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Dedication

This work is dedicated to: The sake of Allah, my Creator and my Master, My great teacher and messenger, Mohammed (peace be upon him), who taught us the purpose of life,

To Medin Abdelfetah, Ramzi Meliani, Maafa Abdnour and Abbas Rami, my friends and my brothers, I would like to thank you for all the good and bad times we had together, for all the food, joy and happiness we shared . To Laabnia Yousra without whom I would not have finished this dissertation, thank you for all your time, efforts and positive thoughts. Also, to all my friends who encouraged and supported me in different ways, together we created countless memories.

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Abstract

On September 11, 2001, four suicide bombings hit the American soil, targeting important places such as the Twin Towers of the World Trade Center in New York, and the pentagon in Washington. Nineteen members of Al-Qaeda hijacked four planes and killed almost three thousands persons. These attacks highly affected Americans. It also affected immediately American civil liberties and violated their civil rights. American civil liberties are very important aspect of the American way of life. It is a distinguishing mark that makes them special from other nations. The founding fathers when trying to protect these civil liberties believed that drafting them in one document is the best way to maintain them for future generation. Without these liberties they will fall under the rule of powerful government. Preserving civil liberties during period of two world wars and cold war was the challenge to Americans, that phase of time witnessed the various attempts of the government to limit those liberties in favor of the greater good. At some point of that time, Americans loosened up to the government due to fear of war and losing the war to communists. They woke up at the few last moments and saved what they can and that was only after the government established new agencies, passed some laws that limits civil liberties and developed new means of surveillance to monitor every citizen of American soil. The action of American government that was based on its thirst for more power and more control lead it to violate the Bill of Rights by the agencies the government created. After 9/11 attacks, agencies started using the full power given to them in order to achieve security and stop future attacks on American soils. The patriot act and the surveillance methods were such actions that frightened Americans more than it made them feel peace. At the end, these experiences allowed citizens to know what is threatening their liberty and how should they protect it in order to pass it to future generations.

ملخص

في 11 سبتمبر 2001 ، ضربت أربعة تفجيرات انتحارية الأراضي الأمريكية ، واستهدفت أماكن مهمة مثل برجى مركز التجارة العالمي في نيويورك والبنتاغون في واشنطن. قام 19 من أعضاء تنظيم القاعدة باختطاف أربع طائرات وقتلوا ما يقرب من ثلاثة آلاف شخص. هذه الهجمات أثرت بشدة على الأميركيين. كما أثرت مباشرة على الحريات المدنية الأمريكية وانتهكت حقوقهم المدنية. تعد الحريات المدنية الأمريكية مهمّة للغاية بالنسبة الأميركيين. إنها علامة تجعلهم مميزين عن الدول الأخرى. اعتقد المؤسسون عند محاولة حماية هذه الحريات المدنية أن صياغة هذه الوثائق في وثيقة واحدة هي أفضل طريقة للحفاظ عليها لجيل المستقبل. بدون هذه الحريات سوف يقعون تحت حكم الحكومة القوية. كان الحفاظ على الحريات المدنية خلال فترة الحربين العالميتين والحرب الباردة هو التحدي الذي يواجه الأميركيين ، حيث شهدت تلك المرحلة من الزمن محاولات الحكومة المختلفة للحد من تلك الحريات لصالح الرأي العام. في مرحلة ما من ذلك الوقت ، خسر الأميركيون الحكومة بسبب الخوف من الحرب وخسارة الحرب للشيوعيين. استيقظوا في اللحظات الأخيرة القليلة وحفظوا ما في وسعهم وكان ذلك فقط بعد أن أنشأت الحكومة وكالات جديدة ، وسنت بعض القوانين التي تحد من الحريات المدنية وطورت وسائل جديدة للمراقبة لمراقبة كل مواطن من سكان الأراضي الأمريكية. إن تصرف الحكومة الأمريكية الذي كان يعتمد على تعطشها لمزيد من السلطة والمزيد من السيطرة يؤدي إلى انتهاك قانون الحقوق من قبل الوكالات التي أنشأتها الحكومة. بعد هجمات 11 سبتمبر ، بدأت الوكالات في استخدام القوة الكاملة الممنوحة لهم من أجل تحقيق الأمن ووقف الهجمات المستقبلية على التراب الأمريكي. كان الفعل الوطني وأساليب المراقبة من الأعمال التي أرهبت الأميركيين أكثر مما جعلتهم يشعرون بالسلام. في النهاية، سمحت هذه التجارب للمواطنين بمعرفة ما يهدد حريتهم وكيف ينبغي حمايتهم من أجل نقلها إلى الأجيال القادمة.

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Introduction

The American history might be considered as a unique one, each time Americans go through war or conflict in somehow America always lose. Yet, this nation's biggest war has always paved the way for something beneficial to them. For example if they lose a war or get lost in that war, they win liberties, rights, power or even a stronger position within world's nations. Among these awards is the most diamond of trophies, it is civil liberty. Each time Americans trigger the issue of civil liberties it gives Americans new spirit. The flaw of American history that has been following it forever is America's war on terrorism. The only war that brought loses to America since history could recall. American war on terror is war that was triggered by President George W. Bush as kind of answer to the rumors on American power and its lack of ability to protect its soils. The president chose the use of more than half-American firepower, technology and militia. The announcement of war on terror was crucial step in American history. President Bush expressed his anger and hopes of getting rid of all terrorists in hand all over the world, he also stated that the begging of this war is al-Qaida group. This war included countries such as Afghanistan and Iraq. The results of this declaration and this war were at first promising to all people, but not that promising to their money. American government had to spend money for overseas operations, the high increase in the budget concerning veterans in order to treat wounded soldiers and lowering the country's savings banks. All of these actions were boosted by the 9/11 attacks on the Twin Towers and the Pentagon, the tragic loses of that day can never be forgotten. These attacks have destroyed American's ideas of being untouched by terror and made them more afraid than they ever were. The 9/11 attacks are various attacks by terrorists who hijacked planes filled with passengers from American's airports. They have planned for this operation for long time; they trained on American soils, they brought illegal money from America and legalized it, they practically did everything in America and attacked it from within. The

results of these attacks were catastrophic from every single aspect, even in case of their civil liberties. Which raises an important question, why does such attack affects a hundred years old document that protects these civil liberties?

In order to answer this question it is necessary to understand liberty itself before engaging in the vast sea of American civil liberties. Understanding it might provide a clearer image of civil liberties and the situation. Defining liberty then civil liberties is just the door for new space that lead to examining the constitution and how are civil liberties protected by this constitution. Throughout this process, it is possible to encounter a dilemma in distinguishing civil liberties from civil rights and confuses things out. The roots of civil liberties are the solution to this problem, they explain accurately how civil liberties started and separated from civil rights and how are they preserved until now. All of these will lead to another ambiguity and confusions in understanding Americans interest in these liberties.

To satisfy the most important requirements for the sake of finding an answer to this question, it is important to have an idea on the way Americans got these civil liberties and what threat they impose on American homeland security and protecting American civilians. Homeland security is something that is not negotiable to the government even if the risks are civil liberties; the periods of the First World War, the Second World War and the Cold War are the examples that can prove such assumptions. It is not that important if you are American or not, the American government does not distinguish that fact if there is the slightest believe that someone might threaten the American safety and security.

As final part in answering this question is studying the 9/11 attacks' results and outcomes and how did they influence civil liberties. This influence is mainly to the American citizens, population liberties, and the way they suffered in losing them. They suffered from lack of freedom, unconstitutional behaviors, violating civil liberties and losing the heritage that their

founding fathers left them. The outcome of the attacks and the government's actions lead to the appearance of brand new problems to American. The hatred the attacks have left, the unconstitutional behavior and the Muslim background of the hijackers directed all the hatred towards Arabs and Muslims in general which made it a living hell for all of them.

The immense impact the attacks have on Americans is seen in their television, social media and even literature. Topics concerning this topic are always in reach when surfing the web which make it a very interesting topic that holds a lot of information and excitement in its details.

At the outset, *Protecting What Matters: Technology, Security and Liberty Since 9/11* by Clayton Northouse is a book that investigates the possibility to safeguard the Americans without dropping the fact that during any crisis American liberties are on straight high road towards demolishing. He also highlights the American ability to balance liberty and security in order to save them from the increasing dangers of terrorism, never the less he strongly pointed that the fact shows American liberty and security are in danger and they must save them and protect them. In the same framework, *Before the Next Attack: Preserving Civil Liberties in an Age of Terrorism* is a book written by Bruce Ackerman in which it explains different point of view that the writer trying to criticize the court law describing it as a threat which is going to devastate civil liberties. In this book, Bruce A. Ackerman objects the court decisions that prevent the president of acting straight away to these attacks. He supports his case with the various examples from various nations such as France, South Africa and Britain. These are some examples of countries that could not protect their citizens or their fundamental liberties. Finally, "Personal Security vs. Civil Liberties after 9/11: Some Evidence from Sober Second Thoughts" by Darren W. Davis and Brain D. Silver, explores how the terrorist attacks in the United States greatly affected the the American democratic

norms and the civil liberties. It also examines the extent to which greater confabulation over rights drives to greater support for the American democratic norms.

