

Civil Liberties and Civil Rights in Time of War in the United States

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It was going to be different this time, they said. Unlike other U.S. wars, there would not be any mass denials of free speech nor would any national minorities be singled out for discrimination. (I am using civil liberties to mean free speech and association and civil rights to mean the rights of national or ethnic populations.) The errors of other wars would not be repeated. And it is in times of war and trouble that society most needs open discussion and democratic decision-making. But the bourgeois politicians did not keep these libertarian promises. They never have.

In World War I, it was made illegal to discourage young men from joining the military, and this was interpreted as any public opposition to the war. About 2000 people were prosecuted. The Socialist Party leader, Eugene V. Debs, was arrested and jailed for ten years for giving a speech. During the war there was a hysterical attitude toward all things German (sauerkraut was renamed Liberty Cabbage). German immigrants were attacked and prosecuted. So were radicals, especially the IWW. After the war, there was a wave of repression, including the (Attorney General) Palmer Red Raids. 3,000 supposedly subversive immigrants were rounded up, suspected of being anarchists or communists. 300 of them were deported, including the anarchists Emma Goldman and Alexander Berkman, who were shipped to Russia. The Italian immigrant anarchists, Sacco and Vanzetti, were judicially murdered in this period.

In the Second World War, the most famous violation of civil rights was the rounding up of 120,000 Japanese-Americans and incarcerating them in camps for four years. Two thirds of them were U.S. citizens. This was in response to popular hysteria and done with the support of California Attorney General Earl Warren, later the famous liberal Supreme Court judge. A generation later, the U.S. government officially apologized. It is also coming out now that there was a certain amount of government persecution of U.S. German immigrants. Of course, the racial segregation and oppression of African Americans, in the military and in industry, cannot be regarded as new, war time, acts since they were the continuation of practices from before the war.

There was little violation of civil liberties during this war, mainly due to support of the war by almost all the Left (although 6,000 conscientious objectors were sent to prison). As the government began getting ready for the war, it passed the Smith Act, which forbade anyone from "*advocating the overthrow of the government by force or violence*". On the eve of the war, this was

used to jail the leadership of the U.S. Trotskyists. Perhaps the worse form of oppression during the war was not directly by the government but by the capitalists and their bureaucratic agents in the unions, namely the No Strike pledge. No matter how bad things became on the shop floor or in terms of income — and no matter how much business profited from the war- the workers were not allowed to strike about it.

Local strikes were fought against , not only by the companies, but also by the unions and (especially) by Communist Party members, who put victory for the Soviet Union above all else.

World War II was followed by the long Cold War, which included two significant Hot Wars, the Korean War and the Vietnamese War, as well as numerous smaller military events, such as the overthrow of the Arbenz government in Guatemala, the Cuban invasion, the Dominican invasion, the Berlin blockade, the Quemoy and Matsu incident, the Cuban missile crisis, the contra war in Nicaragua, and so on.

In the fifties the nation was gripped in an an anti-Communist frenzy. Tenth rate politicians got their moment in the sun by howling about the enemy within, especially Joseph McCarthy as well as the congressmen on the House Un-American Activities Committee, and a lot of local little McCarthies and little HUACs. Communist Party members, ex-members, and people who never had had anything to do with the Communist Party, lost their jobs, were fired from government employment, were driven from universities, from the entertainment industry, and from all sorts of less glamorous occupations. The Taft-Hartley Act denied recognition to unions unless their leaders took oaths that they were neither Communists nor Communist sympathizers; this way the unions were purged of Communist Party members. The leaders of the CP were jailed (under the same Smith Act which they had applauded when earlier used against the Trotskyists). The Left in general, which had been dominated by the Communists in the thirties, was now virtually driven underground.

In the sixties (which really goes from the late fifties to the early seventies), the balance of forces changed. A new Left (or New Left) appeared, less willing to be terrorized, with more popular support from sectors of society. The New Left was driven by the issues of Black freedom and opposition to the war in Vietnam. The government did not cease to try to suppress dissent. Fighting against the Black liberation movement, along with the local racist resistance were also techniques of Cold War Communist-baiting and FBI spying, infiltration, and intimidation.

J. Edgar Hoover bugged Martin Luther King,Jr., with the permission of the Kennedys, and sent King anonymous notes encouraging him to commit suicide. King was assassinated, as was Malcolm X. Different wings of the Black Power movement were infiltrated and encouraged to engage in armed conflicts. The Black Panther Party was destroyed in a hail of police bullets. The antiwar movement was also investigated and threatened by all sorts of government repression. Individuals were spied on and wiretapped. Organizations were infiltrated. Dirty tricks were used to get people to suspect each other.

This pattern of repression reached its manic height under President Richard Nixon. Not only did he spy on Black people or the Left (which the system expects) but he had the nerve to use dirty tricks on the establishment. He had his “*enemies list*” of prominent people whom he used the tax department to investigate, and he sent spies into the Democratic Party headquarters. These were methods which were only supposed to be used against the Left and were therefore seen as shocking and unforgivable. Nixon was forced to resign in disgrace.

But this time it was supposed to be different. This ‘War Against Terrorism’ would not be marred by attacks on civil liberties, although security would be a natural concern. Especially

there would be no attack on any nationalities. After all, it was only recently that “*racial profiling*” of Blacks or Hispanics by police was declared politically unacceptable.

