response of the state. Therefore, we can understand that in order to mobilize resources and stop civil interference with government’s actions, the states may limit the freedoms of people and media to act more freely.

The case of Katrina hurricane response shows the failure of the federal government to adequately respond to the crisis, and the lack of coordination between federal, state, and local agencies. People criticize the state and argue that the federal government should have taken a more proactive role in responding to the disaster, and should have provided more resources and support to the affected states. In "Vulnerable Populations: Hurricane Katrina as a Case Study" Richard M. Zoraster argues that lack of sufficient preparation and relief programs, including access to healthcare and mental health services, contribute to the limited ability of vulnerable populations to recover from disasters. He also calls for appropriate interventions to mitigate the effects of disasters on vulnerable populations, including the enhancement of social services and support (Zoraster 2010). The need for better communication and coordination between the various levels of government, and calls for the establishment of a unified emergency management system is also discussed in this context. Finally, the position of public opinion is that future disasters should be met with a more unified and coordinated response from all levels of government. So basically, we see that some people are willing to give up some of their liberties in exchange for security. They argue for even bigger governmental interference during the emergencies and criticize governments for not being unified and strong.

The second reason why the states act in the manner of absorbing more power is the general will of the states to take as much power as possible in the given situation.

And the situation of emergency is a perfect opportunity for this. The theory of Realism in political science states that states will always try to increase their power, security, and wealth relative to other states. But in the state, itself power also tends to gather on top. The iron law of oligarchy developed by the Italian sociologist Robert Michels claims that all forms of organization, regardless of how democratic they may be when first established, eventually and inevitably develop oligarchic tendencies. This is due to the inevitable and inherent tendency of decision makers at the top to become insulated from the wider membership and to form a clique that will then seek to protect their own interests. In essence, the theory suggests that power is never evenly distributed and that those at the top will always accumulate more power than those at the bottom (Michels 1915). Therefore, in the situation when democratic institutions and public opinion do not oppose concentration of power on the top, the elite groups seek this opportunity to gather as much power as possible.

Costs of taking away liberties:

However, concentration of power and limiting civil liberties comes with a cost especially in democracies.

The first cost of taking away civil liberties in times of emergency is to the citizens' sense of security. Restricting freedom of movement and access to certain areas can make people feel as if their right to safety is being taken away. This can lead to anxiety, fear, and a sense of injustice (Glass 2008). The restrictions can also lead to a sense of mistrust of the government, as citizens feel that their rights are not being respected.

The second cost is to the citizens' economic well-being. Restrictions on freedom of movement can make it difficult for people to get to work, to access essential services, or to travel for leisure. This can lead to a decrease in productivity, an increase in unemployment, and a decrease in economic growth.

The third cost is to citizens' sense of justice. When civil liberties are taken away, citizens can feel that their rights as citizens are being violated. This can lead to feelings of anger and resentment towards the government, as well as a lack of confidence in the government's ability to protect the rights of its citizens.

The main arguments against the removal of civil liberties in times of emergency is that it is a violation of natural rights and is dangerous to democracy. Citizens can feel helpless and impotent when their liberties are taken away, especially without due process or a fair hearing. It can also create an atmosphere of fear and mistrust between the government and citizens, which undermines the core of a functioning democracy.

Conclusion:

Overall, although states have sought to take away civil liberties in times of emergency, it is important to recognize the dangers and potential harms posed by doing so. It is important to ensure that the restrictions are necessary, proportionate, and have a clear purpose. It is also important to ensure that the restrictions are temporary and that citizens are informed of their rights. Finally, it is important to ensure that the restrictions are applied fairly and that there are measures in place to ensure that citizens are able to access the services they need. By taking these steps, states can ensure that civil liberties are not taken away needlessly and that citizens' rights and sense of security are respected. One of the most important factors is the trust of people in the state and that it will not only care about them during emergencies but also return their rights back. Although republics didn't dramatically proclaim themselves empires during Covid-19, it is worth paying attention to what they actually did and not letting the states be under control because of emergencies. It is the responsibility of governments to respect the rights of citizens and recognize the importance of civil liberties to maintain the trust of the people and keep society functioning.

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