For a better support to the present study, qualitative approach will be applied incongruence to the analytical approach to assess the effect of the 9/11 attacks on the US civil liberties. The issue of civil liberties is very delicate because it attracts all people in America. For the sake of backing this research, the historical analysis will be applied as well to evaluate American civil liberties and how it did develop after the 9-11 attacks and in what way this development affected the United States. Furthermore, situational approach is among the used methods that helped in assessing American civil liberties in relation to the US politics. Discourse analysis will be used as tool to help in analyzing and interpreting some speeches of highly important government officials, politicians, parliament members...etc. The MLA style will be used in this study.

The main purpose in conducting this research is giving a glance on these civil liberties and the importance they carry. Furthermore, to know how American security changed in the aftermath of the attack. In addition, having a wide idea on the way civil liberties threatened in the following years of the attack. This research examines a dark period on the history of America and Muslims alike; it affected both sides in different degrees.

Chapter One

Historical Tone of American Civil Liberties

Civil liberties are amongst the leading political values in American society. Americans recognize them as basic subsistence to protect their own freedom without governments intrude. The American civil liberties were not a gift given to them; they fought furious battles order to get these liberties. However, the American civil liberties have changed dramatically throughout the years. Civil liberties represents American identity, it is an issue that they fought for even before drafting the bill of rights and continued throughout the First World War. The Americans can go at ease in any matter in their daily life except their personal freedoms, for that they kept fighting and struggling during the Second World War and the Cold War because losing those battles is losing their freedoms. The 9/11 attacks are labeled as a turning point in the history of USA's civil liberties that permanently triggered the status of some laws. Accordingly, the current chapter that is entitled " A Historical Tone of American civil liberties" aims at providing a historical background about civil liberties. Nevertheless, before defining it, this chapter will explain what is meant by liberty itself and what its main compositions are. In addition, it will deal with civil liberty and the constitution in order to explain how the constitution protects these liberties. Another fundamental aspect is the history or background of civil liberties without forgetting its core, which is the bill of rights.

1. Understanding American Civil Liberties

The first part opens the discussion of an issue that has been and will always be crucial in American's daily life. It is a challenge they are facing is the heart of their life, for that it is essential to examine it from its birth going through the basic marks or stops in history in order to have full and general idea to assess civil liberties after 9/11 attacks.

1.1. Definition of Liberty

People live their lives under power and laws of others; they are not living their lives according to nature. For that, liberty is the situation that humans pass through without the control of anyone or anything. In political society, liberty is being free from any existing power except that which is natural power (Jones 73). In other words liberty is to be free from boundaries and free from pressure.

Liberty is the existences of those conditions of social life without which no one can in general be at his best self. Liberty is the eager maintenance of that atmosphere in which men have the opportunities to be their best selves. (Laski 63)

Laski explains that liberty is the person's freedom to show and reveal his nature with no interference what so ever. Liberty is one of the most important conditions to enjoy the rights of an individual. It is also the substitution of rational restrains with irrational ones; in other words it is replacing laws imposed by others with laws which are natural laws not made by humans. Moreover, liberty is the social conditions that prevent each one from being and behaving casually.

Every human being is pursuing liberty, yet it is not possible to say accurately what it is this liberty since everyone sees liberty in his own way; someone might see liberty as the ability to as ones want within limits while other might see it as having no limits in life. If speaking about liberty means the same as civil liberty and that we are not able to provide accurate definition of the term then it can be seen as a correct definition. On the other hand, if the intention is to declare civil liberty as indefinable term throughout time and that we cannot have close or even broad idea about it then it can be said it is wrong one. Civil liberty has the same idea of liberty, which is unrestrained behavior that anyone can apply. In other words the

ideas of civil liberty and liberty are different sides of the same coin, civil liberty carries within it same criteria of liberty (Lieber 6). In addition, they are considered an important part in people pursuit of happiness.

As stated in the philosophers Schmitz and Brennan in their artistic book *A Brief History of Liberty*, liberty or freedom (the two terms are used interchangeably by the author) are divided into two kinds. We usually associate our freedom with the absence of obstacles. For example, the American Congress protects the people's freedom of expression by not taking into consideration or by not passing any law that constrains and limit this freedom. In addition to that, liberty is in play when the asked question is who governs me? Rather than How far does government interfere with me? (11). The two terms serve the same function and the same aim, which is to have freedom from boundaries.

Carter, a professor in the University of Pavia and a researcher at the Oxford university, wrote in his article "Positive and Negative Liberty" gave superb distinction between the two. Negative liberty is when there are no constrains nor obstacles to the individual. A person has negative liberty to the extent that actions are available to one in this negative sense. Positive liberty is the possibility to behave as one pleases him and in the way he believes right to achieve his fundamental purposes. For instance, for a bird to be free to fly, it must have wings and energy to take off. It is not enough that no one stops the bird. For any human to be free he should have a working airplane and a pilot, not just authorization (3-4). The difference between positive and negative freedoms is putting a thin line between being free to choose goals of one's own and being unlimited in chasing those goals.

Based on Mill's book *On Liberty*, liberty is human being ability to behave according to his desires. Yet in the current world, it is highly linked to many other aspects and parts of life including politics, economy and social liberty. Liberty is the free will that anyone poses in order to choose between different possible courses of action. Liberty is generally used in

situations such as individual issues while freedom is used to refer to greater entity and they can be used interchangeably. Many rights can be seen as an important part of developing ones personality, the right to liberty or freedom is priceless one. In fact, the real rights will cease to exist if we take away liberty. (25-27). Liberty in all its types is the most loved, liked, admired and worshiped by the people.

The previous title provided brief definition of liberty according to various scholars and writers. Liberty is the state of having the ability to behave according to what an individual believes is appropriate and accurate. Yet, this behavior should not be bounded in order not to turn the human life to jungle.

1.2. Types of Liberty

Liberty means the state that someone is capable of behaving in the way that pleases him to achieve his dreams. Liberty is vast and large word that holds within it many types shared by all humans including natural liberty, political liberty, individual liberty, economic liberty, national liberty, religious liberty and civil liberty (Kolm 25-46).

1.2.1. Natural liberty

The term natural liberty has been very famous in previous years in which it means the ability to enjoy unbounded natural freedom. And in order to explain it on day-to-day life people say that since human being is born on its own without anything that hold him or since he was born free, he has the right to enjoy his freedom the way it suits him. It is common idea that humans have inherited their freedom and their right to be free from nature and for that natural reason is the basis of liberty. However, the state of freedom cannot happen in nature or in “jungle society” because the unlimited freedom can establish chaos and disorder (Strut 6-10).

Natural liberty involves the freedom to do as you please for that individual with such liberty care only about themselves and things they own rather than society. It is also the freedom that put humans in situation where they can act according to what they thing fit, in that case they will not care about social structures. For example, men in primitive life are all dependent on natural liberty that guides their lives.

1.2.2. Political liberty

The chance of using political rights by the people is described as political liberty, and since people have opportunity to participate in the political process, they are enjoying political liberty. It is also the privilege to perform their right of voting, right to contest election, right to hold public office, right to criticize and oppose the policies of the government, right to perform political parties, and the right to change the government through constitutional means (Williams 9-14).

Political liberty in much simpler words is the right to criticize the government according the constitution and throughout constitutional means. It is also the citizens right to perform their duties such as voting, strikes and objecting government policies. For example taking the action to vote and choose the best candidate for presidency is political liberty.

1.2.3. Individual liberty

Individual liberty is the freedom to follow one's ambition and passion as person, yet it is not one, which contradicts with others concerns. Freedom of speech and expression, freedom of residence, freedom of movement, freedom of conscience, freedom of tastes and quest, freedom to choose any profession or trade or occupation, the right to own something, the choice of specific ideology, they are under the umbrella of individual freedom. Nonetheless, all of them must be used in a way that does not interfere in the public morality (Tucker 24-46).

It is the liberty that and individual have with the freedom from any kind of resistance when performing that freedom. It is also the right to do any action that does not harm others in short or long term period. In other words it is that kind of freedom that ends when others freedom starts. For example expressing opinion about something in respective manner is kind of individual freedom.

1.2.4. Economic liberty

Economic liberty is not being restrained by the next day's needs and having the opportunity to earn a living. Furthermore, it is having enough money to eat, buy clothes and have roof over your head. On the same line of thoughts, economic liberty stands for the right to have security and chance in having daily bread. It can only be achieved when there is no more hunger, starvation or unemployment. Without decent economic liberty, political liberty becomes worthless and in order to achieve it people need to get rid of their fear that stops them from having all their rights and liberties (Cox 20-40).

The situation of freedom from the needs of tomorrow and having decent life and decent money with acceptable shelter is economic freedom. It is the status that each individual has a job, food in the fridge and no more homeless people.

1.2.5. National Liberty

National liberty and independence are two faces of same coin. It means complete freedom of the people of each state. In order for it to be realized on real life people should first, have a constitution of their own that holds amendments they support and accept to work with.

Second, freely choose their members of the governments without any pressure of any kind.

Third, to be able to pick a policy and program that identifies their identity and helps them in their daily life. The fifth one is to live freely from any colonization. Sixth, one is mainly living freely from external control of any kind whether political, cultural or military (DeMoss 3-10).

It means the ability to watch out for the country and do not be a subject to others control. It is also taking care of the necessities and takes responsibility for the actions and policies of the country. For example, the case of Algerians when they got their independence yet kept under the French administration concerning petrol.

