

Framed as a defense against terrorism, The Patriot Act provided the government with certain liberties after 9/11. However, it can be inferred from the Snowden leaks and Wikileaks that these liberties extend inappropriately beyond the war on terror into the private lives of the average American. This affects not only Americans, but everyone they communicate with outside the borders of the United States. The relationship between the government and its people has been wildly compromised.

These three short films depict the US government's evolution into a totalitarian state. The films represent three components which led to the final result; terror, murder and intelligence. Intertwined in the films are clips from news outlets, the mainstream media, Wikileaks, and Disney Junior. They all represent the surveillance state and the normalization of government intervention. My hope is for the audience to educate themselves on the truth of the Patriot Act, surveillance, and international relations. The extremes taken by the United States government affect all citizens of the world, and if we do not act, we may be forced to relive the mistakes of the past.

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PROLOGUE

What responsibility does a government have to protect its people? How far is a government allowed to go to protect those rights? This paper begins with a reflection on Apartheid South Africa, and how the government failed to protect and support its citizens. Then it explores the changes the United States has made to protect its citizens, specifically regarding 9/11 and the Patriot Act. Has the United States government violated the rights of the citizens it has sworn to protect? Has the United States government violated the Geneva Conventions in the name of National Security? Has the United States repeated the mistake of an apartheid government by making private spaces public via surveillance? Is the necessary bond between people and government broken, and what does that mean? This paper will address all these questions, but focus on one specific conflict: Who really owns democracy?

ORIGIN STORY

When my mother was in high school in South Africa her favorite history teacher told her that everything she had learned for the past years of her life was a lie. 'Separate but equal' was the mantra of South African apartheid government propaganda in the early 1980's. The people were told that the only way to live in harmony was if everybody lived with their own kind, whites, indians, coloreds (mixed-race), blacks . There was a system used to classify individuals based on race (The Population Registration Act, 1950). When my mother was about 13 or 14, she began to realize that these separated groups were not treated the same. As she got older, she started to realize that certain people did certain jobs. The cleaners were always black, the mailman indian, and slowly she began to understand that maybe it wasn't ok.

Through her access to books and enlightened teachers, it became apparent that this wasn't a coincidence, that this was an intentional system implemented by the government. When she was my age, my mother became almost militant and angry about the government. It became clear that there were two choices, become part of the problem, or part of the solution. My mother couldn't continue on with life as if she didn't know what was happening, as people around her were doing. This feeling of responsibility and morality came from my mother's strict Methodist upbringing. My grandmother loved God, and raised her children in a Christian home with Christian values. My grandfather, while he was not as god-fearing, had a strict moral code that he enforced on his children. The strongest value that ran through the church, their home, and especially my mother, was service. Everyone who came to their doorstep or crossed their path was helped and guided by my grandmother. This was something my mother then took very seriously, that she should do her best to help others and those less fortunate. It was simply what you had to do.

She was about my age when my Mother lost faith in God. Not in the values of her church, because she could see the good that some people in the church and her mother did, but in the God that had seemed to allow apartheid rule in South Africa. My mother couldn't believe that if there was an all powerful savior, he would let people live in this discriminatory society where there was so much injustice. It was this time where she began to get passionate and involved in the anti-apartheid movement.

When my mother was in University, she learned about Nelson Mandela from an underground news network. It was shocking and exciting and infuriating; not only was it illegal to participate in the Free Mandela Campaign, but you could be arrested just for saying his name and certainly for protesting or demonstrating against the government or for equal rights. Indeed, my mother was arrested at one of these protests. At that time, the anti-apartheid movement and the student bodies on campus had created a language with which to communicate without the danger of detection by police, who often bugged phones or houses, and who had informers on campus. My mother was arrested for protesting the 'indefinite detention' of student leaders of the movement. Luckily, she was released the same day and only held for about 12 hours. She was informed that the police knew where she lived, where her parents lived, and how dangerous life could be for her. This only fueled her fire.

To be sure, my mother and the greater anti-apartheid movement were not just fighting for the release of Nelson Mandela. They were fighting for the same thing the Boston Tea Party revolutionaries were fighting for in 1773: equal representation in their

own government. The foundation of democracy is a relationship between the government and the people. The government in this case should be made by the people, with the people, for the people. Government exists to enforce laws made with the people's knowledge, and to keep the peace, and to protect the rights of its citizens. In a democracy, the people have approved all the laws and understand them. Especially in America, the citizens are enthusiastic about their freedoms, rights, and privileges and believe the Constitution ensures that the government does not have the right to interfere with those rights. For example, freedom of speech, the right to privacy¹, and so on. Democracy is an agreement between the people and the government, that government should be in the best interests of the people, where there is transparency and the people can interfere, and where basic rights are upheld and protected.

