

War, Terrorism and the Duality of Citizenship in America

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It is 3:54 AM on a random Thursday as you are jarred awake by violent knocking on your door. Worried, you quickly lift yourself from your bed, not having time to allow your sleeping legs to fully adjust to the new weight. You can hear muffled commands as you walk to your front door. You start to unlock the door and reach for the handle, but you hesitate as you begin to understand the commotion outside. There is a squad of heavily armed officers outside. “What is ... Can I help you guys with some ...?” You get cut off before you finish your thought.

“Sir, keep your hands where I can see them. Are you J. Doe?” The commanding officer immediately accuses you, rather than asks. You nod quickly, failing to hide your dread. Your fearful mind races to escape options. Suddenly you hear a helicopter’s blades rip through the air overhead. “There has been another terrorist attack. Orders have been signed. National security requires questioning and relocating of some citizens. Go pack up what you need, I will not ask again,” he commands as he shoves you away from the door.

There are many different laws and policies that affect the way we live our lives. Some of these rules have been reviewed objectively and rationally in order to balance the need for security and minimal infringement of rights. When a historic event occurs, such as the September 11th, 2001 terrorist attacks, the government must react to the situation and attempt to protect its citizens, as well as take measures to prevent this type of event from reoccurring. How did these events change the meaning of citizenship in the United States? Due to the fact that we are still living with its effects over a decade later, we must establish a broader understanding of citizenship. In order to answer this question, we must look into this country’s history and recognize what it meant to be a citizen during different time periods, and how truly influential wars are to the definition of citizenship. Analyzing historic events will allow us to comprehend our present war time situation and more importantly allow us to prepare for the future. The struggle between our liberty and safety is constant and has deep historical roots. As citizens of the United States it is our responsibility to challenge our government to allow us to prosper in safety and freedom. This paper reviews the concept of citizenship and argues that terrorism has caused the original American social contract to be rewritten such that a *duality of citizenship* has formed that unequally rewards liberties and demands duties from its citizens.

A citizen should be understood as an individual who ‘belongs’ to a country in more than just a legal sense. To adequately understand it, one must summon the concept of citizenship originally developed by the ancient Greeks. Although much differs in modern times, the biggest role in the ancient individual’s life was their connection to the city. Today, globalization connects all parts of the world, yet individuals remain strongly connected to the state through the notion of citizenship.

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In this paper, the term 'war' is understood as a formal engagement between two or more established political entities, while terrorism shall be understood as an attack on the people of a country driven by a political motive, which is intended to strike fear into the hearts and minds of individuals. I believe that these two concepts differ greatly and impact citizenship in a drastically different way. Wartime wreaks havoc in both combat and civilian lives. Terrorism has made the two indistinguishable in certain aspects. Standards of behavior for citizens morph during wars. Laws tighten as rights and liberties are dismissed.

This paper is based on historical research on citizenship, liberties, and responsibilities during wars in America. I have also undertaken extensive analysis of statutes, court cases, peer-reviewed articles, as well as law review articles. This paper is divided into three major sections. First section discusses civil rights and liberties and examines the historical roots of American liberties. Second, reviews the concept of citizenship before and after the American Revolution. Third, analyzes how war influences notions of citizenship, especially comparing how World War II and the Attacks on 9/11 shaped the concept of citizenship. Here, I will review the case of *Korematsu v. United States* (323 U.S. 214, 1944) and Japanese interment, with a strong emphasis on the different players involved in the issue. Throughout this paper, I will highlight the concepts connecting World War II and the attacks of September 11th, and in particular emerging similarities between *Korematsu* and the USA Patriot Act, the legislative reaction to the September 11th attacks that significantly increased governmental power.

This study emphasizes the extent to which the United States government is a past-oriented, precedent-bound entity. Once an alteration has been made, for whatever reason and regardless of its effectiveness or consequences, it will be very difficult to change, unless it is challenged. Hence, if we understand better how citizenship is changed by wars, there is a greater chance for reclaiming rights diminished by the need of national security. As citizens we must be educated about the reasoning behind our rights and responsibilities. These rights, which have been claimed by our ancestors, admired by immigrating populations, and engrained within the foundations of this country, could easily be revoked for the sake of safety. Once rights are given up, they become harder to reclaim as time goes by. Whenever we exchange our established rights for a promise of security, we must analyze the effectiveness of the transaction and understand that once the threat of security is diminished, we must re-secure our liberties. Moreover, as a nation we must realize the danger within terrorism. Other than the obvious danger to life and property, we must understand the implications of changes to the definition of citizenship. If the current duality of citizenship continues as the accepted norm due to the constant threat of terrorism, the original social contract, and the foundation of the United States will be dismantled.