1.2.6. Religious and Moral Liberty

Religious liberty stands for the right to believe or not believe in any religion, it is also the freedom of faith and worship without any interference from the government. Additionally, it is equality between all religions and freely exercises their rituals in their society. Likewise, moral liberty is birthright in acting according to one's principles and following a path to obtain self-perfection and moral values (Lutheran 10-15).

In other words, moral liberty is the human's right to choose the values that he is going to spend the rest of his life following. For example, person's choice to live his life without laying or speaking behind others back. On the other hand, religious liberty is the choice to follow a certain religion or belief without being punished by the government or the society. For example, someone's family is Christian but he is a Muslim because he searched and realized that prophet Mohammed (peace be upon him) is the last of the prophets and Islam is religion that collect and complete all previous religions.

1.2.7. Civil Liberty

Civil liberty is the liberty that each individual have as part of society, it is available equally to all members of society. Unlike natural liberty, civil liberty is restrained with some logical laws and boundaries that are placed by the states. In addition to that, it has two features, the first one that is guarantying civil liberty by the state while the second one is protecting rights and freedoms from any interference. The earlier is liberty by the law that provides needed conditions to enjoy liberty. It also forbid and protects it from putting barriers in the path of

enjoying liberty. The latter is safeguarding civil liberty from any violation by the government throughout handing out and ensuring the basic rights of the people. Thus, when someone asks for liberty he asks it in all its kinds (Espejo 14-20).

Civil liberty is the protection that society has against the governments' violence or its interference. Freedom of speech, freedom to make meetings and gatherings, freedom to have guns and to criticize the government are all civil liberties that are guaranteed by the constitution. For example, anyone can buy a gun at any time without being subject to questioning.

1.3. What is Civil Liberty?

American civil liberties are the soul of nation, any violation of these liberties my and in a war between the government and the citizen's. For that, the founding father established unchangeable limit so the government's greed does not reach these sacred liberties.

All over the world laws shape the same requisite function. They limit citizens' liberty through creating hindrances that bound their freedom. However, some liberties are worthy to be bounded since most of them lead to unconstitutional behaviors; killing people randomly, for instance. These freedoms are acknowledged as civil liberties. In the same line of thought civil liberties is one of the most immense issues that occupy a sacred position in the American's history (Head 3).

Civil liberties form a huge part of American daily life in which understanding it is an important behavior that should apply to all citizens. According to Walker in his book *Civil Liberties in America*, civil liberties are legal laws people have to protect themselves from their government's interference. They are a heroic icon that Americans use to stand over and against their government. Civil liberties are one of the Anglo-American basic traditions that seek for establishing a controlled government by fighting for what they believe in or making a

stand against the government which is considered a noble figure in their political heritage (1-2).

Theoretically speaking, civil liberties are a set of rights that guarantee legal freedom of American citizens. Notable figures such as Patrick Henry, Thomas Jefferson, Justice Holmes and Benjamin Franklin among others have explored civil liberties in terms of the citizens' freedom to criticize the government. In the same context, Justice Holmes stated, those who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty. They will not allow the government to suppress the jewel of liberty, and not anyone who approaches it should be trusted. Safeguarding civil liberties is important task interested to all Americans (Lohia 9).

Living life at a country that prides himself with having great amount of freedom and civil liberties without known the history and the meaning of civil liberties is almost a cultural crime. Samuel Walker in his book *In Defense of American Liberties* defines civil liberties as the particular rights that individuals has against the government. America's civil liberties are counted in the Bill of rights. It is a continuous way of redefining freedom in the United States in relation to the Bill of rights. The history of the United States of America indicates that the brightness of the ancestors who created a flexible constitution and its ability to adapt to the unsteady circumstances is what holds the nation together along with the people's liberties (6).

Civil liberties have provided Americans with two kinds of privileges that Americans cherish in their life. Schultz and vile in their book "*the encyclopedia of civil liberties in America*" stated that the expression "civil liberties" itself depicts two aspects of citizens life. On the one hand, an individual has the freedom against the government's interference while on the other hand it is the citizen's rights to be treated equally by the government. All humans are born with liberty; they created governments in order to provide them with safety and any other kind of aid they need without forgetting to safeguard their natural legacy of liberty.

Governments created by the people are only entitled to use the amount of power that people chose to grant them (184).

From all the above definitions, we can assume that they all agree to some extent to a definition of civil liberty. It is personal freedoms and liberties that the government cannot change and they are what protect the individual from the government's harassment. Likewise, civil liberty should be understood more within its constitutional framework that is going to be discussed next.

1.4. Civil Liberty in Constitutional Framework

Civil liberties are a set of rights that protect the citizens in their daily life such as protection from discrimination, freedom of thought and freedom of speech. These liberties are insured in the bill of rights so it cannot be forgotten or changed throughout time, it is also protected by the constitution from any kind of violation from any governmental power.

The process of making civil liberties protected by the constitution was not that easy. During the few first days of writing the constitution, the bill of rights was not a part of it. Brigham in his book "*Civil Liberties and American Democracy*" pointed out that the founding fathers believed that the constitution of each state has enough amendments that could protect the individual from strong governments and they do not need to add such laws in the original script of the constitution. Yet, the original script of the constitution itself had within it some guarantees to protect the citizens. The American constitution ensures the protection of the individual's civil liberties throughout the first ten amendments, which are called the Bill of Rights. It was the outcome of the clash in the epic background of England and America that started with Magna Carta and came to conclusion with the Bill of Rights. In it there are granted protections against the violations of liberty by the governments. For example, the first amendment holds the right to express opinion even if the majority finds it outrageous (8).

All over the world, the majority who wins the election or the party who gets the majority of votes wins the election and accordingly the majority rules that country. Yet, in the United States, the bill of rights changes that fact in matters of liberties. Dimitrakopoulos in his book *“Individual Rights and Liberties Under the U.S Constitution: The Case Law of The U.S. Supreme court”* noted that the basic of democracy is that the rule of the country is given to the majority’s choice, yet the Bill of Rights states that there are some things the majority cannot perform. They cannot chose to segregate based on race, declare what are legal ideas and what are not, cannot pass laws that puts a religion in better sport then another religion and they cannot assault others privacy. The responsibility of the Bill of Rights is to take some topics out of the political arena, since it is changing each day and putt it away from the hands of those officials who want to violate it. Installing it as principles to be applied by the courts is a necessity. Citizens’ rights are neither subject to change nor to voting and they do not depend on any election (219).

In more simple words, the bill of rights purpose is to put the individual liberty in an unattainable place so politicians can never harm it. The majority that rules does not have the power to enact laws that harm the minority; everyone is protected along with his or her liberty.

2. US Civil Liberties in Historical Background

Civil liberties exist in almost every constitution on the world, the difference between each nation is that some nations apply it while to others is just ink on paper. Their governments are in control of everything they just live as their governments tell them. On the other hand Americans live different kind of life, they worship their freedoms and liberties; they can forgive anything except playing with the 13th, 14th and 15th amendments.

2.1. Civil Liberties versus Civil Rights

Many people mix civil liberties with civil rights. Since they are part of their daily life and they encounter them almost every day they tend to use them interchangeably. In short, civil liberty is all what is mentioned in the bill of rights like freedom of speech, civil rights are legal protections like the right to vote.

The familiar in distinguishing the terms created an interchangeable usage in which civil liberties can mean civil rights and civil rights can mean civil liberties. Newman in his book "*civil liberty and civil rights*" clearly stated that to differentiating civil right from civil liberty must be linked to the events and circumstances that occurred within the line of history. During the first years of the cold war, from the late 1940s, liberal anticommunist pursued the creation of clear separation in their interest to distinguish their fight for racial rights and their belief that national security need more restriction and due process rights of suspected subversives. In order to achieve this desire the anticommunists took two terms that are used to be employed alternatively and initiated gap between the two (113).

Regardless of all the provided definitions of the two terms, the gap between civil rights and civil liberties was due to various historical circumstances including their desire to separate race issues from communist issues, which resulted in creating civil rights and liberties. Since then, civil rights have been associated with the struggle to be racially equal and the fight against public and private discrimination. Various movements are known as claimers of civil rights. However, civil liberty has been known for claiming individual rights against the government (Domino 300).

All in all the distinction between civil liberty and civil right can be managed clearly. Civil liberties are the equal protection from the law while civil rights are equal protection of the law. This example will clarify more the difference between the two, a female and male working at the same office. Both of them does not have the right to promotion because there is no law that guarantees promotion and it is not guaranteed civil liberty. However, promoting

a worker because he is a male and not promoting a worker because she is female then there is clear violation of civil rights with clear discrimination based on gender.

2.1. The Bill of Rights and the American Civil Liberties

During the period of independence from the United Kingdom, the first settlers wanted to have a document that guarantees the freedoms and liberties they once had when they were under the United Kingdom's rule. They created their constitution alongside with bill that holds within it their civil liberties as humans. During the process of drafting the constitution and while sending it to the states to approve it; none of the civil liberties was mentioned. After they sent the constitution to the states in 1787 so they approve it. In the state of Virginia along with many other states, their main demands are to include the bill of rights and clear statement that protect civil liberties in the constitution (Hartley, William H 1).

The bill of rights before 1868 was protecting the Americans from the federal government only, but with the coming of the fourteenth amendment, it protected them from the violation of the government. Civil liberties are deeply entrenched in the bill of rights they are the shelter people have from government's power. For that, the courts started to apply the amendments bit by bit and by 1969, the Supreme Court had incorporated all the amendments in the bill of rights (Hand 9).