Immediately after September 11, there was a nationalist frenzy from below against Arabs and Muslims. People were very frightened by this major attack on U.S. soil and wanted to lash out at someone. In Detroit, young white men gathered every evening in front of a mosque, waving the U.S. flag, and chanting “USA, USA!” Nationally there were attacks on Arab Americans, Muslims, and even Sikhs (whose men wear turbans but are neither Arabs nor Muslims). Several murders were reported. Pilots and passengers on airplanes refused to fly with Arab-looking passengers. The establishment clamped down on this. The president announced that Islam was a religion of peace and met with Muslim imams and Sikh leaders. Memorial gatherings made a point of having imams and Sikh leaders. Anti-Arab and anti-Muslim lynchings were declared violations of U.S. “*brotherhood from sea to shining sea,*” as the song puts it. After all, the U.S. rulers had declared that what the terrorists hated was ‘our’ democracy and freedom. More importantly, racist behavior made it difficult for the U.S. imperialist government to build an international coalition with Arab and Muslim governments against Afghanistan. Much to the disgust of the Israeli regime, it was denied increased aid against the Palestinians (for the moment). The U.S. state declared that the war was not against Islam but against terrorism.

But in fact the state committed itself to a policy of profiling and discriminating against Muslims and Arabs — from above. Over a thousand Middle Eastern men were rounded up and imprisoned, some held for weeks without contact with their families or lawyers — on the excuse, if one was given, of investigations into their visas. (This even included a small number of Jewish college students from Israel!) Five thousand Middle Eastern men were “*encouraged*” to meet with the FBI for interviews. Not one of these people investigated was found to be connected with terrorism, although a number were charged with overstaying their visas!

Attacks on civil liberties were quick to follow. A law was soon passed, with the initials USA PATRIOT Act. It gave federal and other police things they had been wanting for years: more money for new technology, the right to get warrants but not tell the suspects that the warrants existed, to sneak into a place and gather information without telling the subjects about it, to investigate student records or credit records without warrants, to hold non-citizens for up to six months, regardless of immigration judge orders. Contrary to previous law, the FBI and CIA may share information. The military may be used to enforce order inside the US. The definition of terrorism has been expanded to include any organization labeled terrorist by the administration.

These egregious violations of liberty were then expanded by administrative fiat, without consultation with congress. The police were allowed to overhear lawyer-client conversations in prisons for non-citizens. Military tribunals were given the right to try non-citizens, on US soil or overseas, without lawyers, without even the standards of military justice, and able to put subjects to death. After the sixties, the Justice Department had stated rules that the FBI was not allowed to investigate political or religious organizations just because of political dissent; these rules have now been cancelled. The captured al-Qaeda prisoners were declared beyond the protections of the Geneva Conventions. New controls were put on scientific research. Most of this is supported by most U.S. people, out of nationalist feeling or out of a natural hope that the government can keep them from being blown up or poisoned. But there is an increasing number of people calling for the protection of historical freedoms.

These liberties have been called “*bourgeois democratic*” by the Marxists. The original meaning of this term is that these are the rights promised by the capitalist class in its great democratic

revolutions: the English Revolution (of Cromwell and the Levelers), the U.S. Revolution of 1776, the French Revolution, and the South American Revolutions (of Boliver and many others). The program of bourgeois democracy states that “*all men [sic] are created equal,*” calling for “*liberty, fraternity, equality.*” It implies that all people are politically equal and are able to buy and sell equally (with no distinction but the quantity of money they have). This was a deal made by the rising bourgeois class: let us rule economically and we will give the people these democratic rights. (Later Marxists used the concept of bourgeois democratic rights as an excuse for rejecting democracy.)

But the bourgeoisie never carried out its promises, or did so only under never ending pressure from below. The English and French Revolutions ended in the dictatorships of Cromwell and Napoleon. The U.S. Revolution was made by Southern slave-owners in coalition with Northern merchants and was meant to expand the land taken from the Native Americans. Nobody considered women as citizens, until generations had passed and women engaged in mass struggle.

Overall, greater democratic rights were only won by popular struggle. But whenever the popular struggles became too threatening, and the capitalists felt they could not afford to expand freedom, then the capitalist canceled the democratic rights, if they could get away with it. For example, in Europe in the thirties, there was a great deal of turmoil caused by working class struggles. The capitalist ruling class dealt with this by finally organizing mass fascist movements, overthrowing the bourgeois democratic states, establishing dictatorships, and smashing the workers’ unions and parties. When the Left was thoroughly smashed and order restored, capitalist political democracy was restored. The exact same pattern appeared in Chile in the seventies.

Of course, in a war there are bound to be certain limitations. No one expects a community at war to allow the enemy to set up recruiting stations. But limitations on civil liberties have always gone way beyond this. And there has never been reason for gross violations of the rights of whole groups. Real democracy and freedom are not things to be granted only when times are tranquil. It is especially in times of trouble and war that people need to be able to speak their minds, freely associate, and democratically work out solutions for social problems.

The capitalist class and its state cannot be depended on to maintain its promise of democratic liberties and rights, in war or in peace. It never has and it never will. Only revolutionary anarchists are consistent, thorough-going, defenders of popular liberties. Anarchists defend them and work to expand them, to push them to the limit, until they break the bounds of authoritarian society, the state, and the capitalist economy. The anarchist goal is full freedom, popular participation, and directly democratic control-from-below of all society institutions.

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