The roots of American civil rights and liberties

America is known as the land of the free, home of the brave. The United States started global conflicts under the pretense of establishing democracies and securing freedoms for foreign nations. Since the Cold War years, the United States has been engaged in conflicts around the world under the pretense of establishing democracies and securing freedoms for people. Most notably, Operation Iraqi Freedom is described as a mission to rebuild a nation chained down by dictatorship into a more democratic,

liberal, less violent order- which should lead to more lasting peace. Whether the task is feasible (defensible) or not, it must be noted that there is intrinsic value to the notion of bringing liberty to people of other nations fighting against dictatorial regimes. Empowering humankind across governmental borders seems like a heroic task, if one overlooks the underlying motivations of the liberators. Freedom is an essential ideological character of the American state. One must look back to the fundamental roots of American freedom, which predate America's existence. The Magna Carta is the earliest catalyst of the American government model and its attitudes towards rights and liberties. More recently, one must examine our nation's founding documents, such as the Declaration of Independence and the Constitution in order to understand the origin of our citizenship, rights and liberties.

The Magna Carta is the basis of the modern 'Rule of Law' concept, created when the King of England was forced to admit a limit to his powers, under the threat of the barons. This novel idea emphasized that rulers must also be controlled by the law, which establishes consistency within the law and prevents injustice. Additionally, the Magna Carta instituted a right that has become one of the most important cornerstones of modern legal thought, the right of due process. The right of due process ensures equal rights of all citizens and is recognized to be central to American notion of citizenship. However, this is challenged by the emergence of duality of citizenship that separates some citizens based on their backgrounds. It breaks the tradition set by the Magna Carta, as it destroys consistency within the law, as some groups of citizens are unequally impacted by law, while others are not. Due process is eliminated if you appear to be in a suspect category.

Yet this duality of citizenship is also apparent during the colonization of America. Since colonization was meant to increase profits for the kingdom, there was no actual concern for the settlers, or the new land (Elliott, 2007). Due to oppressive and biased agendas, the interest of the mother country would routinely trump that of the colony. There was routinely tension between the settlers and the crown. A stark disconnect became apparent when the settlers attempted to deal with their rulers, as royal subjects. The settlers believed that they should be able to enjoy the same rights as their European brethren, but the crown would rather take advantage of them. Oppressive levies were instilled on trade, both among the colonies as well as with foreign entities.

The notion of 'popular rights' grew through interactions between the colonists and British officials. The political culture of early America was crafted by leaders who wanted more power when dealing with the royal crown. Opposition to unwarranted oppressive rule was growing in the colonies, which only affected royal subjects who moved abroad. This created a need for a sense of personal connection to one's government. Americans wanted some control over the policies which affected their everyday lives. Although on paper the settlers were considered English citizens, they were subject to more oppressive laws than their English brethren living in England. This is an illustration of the concept of duality of citizenship: although the two groups of people should be equal under the law, a single group suffers for the greatest good of the government. This is also a violation of the spirit of due process.

After the Revolutionary War, the Declaration of Independence, ratified on July 4th, 1776, set the tone for the legal culture of the new country. The Declaration of Independence begins, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that

among these are Life, Liberty and the pursuit of Happiness.” This beginning starkly announces the ideological basis of the new country, acting as a guiding ideal for where the laws should stand. The Declaration continues, “That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.” This statement clearly makes a very important distinction from the previous understanding of the government: the power of the government originates in the collective consent of the people. Power comes from the bottom up, giving the common people the ultimate control, in stark contrast to the God-chosen royal crown.

Justice plays a huge role in the Declaration, which in turn produces fundamental rights that the citizens may not yield to the government. This document establishes the obligations of the common citizen, by announcing that not only do the people fuel the power into the governmental machine allowing it to rule, but that it is also the ability and responsibility of the people to monitor and assess their government. Equality and liberty are consistent themes and important cornerstones of this soon to be established government, and there are multiple mentions of the fact that the power is held by the people. The Declaration of Independence completely nullifies the pre-revolutionary split in citizenship. The document states that all men are equal under the law; there is no mention of a less equal class. Additionally, power flows from the people, and we hold an obligation to reclaim it if we are mistreated.