Since 1978 over ten thousand constitutional amendments have been introduced in congress, in the last decade almost two hundred constitutional amendment were provided. Yet, only few succeeded in reaching the light. The first amendments insist on the rights of freedom of religion that ban congress from passing any law that favors a religion over another and having freedom to perform any rituals as well as the freedom of press, speech, assembly and petition (Lele 15).

The Second Amendment acknowledges the citizens right to have arms and insures that this right will not be touched. The third amendment forbids the government from using the citizen's homes without the approval of the owners. It is based on the case of *Engblom v. Carey*. It is the one and only case in which the decision is based on direct challenge under the third amendment. During the strike of the New York City correction officers the national guardsman performed some of their duties for that the officers were kicked out of their houses in order to house the guardsman. In his case, Engblom's lawyer stated that under the third amendment the national guardsman are soldiers and the state is housing them in the defendant house without his acceptance. The fourth amendment clearly state that no force can search a property or take someone into chastity without an obvious and clear cause and a warrant (Bell).

The Fifth Amendment does not allow any force to hold someone in jail without any evidence that he is suspect in that crime. It also protects the legal rights of the citizens. On the other side, the sixth amendment insures a fast trail, right to legal counsel for the criminals, right for having witnesses and attending the trail, right to know what are the charges he is accused with and the right to know all the previous mentioned rights (Sobul 14).

The Seventh amendment insures trial by a jury in civil cases while the eighth amendment ban unreasonable bail, fine or harsh punishment. On top of that, the ninth amendment bring into the open that by not mentioning some rights mean that they can be violated. Furthermore, the tenth amendment declares that there are some powers, which belong to the people, are not delegated to the United States, and are not banned from the states (Schwartz 230).

According to Vile in his article "Explicit and Authentic Acts: Amending the U.S. Constitution" there are seventeen amendments that are subsequent to the bill of rights, most of them are in favor of extending individual civil liberties while the others are related to changing the basic governmental structure. The subsequent amendments are starting from the

eleventh amendment ending up with the twenty-seventh amendment. Although the American constitution is adjusted twenty-seven times, yet only twenty-six of those amendments are being used today since the twenty-fifth amendment contradicted with the eighteenth amendment

To sum up, the congress received thirty-three (33) amendments as a proposition, only six (6) of them were not accepted by three-quarters (3/4) of the the state legislatures. The ones that passed the test of congress are now what govern states and any violation of any one's right is protected by those amendments. Those amendments represent the American way of life, which is much different then what it was when forming the constitution and getting rid of the United Kingdom's rule.

2.2.1 Origins of Civil Liberties

Civil liberties date back to the thirteen colonies, when the British settlers formed new government and got their independence from United Kingdom their first problem was to protect those liberties they once had in the United Kingdom. During the declaration of independence, the founding fathers created a bill for those liberties so they cannot be changed or modified. Since that time and they are the companion of Americans in their fight for their rights and freedom to live a better life.

No man has a right to citizenship in a democracy, if ... he is unwilling to fight, or is morally or mentally incapable of fighting, for the defense of that democracy against a powerful alien aggressor. (Roosevelt)

The above quotation explains dark period of civil liberties in the United States. The quest of fighting for democracy hold within it the meaning of compromising and scarifying the American civil liberty in order for the country to survive that period. The American president asked the citizens to give up some freedoms and liberties in the name of national security for

the country to pass that crucial turn of history. Yet the first amendment of the American constitution safeguards five basic civil liberties.

When the founding father created the American constitution after they got their independence from United Kingdom's rule, and in 1789 the constitution did not get the blessing of liberty to all people. With the time of the first presidential election of 1789, the right to vote was privilege given to white males owning property. The coming days witnessed the congress widening the range of that privilege to include former male slaves, American Indians and women the right to vote. Susan B. Anthony gave her whole life in order to make woman suffrage a possibility; she voted in her hometown and was captured for illegal voting. In her trail in 1873 she said that she had the right to vote due to the Fourteenth Amendment in which it states that no one state or human can putt a law that deny an American citizen from his rights. Anthony did what she could in order to use that trail as an advertisement for woman suffrage and she said that she will not stop until all American citizens are treated equally, she died before she got to see her dream come true (Barry 100).

These liberties and rights are not god's gift to Americans they have fought throughout decades so they can obtain such privileges. Know they are at crucial step, a turn in their history to hold on into these liberties, preserve them and keeping them for next generations.

2.1. Why are Americans so Pre-occupied with Rights?

America is the land where dreams come into reality, a land that has more opportunity in it than any other country. They have their way of life that they inherited from their ancestors who fought against the United Kingdom to obtain them, since that time and they are developing it. Therefore, for them it is a crucial matter to preserve such way of life and to do that they need to protect their rights and liberties from the government.

The civil war was not a war for territory or for presidency or anything else; it seeks answer to a vital question in the history of the nation and may decide its future path. The ambiguity was in the case of slaves and what entitlements they should have if they are going to have any. Huge numbers of immigrants came to United States from their homeland leaving all their belongings and pursuing opportunities, justice and equal treatment and running from religious and political oppression. More importantly is having detached judiciary gave Americans the power to follow the actions of the government and take legal actions for the sake of saving rights. The consequences of these forces are unmistakable to anyone. United States citizen pass by the court to sue each other's hundred and sixty thousand time a week. No nation holds similar number in the world. The result of all these laws suits is that they show how much Americans are devoted and how much they keep emphasizing their freedoms. Another moral to acquire from all these law cases is that rights are in state of contradiction and only few are definite. For example, as anyone can follow any religion he pleases but he cannot exercise weird rituals such as killing others and sacrificing them (Wilson 37-38).

In conclusion, United States of America is very dependent on civil liberties to keep moving forward. In addition to that, civil liberties safeguard the Americans way of life, the responsibility carried by the American administration and the people can only lead them to the correct path towards achieving what others could not. Americans cannot visualize their life without their unique civil liberties, but the time will come when Americans will not care anymore about these liberties, only then their civilization will vanish.*

Chapter Two

US Civil Liberties and Politics

The American civil liberties have been changed with the change of generations; this change did not harm or affect it in any dangerous way. Moreover, the time and change have either expended or improved civil liberties to contain much more than it already had. What is interesting in the course of history and especially in matters of civil liberties and freedoms is that the policies initiated or signed by the governmental administrations is the threat that Americans fear the most.

Accurately and carefully, might take the liberties that founding fathers spent their lives protecting. An old man could tell the story of civil liberties and how his period did witnessed their victory over government to keep and expand these civil liberties. Nevertheless, that is not all of it; Americans did not get their freedoms in just one period or over one political battle. The form of civil liberties that we see today, the amendments and its application, the understanding of the constitution and its accurate use are all the results of decades of struggling and fighting, they are all result of court cases where sometimes people get their rights and other times judicial system fail to be fair.

1. How Americans Got their Civil Liberties?

Throughout life, everyone realizes that in order to obtain something or to get something there are two solutions, either to work hard for it or to fight for it. Americans did both, they fought for their freedoms and worked hard to keep the government away from those freedoms. Americans obtained those liberties throughout different way and methods and made them untouchable part of their lives.

The framers of the constitution did not feel the need to mention the American liberties literary in the constitution; they believed that if the government does not have power to violate people's freedoms then it would not do that. The constitution was approved on the bases that with the establishment of the new congress they will add the missing laws. In two years, ten amendments were authorized and accepted, they were called "the Bill of Rights". At the time, the bill of rights power affected the national government only. The case of *Barron v. Baltimore* explains it more, the state of Baltimore made some changes in the water stream leading to the harbor which caused huge loses to Barron's job. Under the Fifth Amendment, the city is obliged to compensate him but the court ruled against him arguing that the bill of rights is applied to national government only. After this case the fourteenth amendment interpretation became wider, the new interpretation did not receive a good reception within Supreme Court but the bill of rights became applicable to the states (Mercer 70-117).

Another fundamental case is *Palko v. Connecticut* in 1937 that exemplify the approach used by the judges to apply only the amendments that they think are essential for democratic community. In this case, Palko was guilty with second-degree murder with a sentence of lifetime in jail. His case was appealed and he was found guilty with first-degree murder with decision to execute him. He appealed his case to the court and claimed that no American should be traileed twice for the same case, which is right guaranteed by the constitution. The judge recognized that the bill of right is essential to liberty but it does not mention anything about double jeopardy, and accordingly he was executed. After 33 years, the Supreme Court included all section of the bill of rights and Palko's decision was reversed (Parish 84).

1.1 Freedom of Speech

Throughout period of colonialism, English speech laws were very strict in which no one can criticize the government. They believed that no one should ever have a bad idea on the government. This law was not applied that much in 13 colonies; they had different views on free speech. They had different kind of objections for example; anyone who speaks and deny the trinity or say bad words on high personals will be executed.

On the other hand, the period from 1607 to 1700 witnessed unexpected turn in freedom of speech preparing the ground for Politian to fight for such right. The case of John Peter Zenger in 1735 who criticized the governor at the time, he was jailed and at his trail his lawyer stated the truth should not be considered as an offense and should not be accepted by the law as case, his client said what his eyes saw no more than that. The court rejected the argument, but the lawyer succeeded in convincing the jury and he got his freedom. The case marked the first step in unclear rough road for freedom of speech (Eldridge 180).

