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## **Is there really a dichotomy between security and liberty?**

Answer with reference to relevant political theory and using the UK as your primary case study.

*“It would be a mistake to treat human rights as though there were a trade-off to be made between human rights and goals such as security and development. . . . [S]trategies based on the protection of human rights are vital both for our moral standing and the practical effectiveness of our actions”*

(Kofi Annan, “In Larger Freedom: Towards Development, Security and Human Rights for All” 2005)

Benjamin Franklin stated that “they that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.” (Franklin, 1759). This exemplifies that the relationship between security and liberty has been present throughout history. The relationship between security and liberty can change drastically over time and it is contingent upon political ideologies of the government and political circumstances. In this essay I will argue from a descriptive point of view that the dichotomy currently exists due to the anti-terrorist legislation that has been enacted. I will then move into a normative perspective and point out approaches to counter-terrorism that do not necessitate a

dichotomy between security and liberty. Although currently existent, a mutually exclusive relationship between security and liberty is not a necessity.

The British government introduced four new major pieces of anti-terrorist legislation since 2000. The aim of the Terrorism Act of 2000 was to harmonize previous anti-terrorist legislation which was renewed annually (Saward, 2006), while the anti-terrorist legislation which followed was passed as a response to terrorist attacks, on domestic soil as well as internationally. Each new piece of legislation allocated additional power to the state at the expense of the rights of the people of Britain.

Based on the works of Held (1996) and Lijphart (1999), Saward (2006) outlines two schools of thought on models of democracy which must be considered when analyzing the relationship between security and liberty. The majoritarian protective model of democracy suggests that the state has a monopoly on rights and is therefore capable of giving them and taking them away as it pleases. In this model the rights of the people are seen as relative. They can be ranked according to the current political climate or relevant outside factors. The model is mainly concerned with the immediate security threat to a majority of the citizens. The rights of the majority prevail over the rights of the minority (Saward 227). Although not very committed to preserving civil liberties, this model is concerned with finding a balance between security and liberty, implying that there is a dichotomy between the two. This notion implies that in this model there must be a zero-sum game between security and liberty: in order to achieve one, the other must suffer and vice versa. The ideas espoused by this model can be found in statements made by the former Prime Minister, Tony Blair about security and liberty:

“We have got a very clear choice in this country. We either decide that we are going to protect the most basic civil liberties that people have, the right to life. Or we end up in a completely misguided way saying it is more important that people have the freedom of speech to say whatever they want.” (Blair, “PM wins Anti-Terror Vote”)

Much like the majoritarian protective model suggests, the Blair government found it necessary to have a tradeoff between security and liberty. Interestingly enough, however, the public opinion was in favor of the measures put in place: in September of 2001, 83% of the British population approved of the way Blair handled the aftermath of 9/11 (Ipsos MORI, 2002). The image of the collapsing Twin Towers was very fresh in the minds of all, and giving up on some freedoms seemed a reasonable tradeoff. However, as the time passed, the statistics changed: in September of 2002 only 36% of the population approved of Blair’s handling of 9/11 (Ipsos MORI, 2002)

The antithesis of the majoritarian protective model is the constitutional protective model of democracy. This model sees rights as inalienable from the people, and not at the disposal of the state. The focus is put on adherence to international conventions and preservation of legislation and ways from before the change in circumstance, over the perceived national security need (Saward, 228). In doing so, long-term consequences for the liberties of the people are minimal. Another way of minimizing the curtailing of the liberties and rights which is utilized in this model is an increase in scrutiny between the judiciary and the legislature. The constitutional protective model of democracy sees it as very important to avoid rash legislation brought in response to new circumstances and to defer the judiciary its full powers to prevent any infringement upon civil liberties.