Finally, the Constitution lays out the blueprint for the creation of the government and the contours of the modern concept of citizenship. It reaffirms that the people are the fountain of state power: “We the people of the United States in order to form a more perfect Union ...” (Constitution of United States). Volumes have been written on the opening three words. All of the power lies in the people, for without them there is nothing.

Although the preamble had championed citizens’ liberties, the main function of the Constitution was to outline the powers of the federal government. Because of this omission, some states would not join the union. In order to further distance the notion of a federal government from the feudal model, a more specific outline of citizen’s rights had to be established. The Bill of Rights was ratified on December 15, 1791, and while originally it was a set of guarantees applying only against the federal government, in time it has become a bulwark of rights against all government conduct (Amar, 1998). The Bill of Rights outlined many personal freedoms from government prosecution, such as freedom of religion, speech, press, assembly, petition, and the ability to keep weapons. Aside from personal freedoms, the Bill of Rights also outlined the rights of an accused citizen, such as protection from unreasonable search and seizure, due process, rights of accused, trial by jury, no cruel and unusual punishment, which aids in protecting citizens from direct governmental attacks.

Rights and civil liberties in America have been evolving for centuries before the creation of the state. The Magna Carta established the ‘rule of law’ concept at the core of the modern understanding of the relationship between the individual and the government. The American foundational documents directly dictate citizens’ complex relationship to the government. The Declaration of Independence captured the metamorphosis of the North American colony of the British Empire through the desires of the settlers to the new state. The Constitution further expanded the framework of the government, specifically the structure that would justly produce and maintain the liberties of citizens. The Bill of Rights further expanded and outlined the specific rights

to be enjoyed by the citizens. These documents built the defining attributes of American citizenship. Although these foundational documents hold tremendous authority within the American governmental system, during critical times their core meanings are unfortunately in flux. The most notable situation, with the most devastating effect on rights and liberties is war time. Citizenship, ironically, seems to become a completely new entity for a select group, when the threat of maintaining the standard of liberty for all citizens comes into question.

The concept of citizenship

The concept of citizenship has been developing and changing for centuries. Early discussions on citizenship have been traced to Ancient Greek times, most notably to Socrates. *Crito*, for example, presents an interesting idealistic view of personal responsibility as it relates to citizenship and laws. The day before Socrates was to be executed his friend Crito attempts to help him break out of jail and escape punishment. Crito tries to persuade Socrates to leave, but Socrates ultimately determines that it would be unjust to escape since this would be against his notion of citizenship and responsibility to the state. Socrates believes that the most important thing is not life, but the good life (Plato). Socrates' definition of the good life stemmed from just, moral action. His understanding of the world included an absolute morality, which governed all of his understanding. Socrates was willing to be put to death rather than commit an injustice against the state.

The ancient Greek philosopher had lived his entire life within his state and held the belief that the laws of citizenship had nurtured him and he could never abandon them. *Crito* outlines that laws are absolute, that the state itself is a system of laws that must be accepted in its entirety, or else everything breaks down. Socrates believed that we are subjects to the laws as slaves are to masters. He was willing to die, because he believed so strongly against harming the state. Today we understand that human beings are prone to error, and acknowledge that the laws are a reflection of us, rather than anything divine as the philosopher would claim. Nonetheless, Socrates created the foundational theory of citizenship.

On the most fundamental level, citizenship is a social contract between the state and the individual. Rights are awarded to and responsibilities outlined for every citizen. The American understanding of citizenship has developed primarily through our different military engagements.

Pre-revolutionary citizenship

Before breaking off from European control, there was little connecting one colonist to another: "In spite of some of the sources of unity among the residents of the colonies- a common language, a shared legal- constitutional tradition and perhaps... a common identity as subjects to the king of England- the American colonies were in fact extraordinarily disconnected from one another, displaying among themselves and within themselves significant varieties of political behavior" (Beeman, 2004, p. 3). By identifying with the motherland there was some aspect of true citizenship, but it was a weak link. Americans had considered themselves English citizens, but having the Atlantic Ocean separating the rulers and subjects prevented the equal enforcement of common policies. The political environment presented an opportunity for the creation of an American union.

Restrictive taxes and policies that greatly favored the mother country increased the disconnect between the two countries. “The revolution was in the minds and hearts of the people. A change in their religious sentiments...of duties and obligations...this radical change in the principals, opinions, sentiments, and affections of the people was the real American Revolution” (Beeman, 2004, p. 3). Americans were angry that they were being taken advantage of and the English were angry that their subordinates were not following orders.