Americans tend to use the concept freedom of speech and the first amendment indifferently. However, the two terms are not similar to each other, the first amendment provides shield to freedom of speech and freedom of press, freedom of speech is wider idea that gives extra values to society. These values are composed of intellectual habits that benefits society, accepting others point of view, having different opinions and defending them and accepting other's ability to be right instead of believing that they are always wrong. In modern years, government started a new method of restricting freedom of speech. Students at all level now cannot say bad words in public or make any kind of harassment against anyone. There are no more ideas or free speeches, which is very ambiguous behavior by the educational systems since the field itself is based on free speech and sharing ideas. In other words, the government is growing generation to think that they have the right in intellectual

and emotional comfort. With the coming years people will stop their demand for freedom of speech and will start demanding freedom from speech (Lukianoff 3-12).

1.2. Freedom of Press

Freedom of press and speech are two faces of same coin, speaking on television, writing in journals and speaking publicly are all the same. Almost all cases that apply on freedom of speech can be applied on freedom of press. The supreme court have never accepted that freedom of press is complete but it always stops articles and newspapers from publishing to public whenever it finds something that does not suits its need and it can be more clarified in the case of *Near v. Minnesota* in 1931. In the state of Minnesota, there was a law that bans the newspapers from publishing scandals and abusive pictures or articles. Near printed some articles criticizing the local police and some officials and for that he was ordered to stop the scandal column. The court admitted the his right to publish information as he pleases in which Chief Charles E. Hughes said that restrains could executed to exceptional cases only for example banning the publication of information about troops in war times (Parker 71-73).

The case of *New York Co. v. United States* is milestone in the history of freedom of press. The New York Times had within its reach a copy of the internal department's report that gave detail discussion of the war. In addition, that created a heat debate since they war on the verge of war in Vietnam. These top-secret files are known as Pentagon papers. The American government sent a demand and order to the New York Times not to publish the information on hand since it will threaten homeland security. The response on the New York Times was with the first amendment in which it state that it violate the first amendment. In the court of law, the decision was in favor of the New York Times but stressing the fact that journalists have to use that freedom in reasonable way since they are the gatekeepers of information (willsey).

1.3. Religious Freedom

The first amendment protects the individual right to worship and ban any authority from issuing a law that violate this freedom. Religious freedom is liberty that existed with the establishment of the colony of Maryland, in 1634 it was the main demand of the catholic lord Baltimore. Lord Baltimore is a nobleman from the province of Maryland, in 1649 he introduced the Maryland toleration act; it is act that is linked with religious liberty in which from that day on any one can chose religion that fit him the most. In 1658 the act was passed again to last for longer period. Rhode Island, Connecticut, New Jersey and Pennsylvania opposed the government that distinguish people and became safe place for religious minorities (Brugger 21).

In the case of *Good News Club v. Milford Central School*, the Supreme Court took into consideration two viewpoints. The first one is how did Milford central school breached the free speech rights of the private Christian association through excluding them from meeting after school. The second one is whether this action is based on religious background or no. The court reached a final decision was that depriving the club from any thing just because it is religious club is considered discrimination by religion and it is against the first amendment and thus unconstitutional (Weinberg 44).

1.4. Due process

One of the amendments to the United States constitution that protects individuals from double jeopardy is the Fifth Amendment. It provides a different kind of protections to citizens during trails and questioning and any violation to this amendment by any agency of the states is not accepted or tolerated and could lead to serious outcomes.

Due process must be respected by states and insure all the rights of citizens. Amendment creates a balance between the American law and preserve the American citizen from any harassment. Any act that harms American citizens without following procedures is a violation to due process that harms the rule of law in the country. It is based on fair treatment between all citizens. The term itself gave the government chance to interpret it in various ways. However, during the early history of the Americans the use of the due process clause was not that applicable. It took the supreme court over a half century to apply it. The case of *Murray's Lessee v. Hoboken Land and Improvement Company* is a landmark in the history of the due process clause. During his time as a customs collector for the federal government, Samuel Swartwout stole more than 1 million dollars and bought a land in New Jersey. Based on 1820's act the treasury department issued a warrant of distress against swartwout and took all the money he stole and even the land. In the court, he appealed that the act of 1820 has violated the Fifth Amendment that guarantee due process of law and insures that he cannot be deprived of his property. The court ruled that the law of the land; that means laws applied within the region, rules all citizens. A concept that is established by the Magna Carta or the charter of rights as it is called. When initiating this warrant the 1820's act was applied, and because the constitution does not have any kind of description to the process the court used traditions of common laws. The court said that the Fifth Amendment restrained the congress as well as the executive and judicial branches. From this, the court started analyzing cases according to two steps, the first one is revising the British constitution and cases happened in the British context. The second one is revising the American constitution itself and sees whether there is any kind of contradiction with other provisions (Wasserman 6-7).

It is the greatness of the due process clause that could be seen in two ways in daily life, it is a clause that protects individual when he is suspect of crime. The other side is that protects private property. The case have admitted and revealed that the interpretation of any clause or

amendment is not sufficient unless it is followed by verification of other cases within the line of history.

2. US National security and Civil Liberties

All Americans give much care to their civil liberties that we have shown before in that they fought to save them. In contrast, those liberties could stop at the level of national security. Since the founding fathers, the aim of every American citizen is to have his/her freedom. likewise, every administration should take care of such liberties. However, the latter should be diminished and ignored when the country face a national security measures. Presidential administration may succeed in protecting both while in other times they can only save one of them. The two have crossing point that no administration wants to reach it, they all want to balance both of them but if it takes all administrations and presidents will chose national security over civil liberty.

The word homeland security in white house means that nothing is going to be dealt with unless that problem is solved. As nation that is filled with diversities and as powerful nation, it is exposed to daily threats to national security and civil liberties. Stone in his article "*National security v. civil liberties*" stated that judges could not give accurate judgment when facing situation that involves cases of national security and civil liberties at same time. Due to lack of experience, they have chosen the logical and right path. Regarding the current path, the judges see that any act of the executive or military officials is constitutional whenever it is for national security. The first most famous clash in the history of national security and civil liberties was during the First World War, the American president Woodrow Wilson at the time had strong opposition to the war, yet his administration initiated the espionage and the sedition act. These acts forbid any citizen to criticize the government, the president, the war, the draft, the constitution and the United States military. The Woodrow administration executed two thousand individual for disloyalty which stroke terror in their hearts. The second

clash was during the presidency of Franklin D. Roosevelt who signed an order after the Pearl Harbor attack. The order was not specific to anyone yet it was applied only to Japanese and American Japanese, the following eight months were critical to their lives. Roosevelt's office forced hundred and twenty thousand citizen all over the United States to leave their houses; two thirds of them were American citizens of Japanese origins. They were not sentenced nor charged of any crime, they did not know where they were going and they did not know how long they are going to stay (2204-2205).

2.1. Civil Liberties during the First World War

The most critical period in the history of civil liberties is war times, at such period presidential administrations fall under huge pressure. They fall in endless loup in whether to preserve civil liberties or fighting the war, and since both cannot happen at same time, they have to decide which one to go with. Whenever a war begins; civil or national war the threat on civil liberties escalates quickly and some of those liberties are not available any more. For example, the First World War has brought with it the espionage act of 1917 and the sedition act of 1918.

The United States' congress passed the new law that is called the Espionage Act, the critical part of this law is that it has nothing to do with espionage. It is directed to anyone who makes false statement in public, obstruction of armed forces and insubordination to armed forces could all lead to twenty years in prison or death. Department of justice used the espionage Act to punish anyone who expresses any idea against the war, this punishment started from ordinary people such as the industrial workers to reach even congressman with crimes such expressing antiwar feelings to friend or neighbor. The federal court followed the steps of the department of justice in the case André Boutin. He is an American who wrote in pamphlet that we are all brothers and sisters whether we are living on this side or the other

side of the world and we should help each other to live happily and equally. Responsible judge of the case finally assumed that the pamphlet could destroy soldiers order and suppress their patriotic feelings. People were jailed for criticizing the government actions, writing on newspapers antiwar articles and saying aloud that the Espionage Act law is unconstitutional.

Regarding this case, the American people on spur of a moment found themselves leaving their long solitude, entering the war, and becoming a crucial part of it. The war increased hatred for any foreigner on the other hand, bureaucracy fulminated the federal government. In 1914, most of Americans supported their president and they called him the man who kept them out of war. Five months later the American president declared war on Germany. In order to shift the people's opinion concerning war and with the help of his administration passed some laws to silence the oppositions. Newspapers were shutdown, judges were killed, politicians were jailed and mobs attacked those who are suspected of disloyalty. In June 1917 the American congress passed the Sedition act as extension of the Espionage act, the two acts provided some officials with the power to restrict freedom of press and to spy on letters of newspapers and magazines to approve or disapprove them. Wilson's administration did not just stop at violating the first amendment, but it extended its works to include arresting and deporting people without even giving their constitutional rights to get a hearing in courts (Newton-Matza 190-191).

When America got out of its shell and its first contact with communism had a great effect on civil liberties, the fear from communism forced American government to pass laws that violate civil liberties. During this period of war and crisis American government attempted to not sue anyone whether foreigners or Americans due to their political views. The new agencies at the time used American feelings to keep the current economic and racial situation and to expend their power. These actions were what shaped the First World War, yet that was not all of it.