The anti-terrorism legislation passed between 2000 and 2006 limits the liberties while augmenting the powers of the state: the state was given rights to stop and search suspicious individuals (Terrorism Act of 2000), deport persons who are considered to be

endorsing terrorism (Prevention of Terrorism Act of 2005), detain suspects without a charge for 28 days (Prevention of Terrorism Act of 2005), revoke trial by jury (Anti-Terrorism Crime and Security Act of 2001), and considered introducing identity cards (Identity Cards Bill 2005), among other measures. The legislation that necessitates a loss of liberties inevitably created a false dichotomy between security and liberty in the minds of people. Eighty-three percent of the population stated they would be willing to carry their ID cards with them at all times (Ipsos MORI 2004). The way the legislation was formulated implied that a decrease in personal liberties would allow for an increase in security.

Despite the current trend which shows a reduction of rights to achieve security, there are several anti-terrorist tactics that have proven themselves useful and that do not violate liberties, and yet are not utilized nearly enough.

Roach (2006) suggests several models of anti-terrorist approaches which do not infringe on liberty of the people, but which still increase security. Roach proposes that instead of criminalizing offenses, putting more emphasis on routine administrative regulations would prevent terrorist from gaining access to items which could be used in a terrorist attack (Roach, 2006). He depicts his proposal using the example of the Terrorism Act of 2006 and nuclear terrorism. Among others, the Act criminalizes trespassing nuclear sites and threats of nuclear terrorism. Roach suggests that instead of these provisions, a further regulation of the nuclear industry could be far more effective in deterring terrorists who would use nuclear material, all while not encroaching on freedom of speech (Roach, 2006). Regulating access to items which can be used in a terrorist attack can prevent a potential terrorist attack while not inducing a state of panic among the population or infringing upon freedoms. Another strategy that enhances security that Roach suggests is adopted from William Haddon's research on minimizing harm before, after, and during

traffic accidents. Haddon's premise was that not enough attention is given to the damage control after accidents; his research led to innovations in air-bags, evacuation, and highway construction (Haddon, 1972). Roach adapted Haddon matrix to deal with the aftermath of a terrorist attack. Roach used an analysis by Allison (2005) to illustrate the importance of Haddon approach: Allison estimated that the number of fatal civilian casualties from traffic accidents while escaping a large city after a bomb attack would be far greater than the number of those who would be killed by the actual bomb (Allison, 2005). Roach suggests investing more resources in emergency preparedness and coordination of third party groups in order to minimize the impact of terrorist attacks. He cites the data from the 9/11 report to support his idea as more than just a 'defeatist damage control' (Roach, 2006, 2158):

"The Commission found that during the 1993 World Trade Center bombing, the evacuation of occupants took four hours, whereas in 2001 between 14,000 and 16,000 people were evacuated in under one hour, due in part to improvements of procedures and facilities since the 1993 attack." (Roach, 2006, 2158)

Through the use of Haddon matrix Roach hopes to minimize the number of casualties from a potential terrorist attack, thus diminishing its impact. Roach takes the utilitarian nature of the Haddon matrix even further: he points out how having a well-organized response team to emergencies of high-proportions as well as coordination of the third parties in rescue missions extend beyond just response to terrorist attacks. The same patterns and approaches can be used in responses to natural disasters such as hurricanes and earthquakes to mitigate the effects of the aftermath and to reduce the number of casualties (Roach, 2006).

The anti-terrorist legislation that was passed between 2000 and 2006 was rather harsh on the liberties and rights of the population of Britain. The theoretical framework explains this by putting the Blair government in the majoritarian protective model of

democracy. The model that puts national security as the first and foremost priority is not likely to be disturbed by a reduction in civil liberties. This approach necessitates a trade-off between liberty and security, resulting in the current existence of dichotomy between the two. However, there are other counter-terrorist tactics, several of which have been discussed above, which increase security without infringing upon liberties. If the government in power at the time of creation of the anti-terrorist legislation had been adhering to the constitutional protective model of democracy, the dichotomy between liberty and security would not exist.

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