The English government had clearly favored one citizen group over another. A type of duality of citizenship was created, which had broken Americans’ bond with the mother country. Citizenship is a reciprocal obligation, both the government must accept its citizens, and the citizens must accept their government.

The development of American citizenship

After the revolution, America was slowly being built up. Citizenship reflects the values of the people, and what they want from their country. Although Americans were more connected than during the colonial period, there were many different value systems in the early days of the stand-alone country, which eventually created a unique citizen identity. As Beeman (2004) notes, one value system that informed this new identity was found in New York and the southern colonies, which continued to uphold traditional English values while also perpetuating an inequitable division of wealth and political power between rich and poor. Even though a war separated the two countries, a strong source of British tradition lives on well into the modern day. A country that greatly values self-reliance sees the significance in creating a culture of great freedom of expression.

Another value system which shaped the concept of citizenship in America is the importance of asserting strength. North Carolina, South Carolina and Pennsylvania retained elements of modern and tribal aggressiveness, as well as a strong distrust of the other (Beeman, 2004). Our current culture strongly responds to the notion that ‘the other’ is dangerous and we must mobilize against him. Moreover, American culture favors aggressive tendencies rather than passivity. When one examines how this understanding is reflected in citizenship, it is possible to see a connection between losing rights and liberties in favor of protection and safety. The fact that America was formed out of a war with its mother country emphasizes that American citizenship does not exist in a vacuum. Rather than embracing and learning from ‘the other’, the foundational culture of some states conceptualized citizenship as the elimination of threats and being wary of things that seem different.

Throughout the United States, many different value systems have fused into the concept of modern citizenship. Each state and county had its own ideology. Some are clearly linked to modern day American ideals, and others are subtly injected into some parts of our understanding of American culture and citizenship, yet they all define the meaning of what it is to be American (Beeman, 2004). After the American Revolution, there was a gap in the notion of citizen. Americans were no longer subjects of the crown, but rather viewed the old rulers with angst and distrust. The states during that time were critical to the current notion of citizenship.

World War I and citizenship

During the First World War, American citizens had to adapt to a changing global environment. The American Revolution centralized American citizenship and the two world wars gave it a firm identity. During war time, the opposition and everything they stand for have to be demonized in order to have the public's full support for the preservation of the nation and the destruction of the enemy. The responsibilities of the citizens are pushed to the limit and cultural ideals are strengthened.

The commitment of the average citizen was necessary to win the First World War. The citizens' belief system during the war was greatly influenced by propaganda. It was an incredible tool used to manipulate the public into supporting World War I efforts, and in turn it helped define citizenship. The most famous image is still that of Uncle Sam demanding recruitments, and the poster captioned 'I want you' has been the most enduring symbol of World War I propaganda. Capozzola (2008) believes that the poster is one of the most iconic images in American Politics, a visual metaphor for America itself because it describes America: Uncle Sam was not a war general, but rather a commoner who may have been a farmer, but was needed to step up in order to help his country during the war. He rolled up his sleeves and called out to the American people to do their part in the war effort.

Uncle Sam was describing the common American's civic responsibility. "[Uncle Sam had] helped them out by turning the vast machinery of war mobilization into family relation, he gave political power a personal face and made sense of the government presence in everyday life" (Capozzola, 2008, p. 4). This war was not some distant issue which was easily forgotten, but rather this was their entire life at that point. "The poster reassures viewers that war is not the American life blood; like its uncle would rather be doing something else- the poster helped America understand its relationship to the wartime government" (Capozzola, 2008, p. 5). Unfortunately it did not matter what the individual wanted at this point in American history, the country had to come first. The citizens had to make sacrifices for the wellbeing and ultimate survival of the country.

The increased involvement of the average citizen during World War I defined citizenship. "The word obligation was very much on their minds...during World War I, when Americans discussed their relationship to the state, they used terms such as duty, sacrifice and obligation ... political obligation energized, mobilized and divided America during World War I" (Capozzola, 2008, p. 6). The relationship between the citizen and the country was that of give and take: in order for the citizens to enjoy all of the benefits provided within the country, at times they must fight to protect their value system.