2.1. Civil liberties from 1939 to 1945

The horror of the First World War disappeared a bit; the Americans had the chance to breathe at ease and rebuild their country's infrastructure along with retrieving their civil rights and liberties. At war time and during the second world war the presidential office's main goal is to stop any criticism and antiwar feelings regardless of the way used and even if that demanded breaching some amendments and taking some liberties from the citizens.

The status of civil liberties after the first world war was not something that can rise hopes up, the bill of rights was violated several times with several actions. Yet, in the Second World War, people felt the sun of hope and the breeze of victory. The United States entrance to the Second World War was not as it was before, for the Americans it was called the "good war" since the Americans liberated Europe and Asia from German and Japanese threats. For that the United States dates got what it wanted from the world's attention overseas, on the other hand the citizens seemed to be calm in front of the eyes of the world. For the Americans, the Second World War was something that united them and killed all what the first world war have done to them, after the attack on pearl harbor all Americans felt that the war is something inevitable. Civil liberties in America have not changed that much between the two wars, after the attacks on Pearl Harbor the American government took eleven hundred persons into jail and considered them as enemies. It also took into custody eight thousand Japanese American two thousand three hundred German American and hundred Italian Americans. Yet, the presidential action targeted one specific group without taking into confederation the fact that they are also American citizens. All of these people were suspects of treason and because it was crucial period in history a suspect is seen guilty directly. The act was against hyphenated Americans in higher degree because the American administration felt they can be spies to their other half of origin and that they hold a great amount of hatred to America. They

believed that at this war no one could be trusted except Native Americans who are born there. A notable case in civil liberties fight is Fred Korematsu case, he did not respond to orders and he argued in court that due process of law had been violated and he won the in the case of *Korematsu v. United States* (Polenberg 11-14).

The case of *Korematsu vs. United States* is an example of the repression of civil liberties in war times. Korematsu is 23 years young man from Japanese descents living in America. During the Second World War and after the attacks of Pearl Harbor, President Roosevelt signed an order to relocate all Japanese in specific military areas; this order is strictly to Japanese. Korematsu refused to leave his job and his house and did not obey the orders to move, he had eye plastic surgery and claimed to be from Spanish ancestry. Korematsu was captured and jailed, at his trail he objected the law of the president arguing that he is American, he was born in America raised in America and he is loyal to America. Yet, the U.S. military's argument that his loyalty and the loyalty of any Japanese are questionable was highly accepted in the court. The case was so interesting for so many civil libertarians, they under took the responsibility to defend him in the supreme court of justice with new argument which is "all legal restrictions which curtail the civil rights of single racial group are immediately suspect". In 1988, civil liberties act contained a formal apology from the government to the Japanese society, and in 1998 Korematsu was awarded the Medal of Freedom by president bill Clinton (Daniels 9-60).

The hysteria the Americans had their raising fear of losing the war, the fear of distraction and the Second World War allowed restraining civil liberties at the time. Japanese in America are hard workers and because they form a big threat to their jobs, Americans welcomed the decision to move them even though it will harm their civil liberties. Finally we can say that Americans as nation took the responsibility of the good war which was a disaster to civil liberties.

2.2. Civil liberties and the Cold War Onwards

The cold war affected American society greatly. During that period people were suspected for anything, if you join a party then you are communist, if speak freely then y are communist and even if think then you are communist. People were jailed jut because they attended political meeting years ago, because they subscribed to particular magazine or even because they had ideas of peace. What is more dangerous is that the bill of rights itself became suspicious.

The reason for such environment is the international politics that shaped the scene in United States. The cold war started in 1947 when the United States gave its word to fight communism anywhere on the world. American government was afraid of the communist expansion on its lands and surrounding territories, this fear was used by several groups in America to pass their interest. During 1940s, the ideas of communism have arose drastically which threatened civil liberties, the 1950s and specifically when political arena took dangerous turn it became a more threatening war than any war they ever been involved in. The United States used the situation the world was in to limit the liberties of citizens as it did in the first and second world wars. During this time, Americans have shown great deal of acceptance and understanding concerning the limitation of American civil as long as they are directed to minorities only (Fried 93).

During the 19th centry Americans objected the communist party, but during the Roosevelt era the flame of anticommunism stayed on. After the war ended, Roosevelt and Truman administrations witnessed a big political competition that developed and became essential to Americans to see arguments and conflicts in their political scene. The criticism was kept at is lowest, the case of loyalty and investigation became important and crucial once again with the cold war appearing in the horizon. The 1946 elections witnessed the republican's victory over

the democrats where they used popular subjects such as communism and strikes (O'Reilly 362-370).

Politicians at the time saw possibility, potential and a chance to use the trending topic of communism. The Federal bureau of investigation was created then developed and expanded more during the First World War. In addition, in the course of actions in 1938 the congress; which was mostly liberal at the time, got its privet tool to investigate radicalism, it was not under the rule of the executive power but it was all independent. The democratic responded with the House Un-American Activities or what is often called Dies Committee; it is an investigation group created in 1938 to investigate disloyal among employees and organization, and with time it became a magic tool to put pressure on federal politics. This organization became useful and famous in fighting anticommunism during 1947. It used the federal bureau of investigation's files to to assault Hollywood studios arguing that it was spreading un-American ideas. The result of that assault was the sentencing filmmakers with prison for not answering whether they were communists or no and refusing to say the names of communist people in Hollywood. In order not to make this action constitutional, they refused to answer any question supporting their actions with the first amendment. The result of such actions of the Dies Committee was the suicide of several producers, writers, firing other workers because they were black listed in the committee, and destroying their social lives for alleged un-American actions (Bennett).

The communist effect of Americans was even greater than anyone could ever think, it is like a bacteria that sneaks into your system and start killing it bit by bit. That was the case for communism; Americans feared it that leads them to breach their holly document of civil liberties in so many ways that they killed their liberties with their own hands. The demand for national security and national bonding in times of crises lead to assaulting freedom of speech through creating new agencies and giving it power. The new established agencies and their

desire to use all the given power at its fullest have provided new ways of breaching civil liberties specially after 9/11 attacks that left its mark in the history of civil liberties and Americans alike. The new agencies work after September 11 attacks have provided a new arena for new threats to civil liberties. The continuous suspicion in Arabs and Muslims created a new form of hatred towards them that eventually turned out to be one of the modern threats to civil liberties.

Chapter Three

Challenges and Changes of Civil Liberties after 9/11 Attacks

The United States have never witnessed a terrorist attack on their main land as the brutal attacks of 9/11. It was a clear warning that terrorism was at America's front door, the Americans realized that their nuclear arsenal and the money they spend on military development could not save them from outdoor threats. The primary shock of the attacks eliminated any concern over the outcome of the government's decision on civil liberties, which is the same case of First World War, Second World War and Cold War. This chapter will discuss the effect of terrorist attacks on America, specifically the effects of the 9/11 attacks on civil liberties. The first part of this chapter sheds light on the changed and omitted civil liberties by the government to advance the security of the nation. In addition, it mentions the new stations that attacked civil liberties such as islamophobia, racism, bad treatment of immigrants and linking terrorism to Arab world. Finally, it explains the case of 2011 gun control with some points about liberty, security and the war on terrorism relationship. Thus, a clear assessment about civil liberties application after 2001 will be sufficient to understand the core idea of this work.

1. The Outcome of 9/11 Attacks on Civil Liberties

The frequent involvement in wars have endangered more than developed American standards by changing its main interest to gaining authority instead of liberating nations. The government actions during times of terror and war have reviled that the United States is interested in firepower more than it cares about political and economic changes that are a fundamental parts in democratic freedom. Fearing terrorism have caused the wide spread of bad governance and that paved the road to terrorism. Americans believe that leaving liberties

fall in other nations had a great effects on them at their homeland. The continual demand for security in America is used by the presidential administrations as a reason for breaching the American liberties.

1.1. American Community in Post 9/11

The American society was highly affected by September 11 attacks, the next few years after the attacks witnessed a daily routine such as military troops patrolling public places, placing cement barriers to protected crucial places, strict new policies for air travel, roadblocks that urge people to call 911 for any weird behavior and posting warnings on television. The Americans did not stop there, television channels lunched new daily program in which they brought experts in terrorism to explain the movement of terrorists. A series of nationalism swept the United States pressuring them to accept new values and stop criticizing the government. Meanwhile, citizens' fear of terrorism changed the public climate; they became afraid even from their local mail carrier accepting all kinds of limitation of due process, unlawful searches and government violation of the bill of rights and civil liberties. President Bush's administration profited from the current situation and used that fear within people's hearts to achieve their own interests and goals bringing destruction to civil liberties. Once again, the Americans exhibited repression of presidential administrations and the increasing demands of the public (Demmer 7-8).

The government absence in calming down the public scene to a community controlled by fear was the event of the time. After 9/11 attacks, no one criticized the government decisions and choices since all what people could see at the time was the pictures of the two towers reoccurring repeatedly in their minds. Americans predicted the next step of their government which was preventing any future attack at all costs that was not all of it, the public demanded severe, strict and harsh action against those who are involved. These demands by Americans

lead to shortage of information concerning the effect of fighting terrorism on civil liberties. The years after the attacks witnessed citizen's fear to be listed as obstructers of terror fighting efforts. For that, Bush's administration took the liberty to identify the problem, establish a political agenda, set up actions and and directed public opinion while citizens stood aside watching (Edley 170-192).