What happens if you notice your government isn't acting as a democracy, and in fact, not upholding the basic rights of certain people? What is your duty as a citizen to protest and act? For my mother, it was her moral code given to her by her family. For me, it is my moral code given to me by my mother. I grew up with a very strong sense of right and wrong, just like my own mother. Since 9/11, a group of activists and whistleblowers have been speaking up about the democracy in America. Post 9/11, Congress created the Patriot Act, which allows the government rights and freedoms that the constitution otherwise denied. These activists have been leaking information that the government has violated the rights of its citizens, and its prisoners of the "War on Terror". Has the United States sacrificed a part of democracy in the name of national security?

FIGHT CLUB

On September 11th, 2001, the world was changed to what we know now as 'The post 9/11 era'. It takes more than an hour to get through airport security, you can't bring large backpacks into public areas, and liquids are restricted in places like theaters, where one might go simply to enjoy oneself. These are all characteristics of a society that has been shocked and frightened to its core. Now, almost 15 years after the attacks, it's easy to forget how much the world has changed. Some people will never be able to forget. In the aftermath of 9/11, Congress with the signature of President G. W. Bush passed the Patriot Act, an acronym for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism. The goal of the Patriot act is 'to prevent future terrorist attacks... to protect innocent Americans from the deadly plans of terrorists dedicated to destroying America and our way of life...to preserve the lives and liberty of the American people from the challenges posed by a global terrorist network.'²

To a post 9/11 America, the Patriot Act was necessary for keeping the nation safe from further attacks. Congress made sure that the act gave the government all the liberties it needed to take action against terrorists. However, what the Patriot Act ended up doing was to give the government all the liberties it needed, and more. The Patriot Act is in fact a blank check for the government to fill in whatever it wants. As a government agency you have full authority over everything, even the constitution, as

¹ "Your Right to Privacy." *American Civil Liberties Union*. N.p., n.d. Web. 21 Apr. 2016.

² *The USA Patriot Act: Preserving Life and Liberty*. Washington D.C.: Department of Justice, 2001. Web. 13 Apr. 2016.

long as you are fighting the war on terror. Some might say that the government should have all the authority it needs to combat terrorism, but when you read the details of the Patriot Act, one might take issue. Here are the sections of the Patriot Act worth talking about;

1. Section 213 Title II - 'Authority for delaying notice of the execution of a warrant.' This section says that if any government body gets a warrant for the search of your property from a judge, they do not have to inform you. They may conduct their search of your private communications without your knowledge.
2. Section 215 Title II - 'Access to records and other items under the foreign intelligence surveillance act.' Which is virtually striking out part of the constitution and replacing it with; 'Sec 501; Access to certain records for foreign intelligence and international terrorism investigations.' Which lets any government agency request the production of tangible evidence of any person, as long as they are not being investigated about something they did under the first amendment. (For example, a post on Facebook is considered free speech, under the first amendment.) They can request this information from other agencies or companies like Verizon.
3. Section 217 Title II - 'Interception of Computer Transmissions' Here, the government can use a device called 'trap and trace' on your computer without your permission, even without a warrant. However, that permission may be granted in a clause in your contract with your internet provider, not to you explicitly. If the government has your permission from your internet provider they can be a 'computer trespasser' even without your knowledge.
4. Section 218, 219, and 220 Title II are connected, respectively 'Foreign Intelligence Information', 'Single Jurisdiction Search Warrants for Terrorism', 'Nationwide Service of Search Warrants for Electronic Evidence.' In order to collect evidence and data for the war or terror, the government has the ability to search anyones metadata under reasonable suspicion. This also applies to communications passing US borders, as long as there is a chance that you might hold some valuable information the government has the right to access it. ³

First, a clarification of surveillance. Surveillance techniques qualify as anything from drone activity to wiretapping, which is technically unconstitutional domestically. Interception of data is a collection of 'metadata', This is information from a credit card, Facebook account, or even emails and phone transmissions. Government agencies have full right to intercept metadata of any person for any reason, as long as there is suspicion. Which seems intentionally vague, mostly because it is. That could be interpreted any way, and could apply to any person, American citizen or not. The United States government has full jurisdiction to intercept the 'metadata' of any person who is slightly suspicious, and they don't even have to prove that. As long as is it is said that there is suspicion, warrants are given. Last year, over 35,400 applications were approved with only 12 rejected.⁴ As mentioned before, the government does not have to

³ The Patriot Act (2001)

⁴ *Last Week Tonight*. Dir. John Oliver. Perf. John Oliver. Home Box Office, n.d. HBO, 5 Apr. 2015. Web.

inform you that they are collecting your metadata, and they can see anything they want. What this ends up doing is suspending your Fourth Amendment right in the constitution, which is your right to privacy.⁵