To be American meant that one had to stand up with other Americans and fight for the country. The prevailing notion was that 'if you enjoy all of our American freedoms and you would not fight for them you are not American!' Many citizens viewed limited involvement as turning your back on the country, and opposition was almost nonexistent. "Obligations were not just rhetorical flourishes on propaganda posters or phrases in philosopher's tomes; they were also social practices that made it possible for America to go to war. When Uncle Sam jabbed his finger at the American public, he pointed out their rights, he also pointed out who was or wasn't American" (Capozzola, 2008, p. 7). There was a strong sense of collective identity. The power of declaring justice was in the hands of the citizens. The concept of citizen was that of someone who would stand and fight alongside their government.

Citizenship is defined by the American public and the government. American citizenship was created during the Revolutionary War. Victory and a cocktail of respect

coupled with distaste of the fallen regime colored the new government in no single distinct style. Different states held on to specific ideologies, which in turn reflected American citizenship. Some would argue that the Revolutionary War was fought from state to state, not completely unifying the country. One dimension that was added to citizenship in the early wars is that of sacrificing personal freedom for the betterment of the government. World War I in particular unified the country in a way that was missing before. Citizenship was clearly defined and applied to every inhabitant. Citizenship meant serving one's country. Propaganda displayed the ideal citizen as one who can give back to one's country.

In the next section, I will examine the two sides of World War II. From one perspective, the Second World War enhanced the notion of strength in citizens. Resilience became the defining characteristic of American citizenship. Citizens were willing to fight in all avenues of life to protect their country. However, rights were also revoked for some. Certain citizens were prosecuted in ways, which if examined through the foundational documents, are clearly un-American.

The impact of World War II

America's founding documents describe a very specific blueprint for the country, but when war breaks out, many declared liberties are retracted. When a country is at war it is expected that things change temporarily for the sake of survival. During historic engagements, whenever needed, the role of the citizens changes to best suit the country. Terrorism completely changes the entire dynamic between war time and peace.

While the Second World War raged on in Europe, the American public expressed a strong preference to remaining neutral. A 1942 report of the presidential commission on Pearl Harbor describes the surprise attack:

About 7:25 a. m. Honolulu time (1: 25 p. m. Eastern standard time) on Sunday, December 7, 1941, Japanese forces attacked Army and Navy installations and ships of the Pacific Fleet in Oahu, T. H . Although the United States and Japan were at peace on that morning, Japan planned to announce to the Secretary of State of the United States at 1 p. m. of that day, eastern standard time (7:30 a. m. Honolulu time) the severance of diplomatic relations and simultaneously to attack the island of Oahu and Pearl Harbor.

The 'courtesy call' to the executive branch less than a half hour before the infamous attack was not a declaration of war, but rather a withdrawal from peace talks. Therefore, one may categorize the strike as a terroristic assault, attempting to harm the United States Pacific armada, whilst inspiring fear into the general population. The initial shock and following anger on American territory resulted in overwhelming public support for retaliation. The nature of the attack also introduced an irrational fear of espionage, which engulfed the country. A selective citizenship era begun in which liberties, rights, and most importantly obligations to the country varied among different classes of Americans.

World War II and citizenship identity

Similarly to the First World War, during World War II the average citizen was greatly affected by the war effort. Cutting down everyday consumption became a big

duty of all citizens during World War II. “The war changed everything except human needs and desires. Many once ordinary tasks became fiendishly difficult to perform” (O’Neill, 1995, p. 247). There was an enormous need for raw material and prepackaged goods, and the only avenue these could be relocated from was the civilian marketplace.

The citizens of America during World War II had to be resilient. Hard work had become a trait ingrained within the concept of American citizenship. There was an understanding that America as a whole was at war, and help came from the population. Citizenship came to mean a new type of strength, finding pleasure in lowering one’s standard of living for the country. Americans became tougher, worked harder, and the mobilization greatly helped the World War II effort. This translated into a complete acceptance of political action for the war. On the governmental level, extremely oppressive legislation was put in place to attempt to eliminate the perceived threat on American soil against any and all Japanese.

The Japanese American citizen

Even before America entered World War II, Japanese Americans were treated poorly in this country. Although there was open trade established with Japan, there were multiple governmental acts, which negatively affected the Japanese living here, and there were laws in place preventing immigration. The Immigration Act of 1924 limited the number of immigrants coming from countries that were considered undesirable (Tritter, 2005). The federal government viewed the Japanese as a lower racial class, and thought the overall quality of the country would dip with uncontrolled mass immigration.