There were several coefficients, which are linked to the lack of public discussion. Piece of it was because Americans were stunned by the abilities of the modern terrorism and what they could achieve if they put their hands on weapons of mass destruction and whether they should do it first. The other piece was because of the government's violent methods after the attacks, which was represented in Bush's well-known claim when he stated that as an American, you should choose a side and it is preferable to choose the winning side. This language was used in order to calm down public fear and make anyone who rejected the government's policies disloyal. The last missing piece of the puzzle is that Americans did not care about foreign policy before 9/11 attacks, for that their primary reaction to the attacks were explained as irrational fear (Banks 29-40).

In the days after 9/11, attacks Americans accepted the limitation the government initiated against their liberties in favor of homeland security and in favor of preventing further attacks. Their acceptance and easiness in behaving with these decisions may be interpreted in different ways by the government and it could even believe that there is a chance to restrain even more people's liberties and gain more power over citizens.

1.2. The USA PATRIOT Act

Based on those attacks, Bush's administration add more power to what it already had in order to fight terrorism. It also brought new security arrangements that affected highly civil liberties. One of the most action threatening civil liberties was the Uniting and Strengthening

America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 or what is known as the USA PATRIOT Act that is going to be explained briefly in the following subtitle.

After six weeks of the attacks on American soil, Bush's administration pushed the congress to pass the PATRIOT Act. "A Summary of the USA PATRIOT Act and the Order on Military Tribunals" is a book that explored the huge need and demand within Americans to protect their land from intruders. On nineteen September general attorney John Ashcroft proposed the act to the congress. On 26 October the Act was voted to become law, some members of the congress objected the method used in such cases stating that they have to vote on bills with hundreds of pages without having the time to read it since they brought it one hour in advance. The PATRIOT Act is aimed to stop and block any action that is possible to be a terrorist action. In addition, it is intended repair number of issues that prevented the government to act in the 9/11 attacks. This act holds within it some modifications such as, help creating a shared database between all American agencies and facilitates the process of changing information and capturing anyone who is suspected of helping terrorists. The core of the PATRIOT Act when it was passed to congress is exchanging information and developing surveillance abilities, modern laws of immigration and immigrants limitation and money laundering and its relationship to terrorism (19-24).

Surveillance measures that are mentioned in the Act were originally written to put power in the hands of the executive branch by upgrading its abilities to watch, follow and record messages between terrorists. Smith and Hung in their book *The Patriot Act Issues and Controversies* denote that the act permitted judicial authorization to spy on voicemail; victims of hacking can ask the police to monitor their private networks without court order and allows the initiation of warrant to investigate terrorism nationally. Another important section is the "sneak and peek" (41) section that allows the agencies not show the the seizing warrant until

after it occur which is applied to all kind of criminals. The PATRIOT Act reduced laws concerning foreign intelligence searches (42-46).

The regulation stepped forward the government's power to carry out prolonged surveillance and bodily searches. It allowed the interception of internet and telephone communications. In addition, it enabled law enforcement officials to achieve authority for roving wiretaps; spying on people using modern methods, on a character suspected of involvement in terrorism to expose any smartphone used by that character, in place of the traditional requirement of separate authorizations for every smartphone used by the suspect (Banks 40-60).

The most profound change, however, grow to be an exchange in acquiring Foreign Intelligence Surveillance Act warrants. Prior to September 11, a Foreign Intelligence Surveillance Act warrant may additionally be given only if "the cause" of the studies becomes to gather overseas intelligence, in an effort to preserve separation between homeland and international safety. The PATRIOT Act modifies this state of affairs to a massive reason of the research; consequently allowing federal law enforcement to attain a Foreign Intelligence Surveillance warrant is a clear attempt to invade citizen's civil liberties and privacy. Another privilege that this agency have is that it can take suspects into prison and investigate them then get a warrant for that. Moreover, if there is a ride of particular house it can initiate the ride capture the suspects and then get a warrant for that. In other words, this agency can do as it pleases as long as it state that the purpose of the investigation is to collect information and data concerning particular investigation (Banks 40-70).

A number of the improved Immigration Provisions of the PATRIOT Act multiplied the grounds to regard an alien inadmissible to the United States for terrorism activities, which includes public endorsement of a terrorist interest, setting the arena for terrorist activities, own

family relation to a banned alien, or association with a terrorist business enterprise. The lawyer popular was granted legal authority to detain suspected foreign terrorists for seven days without courtroom interference, if the alien changed into inadmissible on terrorism associated grounds or if affordable grounds existed to accept as true with he or she become engaged in any pastime that could endanger the United States. Detained aliens who are not in all likelihood to be removed soon can be held for additional six months periods. In doing so, the PATRIOT Act gave the attorney well known nearly unlimited discretion to take the liberty of any person whom he reasonably believed to be a terrorist (Cole 35-39).

The Act's third class, concerning the global cash Laundering Abatement and Anti-Terrorist Financing Act of 2001, extended government management over cash flows distributed in home and global trade. The Act proscribed authorities control over banks' document maintaining disclosure and records sharing to attach financial institutions to the government in a secure bureaucratic network. The Treasury department received the authority to require banks to decide assets of distant places non-public banking bills and to impose sanctions on nations that withheld facts approximately clients. The act additionally punished numerous offenses referring to money laundering, smuggling and monetary terrorism to avoid preexisting laws regarding fines and confiscations. For instance, any false statement about smuggling money is considered a crime that the law punishes (Cole 39-42).

Regardless of the conducted efforts to protect American civil liberties, its commentators think that it is not good enough to protect Americans. Nevertheless, there is one thing for sure, the USA PATRIOT Act will be in a way a protection to Americans from outside and inside terrorist attacks and provides more security to them and their land with slight price of civil liberties.

1.3. Surveillance and Security

The Bush management's secret circumvention of the regulation strictly conflicts with the President's obligation to ensure that the laws be faithfully completed. Furthermore, the administration's public pose to be running in harmony with Congress to boom countrywide protection without infringing upon man or woman liberties similarly erodes its function. Rather, President Bush needs to have requested Congress for digital surveillance beyond Foreign Intelligence Surveillance Act, as he did with the PATRIOT Act. The government's argument that presidential authority in times of crisis allowed for the National Aeronautics and Space Administration spying program to reveal its disregards for government constitutionalism. Even though heavy internal department debate compelled Bush to adjust this system yet it got supremacy prevailed.

Despite the sufficient possibilities to conduct surveillance of the enemy under Foreign Intelligence Surveillance Act and the extra authority obtained by means of Congress post 9/11, the Bush administration defied Congress and the American public. In doing so, it abandoned its duties to balance security and liberty. Concerning digital surveillance it unnoticed its obligation to balance security and liberty concerns. Considering the obvious tension among civil liberties and homeland safety, the government completely mismanaged the notion of the struggle on terror at home, choosing to assault in place of protecting civil liberties. Furthermore, it's miles unknown whether or not the enhanced surveillance measures certainly helped in the battle towards future terrorist assaults. Bush insisted that the Thrift Savings Plan had been effective in disrupting terrorist interest; however, the program's cloak and dagger operations and its illegality restrained the opportunity of proving such claims (Clarke 256-257).

The elevated competencies to combine foreign intelligence and home law enforcement have been intended to save Americans from new acts of terrorism; however, it also contained extreme flaws. First, subject with terrorism has little relation to many regions of regulation enforcement. New opportunities of surveillance have led to inexcusable opportunism on the part of the law enforcement establishment. Furthermore, the pressure to make surveillance extra green led to forget about of internal supervision and control approaches critical to powerful management of presidency agencies. Newfound statistics is useless until the surveillance groups are able to decipher what piece of statistics is important. Earlier than September 11, the Federal Bureau of Investigation and the Central Intelligence Agency had important facts about the plot, however did no longer recognize that it held such clues (Halper & Clark 318-320).

American government saw only the benefits of surveillance as a tool that protects security in its soils. Yet, it created much more problems establishing this kind of technology. This kind of technology altered the core of behaving freely as any one wishes too. The ego of American administration and its aim to appear as strong nation lead it to take steps that are not needed at all or relevant to the threats.

1.4. Due process

September 11, dramatically modified the emphasis in criminal prosecutions of terrorists. The enlargement of presidential power caused a simple shift from a law enforcement version to an army justice version as policies of criminal trials gave in to claims of navy situations. In reaction to the public demand for retaliation and prevention of future attacks, President Bush proclaimed an announcement of national Emergency through motive of positive Terrorist attacks three days after it happened.

Congress responded by means of authorizing the president to apply all necessary force in opposition to the September 11 terrorists attack and the people who harbored them. Months later, on November 13, 2001, Bush issued a complete military order to authorize the detention of non-U.S. citizens suspected of being concerned in acts of global terrorism against the United States, its residents or the countrywide safety. The order was vast in scope and strictness, in idea surpassing even the executive Order by way of which allowed for the deportation of Japanese individuals in Second World War. The order authorized the president to command states to turn over suspects, command civilian federal authorities to turn over suspects to the navy and to cast off judicial oversight concerning the rights of suspects and the conduct of trials. The order made no distinction between citizens or aliens. Moreover, Congress had no say on this suspension of the writ to habeas corpus, despite the reality that such power is reserved to Congress through the constitution. Certainly, the Bush management diagnosed the unconstitutionality of the order in the areas of due procedure, federalism and separation of powers and the convenience via which the ultimate court docket would strike it down on fifth and sixth change grounds. Consequently, the management did not use the order in opposition to resident extraterrestrial beings nevertheless; President Bush claimed and used unchecked government strength to detain citizens and aliens alike, whom he considered illegal enemy opponents (Daniels 134-159).

