

Civil Liberties and National Security: An Historical Perspective

Threats to national security are generally associated with restrictions on civil liberties – seen during national crises from the Civil War (and even earlier), through two World Wars, the Cold War, and Vietnam. Although this observation is a commonplace, much more needs to be done to understand the implications from history for our post-9/11 world. This book will feature probing explorations of these issues by leading scholars and researchers. We are seeking simultaneously to draw wisdom from past experience and to understand how the present may present truly distinctive issues.

An optimistic view of American history is that unnecessary restrictions on civil liberties have been limited, and that any overreactions to crises are quickly corrected when the situation returns to normal. The pessimistic view is that overreaction is rampant and leaves permanent scars. Confident assertions about the lessons of history are easy to find, but serious analysis has been less common. This book will attempt to fill the gap.

The topic of the first half of the book is “Learning from Past Episodes of Threat and Response.” These chapters will investigate specific historical episodes in American history. The goal will be to understand how those episodes bear (or perhaps, do not bear) upon present dilemmas. We are interested not only in restrictions on free speech, but also on how national crises impact racial and ethnic minorities, expand state surveillance, and affect the criminal justice system. Chapters in Part I will differ in emphasis, but we hope that authors will keep in mind three basic themes.

- The first theme involves the way in which threats are perceived, presented to the public, categorized (as “wars” or otherwise), and assimilated by public opinion. In other words, how is a real or perceived threat identified and conceptualized?
- The second theme involves the political dynamic of civil liberties restrictions – for example, whether the impetus comes from national leaders or grass roots forces, sources of resistance to these efforts, and how the newly perceived threat is used to advance preexisting agendas.
- Finally, we are interested in the historical trajectory – do these crises lead to permanent retrenchment of civil liberties, or do the effects fade, or is there actually a learning curve that ultimately results in stronger protections for civil liberties?

The second half of the book focuses on “Continuities and Transformations.” The recent decades have seen dramatic changes in the world. To take only the most obvious example, the potential access by non-state actors to weapons of mass destruction may fundamentally change the nature of the appropriate government response. At the same time, technology also makes it possible to fight wars without mass mobilizations of the kind required in the past. But there have been other important changes. Past crises have often impacted racial and ethnic minorities, but today both our demographics and our attitudes toward minority groups have changed in important ways. The Supreme Court

has shown increased confidence in its institutional role, as shown by the Justices' intervention in the 2000 Presidential race. America is now the world's sole superpower but is also faced with a more tenacious international human rights regime. Some of these changes may turn out not to make a fundamental difference, but all of them have the potential to do so.

This book will offer an exceptional opportunity to explore the historical dynamics of an important phenomenon in a more systematic way than ever before. At the same time, it has direct implications for important questions of social policy. In the long run, if we are to cope with present and future crises, we must think deeply about how our historical experience bears on a changing world.

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