In addition to the government’s legislation, the actions of private parties also reflected the negative feelings towards the Japanese. They were harassed when it came to where they could live, shop, work and they received bad treatment in other social interactions (Tritter, 2005). This created a type of isolation in which the Japanese had no choice but to keep to themselves, which may have been perceived as breeding ground for a counter culture. The open rejection of Japanese Americans had made it seem as though the Japanese did not want to assimilate. The negative reception from the American public and governmental restrictions inadvertently created a duality of citizenship; although some Japanese were citizens, they were not treated in the same way as other citizens.

After the tragic bombing of Pearl Harbor, open racism was even more common and this duality of citizenship was even more visible: “the popular image among some Caucasians along the Pacific littoral of their Japanese neighbors as ‘the enemy within.’ Such citizens...openly and easily agitated against their Japanese-descended neighbors under the respectable umbrella of patriotism” (Tritter, 2005, p. 259). The strategic aerial attack was perceived as an extremely underhanded and evil move, especially due to the fact that it was launched prior to a formal declaration of war. The Japanese Americans were grouped together, and rather than assess individuals on their personal involvements, mob mentality took over, which created an ‘us vs. them’ thinking.

Rumors of espionage were circulating, and the American public wanted to know on which sides individuals belonged. A witch hunt began, “there were members of the group who retained loyalties to Japan has been confirmed by investigations made subsequent to the exclusion. Approximately five thousand American citizens of Japanese ancestry refused to swear unqualified allegiance to the United States and to

renounce allegiance to the Japanese Emperor, and several thousand evacuees requested repatriation to Japan” (*Korematsu v. United States*). Although that seems like a high number, one must remember the tense political climate in which this was occurring. Japanese Americans were not assimilated into the American public, and due to this exclusion, had felt closer to their roots. Many Americans believed that Pearl Harbor was the start of a full scale war on United States soil, which led to a reclassification of Japanese American citizens.

Liberties lifted

The fear that an invasion was imminent caused the government to mobilize. President Franklin D. Roosevelt’s Executive Order 9066 ordered the establishment of

“military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion” (Executive Order 9066).

This order delegated much of the power of the executive branch to lower-rank military officials. This was done in order to empower lowly army officials in possible war zones. This executive order is a serious restriction on all Americans. Although the exact wording does not single out Japanese Americans, it provides a very broad power to military officials.

General DeWitt was a military official who utilized the full extent of his new abilities, hoping to make America safe from the ‘Japanese threat.’ Using his new powers, General DeWitt proclaimed specific states in America as military areas hosting governmental camps where all the people of Japanese ancestry were relocated, “systematically removing all Japanese, alien and citizen alike, from their homes and employment within all of California, Western Oregon, Western Washington, and Southern Arizona” (Tritter, 2005, p. 261). The rights of Japanese Americans, regardless of legal status, were tremendously restricted. This was an attempt to prevent any possibility of further damage and casualties within the United States. For American citizens of Japanese ancestry, the scale of citizenship shifted greatly towards obligations and duties, with almost vanishing rights and liberties.

The enactment and administration of the executive order was in direct conflict with every single one of the United States’ founding documents reviewed in the earlier section. Due process was completely overlooked, as was the entire legal cultural environment. The Declaration of Independence, central to the creation of the American government system, was abandoned; liberty and the pursuit of happiness of citizens were greatly infringed upon. Furthermore, the Constitution was also disregarded. Although power flows from the people, Japanese Americans seemed to have lost any power they once held as citizens. The Bill of Rights was completely overlooked, and due process, trial by jury, cruel and unusual punishment, and a state’s own right to police were trampled upon. Liberties and rights clearly outlined in the guiding documents were eliminated in the havoc of war. Up until this point, citizenship for every American was equal and defined by the above mentioned documents, but the terroristic nature of the

attack on Pearl Harbor caused a catastrophic split between citizens of Japanese decent and everyone else.

The fight for rights: Korematsu v. United States

Korematsu was an American citizen of Japanese descent who was born in the United States, had never traveled to Japan and did not speak Japanese. Before the attack on Pearl Harbor, Korematsu had attempted to join and defend America. Unfortunately, his application was rejected due to a medical condition. He was determined to aid the United States, and he changed career paths and began welding in order to help the war effort. After the attack, Korematsu was fired due to the fact that he was Japanese. He understood what was happening in the country and attempted to mask his identity by having plastic surgery and reporting a different name and social security number to a new job. When the executive orders were issued, Korematsu did not report to the relocation centers, with the intent of moving from the racially charged climate (Tritter, 2005, pp. 267-8). He was spotted while still in California and charged with a felony for not following orders.