Due process of law requires the government to obey some instructions as a condition to punish or sentence a citizen or taking him into custody for a specific crime. The government has no right under any circumstances to take any one into jail just because there is similarity to another criminal or to sentence him without being abbreviated about his case and why is he being charged. Due process of law protected Americans from the evil of the government in matters of accusing innocent people.

2. New Threats to Civil Liberties

Americans now believe that there is no bigger danger to civil liberties than terrorism. As consequence, they created new enemies and began new wars that with time will harm their sacred civil liberties. These actions and the wars America is involved in are going to bring destruction to its lands, with time the fight will change from the lands those countries to America and with it will come threat of harming American civil liberties.

Islamophobia is the fear hatred of Muslims and Islam in the world. The use of this word started in the twentieth century. However, Robin Richardson; editor of the Runnymede Trust report, followed the history of the term to its roots. Alain Quellien was the first to use it when he used the French word Islamophobie in 1910 to comment on French administration and its behavior against Muslims. Richardson's professor is the first man who used this word in English and exactly in 1985 when he spoke in matter of connecting Islamophobia to anti-Semitism (Hassan).

All of this has led to hate crimes against Muslims especially after 9/11 attacks. Hate crimes happens when perpetrator targets someone because they are involved in a specific group or they are following certain religion. Hate crimes have raised drastically in the few months following 9/11 attacks. On the other hand, presidents like Bush and Obama were careful when dealing with such problems. President Bush and directly after the 9/11 attacks visited a mosque to ensure that American Muslim citizens are protected and that the action of those extremists represent them alone. That visit insured the Americans with a clear message that any harassment against Muslim Americans will not be tolerated and will not be accepted. Furthermore, anyone who threatens a Muslim will be punished according to the American laws. Obama's mandate have witnessed the same thing when he refused to use the term radical Islam. (Kumar 143-155).

The days after the 9/11 attacks witnessed new kind of problems that came to public, the reaction against Arab Americans raised new forms of racism. The Islamic center of Washington D.C.'s visit by president bush and the culminating words in which he stated that terrorism and Islam are far from each other and that what terrorism is doing is the opposite of Islamic core. Nevertheless, a new demon came of the halls of department of justice by creating new face of racism when it did not move to protect Arab-Americans against the harassments of the citizens. The immigration service used a new program and new requirements for Arab countries; anyone should be photographed, fingerprinted and questioned when entering the United States. Visa was revised and updated to patrol new comers to the states and to refuse visas for probable profiles. The rights of Muslim Americans guaranteed by the first amendment were violated by several governmental actions. For example their rights to freely worship and follow any religion they pleases was violated since anyone who goes to mosque in order to pray might be seen as suspect.

The year following the attacks was full of action to the agencies, the used new developed program to question hundreds of Arab Muslim Americans according to their nationality or religion. Moreover, the government ordered a national investigation on charities given to Muslims and mosques. Racial profiling is updated as mean of rational discrimination. Racial profiling is program that creates a profile according to nationality, religion or ethnic minority to evaluate the possibility of terrorism. This kind or programs gives the implication that a certain individual is not equal to other and in the words spread out about the program it will encourage new forms of racism and discrimination. In the course of war on terror, many Americans felt the urge to initiate the program of racial profiling in order to fight terrorism.

After the attacks two thirds of questioned citizens accepted racial profiling, a year later their point of view did not change a lot they still want what they said a year ago. Majority of Americans wanted more firm security measures for Arabs while others believe that there must

be obligatory identification card for minorities and especially for Arab Muslims. On the other hand, more than fifty percent in a poll made by government shows that Americans welcomes the investigation and interrogation of Arabs in any way possible even if it violates their rights as Americans. Three out of four Americans in the same survey said that these actions violate their liberties and rights as Americans; any investigation to any Muslim religious group without a warrant of clear evidence is unquestionable violation of their rights (Tabrizini 76-185).

Overall, Americans after September 11 witnessed the government's attempts to promote executive power and imposing restrictions over individual liberty. In the days after the attacks these attempts were highly appreciated and accepted by the people, yet, the measures used by president Bush's administration excited the fear on homeland security to threatening the legacy of the founding fathers such as threatening the first, fourth and fifth amendments. Additionally the government tried to violate the constitution several times in order to have more control over citizens. This war is endless war; no one can give neither accurate nor presumable date for its end. However, the fear of terrorism is developing and rising every day, this gave the government reasons to apply measurements such as surveillance and torture. It also used this war against terrorists to make her actions lawful.

3. Gun control

The second amendment is not part in the bill of rights for the sake of using guns to hunt or target shooting. The founding fathers believed that each American needs to have weapon to defend himself or his family from changing dangers in America. Americans view guns as freedom. Guns are a symbol for many people, and they mean different things. It is tradition to some families to have a gun at certain age and teaching their children to use them, Having a gun is being ready for what life is going to send you in the future.

In the case of *District of Columbia v. Heller* the court gave an answer to an important question for the citizens, do individuals have the right to have arms and keep them functional in their houses? Is this right of military service or is it right to everyone in the states? The case is an unforgettable case in gun control history. The district of Columbia prevents having an unregistered gun and forbid handguns ownership as well. Yet, the chief of police have the ability to issue one-year license for handgun. Dick Anthony Heller is a police officer who is entitled to carry out handgun during duty. He applied for a license to have functional gun in his house but it was denied. He sued the district of Columbia arguing that the second amendment preserves his right to have a functional gun at his disposal for self-defense. The district court disregarded the complaint but the U.S. Court of appeals for the district of Columbia circuit revoked the decision and said that the second amendment protects the right to keep arms in house for self-defense purposes, any the measures established by the district of Columbia are unconstitutional. Forbidding the ownership of guns and requiring it to be disassembled and not functional with trigger lock mechanism in unconstitutional and violates the second amendment. The court held that the first section that refers to "militia" is preliminary article that does not restrict the operative section of the amendment. In addition, the meaning of the word "militia" is not just linked to those in military; it is a word that used to refer to anyone who is able to serve in such section in the army. Understanding the amendment in that way means that the only one with the right to have and control guns is the government that is exactly what the amendments are created to ban. Since the words of the amendments should be read in a way that provides great understanding to the text as much it was when it was written, the clause should be read to insure personal right to have arms and carry them in case of possible danger. Therefore, restricting handguns; which is an entire type of guns that is most common among people to protect themselves, and forbidding having functional gun in house violate the second amendment. The court held that it is the right of

every citizen to have a gun in his house in order to defend his family and protect him from dangers. Accordingly, it made or laws prohibiting such right unlawful including the current law of Washington D.C. that restricted the ownership of a gun and limited it only to officials (Dujan)

This case sheds light on something new to the citizens, it is the analysis of the words in the amendments and the bill of rights and the way of understanding them. This case had great impact on Americans and it became a crucial case in the educational system as proof that the analysis of words of the bill of rights is the exact thing that should manage at the time to prevent the government from creating and violating amendments. The gun control issue is still going on today; Americans refusing to let their right gets violated while the government is trying to put some restriction to lessen the dangers of having guns is an ongoing debate until the current day. What is most clear is that the Americans will not let the government get more power than it already has.

Conclusion

The three chapters aimed to assess civil liberties in the US, each one of them is a continuation to the other for the outcome that is to provide a clear vision about civil liberties in the US. Specifically, the chapters discuss civil liberties historically, and practically give the critical vision about a sensitive issue, which is the relation between the government and citizens. Many Americans protected their civil liberties, fought for their well-beings and transformed this caution to their kids. In the 20th century and especially during times of crisis the American managed by fear transform its views into accepting new restrictions on personal freedoms.

This study shows in the first chapter what civil liberties to Americans are, and why do they cherish and value them as fundamental part of their lives, in addition, it gives clear understanding of the reason of their high interest with civil liberties and especially in times of war. It also explains the important it keep the government limited to what the citizens see as acceptable in their daily life. This chapter also discussed Americans first ideas of obtaining civil liberties and extracting them from the way of life they have.

The second chapter explains and exemplifies the process that Americans passed through to get their civil liberties and how did they preserved these liberties throughout times of crisis such as the first world war, the second world war and the cold war. These periods were a test for Americans to save their liberties and protect them. It also discusses freedom of speech, freedom of press, freedom of religion and due process of law. Another fundamental aspect that this chapter examines is the debate of national security and civil liberties and how to balance both in an age of technology and wars.

The third chapter shows the effect of 9/11 attacks on these liberties and the actions of the American government. Moreover, it explains the results of such actions on civil liberties

specially when harassing minorities without constitutional reason. As result, the American at the 9/11 attacks have accepted any law the government proposed without second guess. Their fear led them to forget about their liberties and neglect its existence. The American government took advantage of the situation to pass laws to increase its power over the citizens. This is the legacy left by the Bush's administration the coming generations.

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