The US government is using the threat of terrorism to give themselves authority to 'keep the nation safe' and suspend the constitution.⁶ Specifically, invading people's privacy and violating their rights. The first to openly speak about the the extent to which the government was spying was Edward Snowden. Since leaking documents exposing the NSA he has been labeled a traitor and charged under the Espionage Act. Snowden thought he was exercising his moral obligation to protect democracy, yet since doing so his patriotism has been under scrutiny. Currently, Snowden lives in exile in Moscow. Snowden worked for a private contracting company within the NSA, Booz Allen Hamilton. In 2013, he left Hawaii for Hong Kong to leak information to journalist Glenn Greenwald and documentarian Laura Poitras. Snowden released documents that showed secret NSA programs that are used to store personal communications both within the US and worldwide.⁷ Snowden exposed the extent to which the NSA has been spying on the world, including its own country. By using underwater 'cables', the US has been able to intercept data using the 'trap and trace' device. These cables connect the entire world, and the NSA has control over all of them.⁸ The extent of which is almost Orwellian. The control of these international cables has put the NSA in possession of the knowledge of every and any persons actions, beliefs, and motives.

This is directly contradictory to the idea of democracy and specifically American democracy. As a united front, America prides itself on unconditional freedom. Part of that freedom is the ability to oppose the government, and to be able to organize and petition in opposition. If the government has access to all your communications, would you feel safe expressing opposing opinions online or privately to your friends? Private doesn't mean the same as before, an un-encrypted email sent to a friend can be caught in the web of the NSA and read in the same minute. While the government says they don't discriminate against people exercising their first amendment rights, who's to say that down the road as the war on terror intensifies, the government won't begin arresting people who spend too much time on the wrong websites?

Whats wrong with this picture is that the United States government has broken the bond of trust that needs to exist between government and people to have a free nation. There is a common factor between all oppressive governments, and that is when the people do not trust their governments, and governments do not trust their people. It seems that history is repeating itself, for there seems to be pattern of which an oppressive government is born. First, there is fear of an attack or an 'other'. The government takes legal action to address those fears, then the government has full liberty to do whatever they feel will make their country safe and pure. Once a government has begun spying on their own citizens, the people cannot trust their government. This cycle of mistrust and violation of rights continues until you have a regime like apartheid, where no one feels safe. This cycle can be applied to any

⁵ "Your Right to Privacy." *American Civil Liberties Union*. N.p., n.d. Web. 21 Apr. 2016

⁶ Greenwald, Glenn. *No Place to Hide: Edward Snowden, the NSA, and the U.S. Surveillance State*. N.p.: n.p., n.d. Print.

⁷ *CITIZENFOUR*. Dir. Laura Poitras. Perf. Edward Snowden, Glenn Greenwald. 2014. DVD.

⁸ Assange, Julian. "Spy Flies." *WikiLeaks*. WikiLeaks, n.d. Web. 28 Apr. 2016.

oppressive government, from the Nazis, Mussolini, and Stalin, to Syria under Assad, or the North Korean dictatorship. What is ironic in this situation is that America was born from the idea of complete liberty and power of the people. Throughout the years, America has done many things to protect and enforce that ideology, including waging wars. That same country which spoke so vehemently against governmental control without representation is now in possession of the largest surveillance network in history. A network which none of the citizens had knowledge of, and was made without proper representation of the people's opinions.

EPILOGUE

With great power, comes great responsibility.⁹ The United States represents, itself as the most powerful country in the world, but what happens when the most powerful country abuses its responsibility? By violating the bond of trust that is so important in a free nation, the US has taken its governmental responsibility to a new level. But is history repeating itself once again, and will the new America be a new tyranny?

The reality is that there is no such thing as a perfect democracy. However the foundation of a corrupt nation remains the same, lack of trust between government and people. This can be seen in legislation that does not respect citizens rights, government surveillance, and the lack of transparency around government practice. The only way to have a free, liberated society is if the government and people decide on basic freedoms that no one can violate. This notion of liberty, the same notion my mother fought for during apartheid, is the cornerstone of true democracy. When congress created the Patriot Act, there was no representation of the people's opinions. Government agencies have taken the vague wording of the Patriot Act as a free pass to break the law during the war on terror. The NSA has taken full liberty to invade people's privacy and rights for the protection of the nation. As under apartheid, people are being spied on for the possibility that they may be involved in terrorist activity. Once the people know that they are being watched, they may feel as if they cannot participate in free speech for fear of being targeted. Once we lose our right to speak freely without persecution, we lose democracy.

I would argue that the people of the United States have a moral responsibility to themselves and each other to fight for their freedoms and the protection of their rights. The War on Terror is important, but the protection of the American people's liberties should be a priority, not a second thought. Like my mother who realized that she had a moral obligation to her country, America needs citizens who will stand up: whistleblowers like Edward Snowden to expose the magnitude of what is happening inside the United States and how it affects the rest of the world, journalists who are prepared to expose the wrongdoings of the NSA, and everyday American patriots who are willing to oppose the government and stand up for their right to do so.

⁹ Proverb.