While Korematsu was in federal custody, he “made a statement to the FBI that included his declaration of unqualified loyalty to the United States of America and his willingness to fight all foreign enemies, including the Empire of Japan” (Tritter, 2005, p. 268). This act displays Korematsu’s unchanging commitment to America, but it was in vain, he was sent to the relocation center. Believing his rights had been violated, Korematsu attempted to fight the battle in the courtroom.

The Supreme Court was presented with the question of whether or not the President and Congress had reached beyond their war powers by stripping the rights of the Japanese Americans. The court explained, “Hardships are part of war, and war is an aggregation of hardships. All citizens alike, both in and out of uniform, feel the impact of war in greater or lesser measure. Citizenship has its responsibilities, as well as its privileges, and, in time of war, the burden is always heavier.” The Court decided in favor of the government, claiming that even when the court examined the facts of the case with strict scrutiny, the responsibility of the government to provide for the safety of its citizens outweighed Korematsu’s rights.

The Supreme Court majority opinion explains: “Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direst emergency and peril, is inconsistent with our basic governmental institutions. But when, under conditions of modern warfare, our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger”. The possibility of war on American soil was a realistic risk, which scared the government into temporarily eliminating certain rights.

On both sides of the spectrum, during the Second World War everyone lost liberties. Non-Japanese Americans buckled down and endured a period of great stress and reduced freedom, which was welcomed and internally driven. The American strength seemed to be a uniting factor, people gladly lost rights in order to help the war effort, especially after the bombing of Pearl Harbor. Japanese American citizens and Japanese of other statuses, on the other hand, fell victim to extremely oppressive legislation and judicial action. Although a review of the American foundational documents proved the unconstitutional and un-American nature of the legislation, the champion of the constitution, the Supreme Court had decided that the acts were

necessary and proper due to the fact that it was war time. The argument was that during war there is a greater need for protection from increased threats, therefore citizens must put up with a loss of rights. One must note that the distinct dip in standard of living and rights displayed during the World War II for some citizens and the unparalleled violation of rights for other citizens had formed a type of selective citizenship, rewriting the social contract for different groups based on distinct understandings of their rights and responsibilities.

The duality of citizenship

Terrorism in the United States destroys the social contract between citizens and the state by dividing the population. A dual citizenship is created, in which some citizens may retain their original liberties, while others are stripped of rights. I believe that this selective citizenship is unconstitutional and must never occur within the confines of the United States. The second section of this paper examined citizenship as an overarching identity binding individuals on the basis of the social contract. Throughout the development of this concept, the traditional notion was that of a shared prosperity and struggle between citizens. Our understanding of citizenship dictates that the government provides many rights and liberties which individuals can enjoy through the safety created by the government's presence.

During times of peace all citizens have the incredible protections of the legal culture surrounding the founding documents as described in the first section. Rights which are believed to be inalienable and true to every person are declared and protected. As described in the second section, under certain instances, such as during wartime, all citizens must become subject to obligations and duties which restrict freedoms tremendously. Finally, as outlined in the third section, due to terrorism, the individual citizen could be either empowered or restricted by the government. The United States government was created with the intention of championing freedoms, but terrorism creates a state in which some citizens retain rights and others are exploited.

Wartime and terrorism

One of the strongest shapers of American citizenship is war time. During wars the government is tasked with upholding their most important part of the social contract, enabling the safety of citizens. As outlined in section two, throughout America's early history, war time allowed the government and the people to learn the limits of freedoms and the bounds of government interference.

Traditionally during a war a citizen's life becomes more reflective of obligations and control, rather than freedoms. The government's metaphorical shield, which protects citizens also blocks established freedoms and engages citizens into aiding the war effort. This process has an impact on the overall definition of citizenship, at least temporarily until the threat is neutralized. After the war, citizenship reverts back to its original shape. For better or worse, this trajectory leaves the concept of citizenship slightly changed, its contours more clearly defined.

Wartime defines important traits within citizens, which become engrained within the definition of American citizenship. Responsibilities and duties which greatly aid survival during war time become synonymous with the American culture. The terrorist attack on Pearl Harbor during World War II seemed to completely break this pattern. Terrorism caused the original American social contract to be rewritten much more

drastically and permanently, unlike other wars in America's history. Terrorism has created a type of selective citizenship that unequally demands duties and rewards liberties among citizens. Furthermore, due to the informal nature of terrorism, at any point it is theoretically possible for a class of law abiding citizens to become subjects of unequal citizenship.

September 11th and Pearl Harbor

This concept of dual citizenship is extremely important to understand moving forward into the future. Due to the growing interdependence of the global society, cultures will more often meet and inevitably collide. The terrorist attacks of September 11th, 2001 and the legislation which followed directly coincide with the idea that terrorism creates a division within citizenship, wherein only select citizens lose rights and are extremely marginalized, while others enjoy liberties as during peace time.

In the same way that the attack on Pearl Harbor shocked America during World War II, the unpredictable September 11th attacks on the country terrified and shocked the nation seven decades later. Two planes hit the World Trade Center in New York City, making both towers collapse onto the city below. Another plane hit the Pentagon. Due to the fact that there was no declared war at the time of the attacks, and the way that civilians were targeted, the attacks of 9/11 are considered terroristic attacks on America. The legal ramifications of the attack do not adhere to the civil rights as outlined by the foundational documents, and do not resemble the shared American identity created through the Revolutionary War and World War I, but rather it seems to mirror the oppressive rewriting of the social contract during World War II, which divided American citizens and unequally distributed the burdens of war on select citizen groups purely based on identity.

During a state of national threat, the political culture becomes more authoritarian and the society overall less accepting (Perrin, 2005). Political actions during hectic times tend to focus on draconian legal restrictions. The environment after both Pearl Harbor and the September 11th attacks was perfectly set for the suppression of liberties. The people were distracted and the government took a more aggressive stance. During such a threat, the legal environment mimics that of a combat military engagement.

Consequently, political discourse "became significantly more aggressive in punishing perceived enemies and more concerned with power and toughness" (Perrin, 2005, p. 189). In the same way that the attacks of Pearl Harbor caused the government to mobilize, enter into World War II with a hunger for revenge, and restrict the rights of Asian Americans, the attacks of September 11 prompted a need for retaliation. As described in the third section, during World War II, the liberties of Japanese Americans within the United States were restricted through the Executive Order 9066 and the infamous Supreme Court decision *Korematsu v. United States*. These events were unambiguously recreated in the wake of the September 11th attack.

The Patriot Act

In order to better protect the country against similar attacks, Congress passed the Patriot Act in October 2001. Attorney General John Ashcroft described in a 2001 speech the pillars of the Act in the following manner: the first principle is airtight surveillance of terrorists; the second principle is speed in tracking down and

intercepting terrorists, and to that end law enforcement began to employ new tools that eased administrative burdens and delays in apprehending terrorists. The rationale was thus quite simple: in order to retaliate and to prevent future occurrences, the government needed to be able to gather more intelligence. Unfortunately, airtight surveillance means an infringement of Americans' right to privacy. Speedy legislation infringes due process and administrative delays are enacted for specific reasons.

The Patriot Act made the following legal changes: standards for wiretapping were lowered, the need for a court order was lifted. Rather than having an unbiased court determine whether or not there is a substantial risk to warrant the invasion of citizens' privacy, this is left to be determined by any law enforcement agency. Another change concerns the sharing of information between agencies without judicial review. A natural part of checks and balances and of the separation of law enforcement agencies has become null and void. Each agency was created with a specific task, which yielded a certain amount of power. Yet this provision directly violates any type of established limit.

Additionally, the Patriot Act greatly infringes on personal privacy as law enforcement may access individuals' internet communications. Traditionally, there is a need to determine probable cause to acquire a search warrant. Moreover, another provision makes large financial organizations liable to government control: financial institutions must closely monitor transactions and agencies may access an individual's credit report secretly, and without review. The Patriot Act enables the enforcers of policy to have absolute discretion as it relates to what they want to accomplish, without regard to privacy concerns.

One of the most potentially dangerous additions to American law through the Patriot Act comes from simply defining the problem. Domestic terrorism is defined as "acts dangerous to human life." This increases the government's power exponentially. It determines that any instance which "involves acts dangerous to human life" amounts to terrorism, in which case the government possesses extreme discretion.

Lastly, the Patriot Act reinforces the concept of duality of citizenship. Non-citizens facing deportations may be held indefinitely, yet this is the only part of the act which explicitly states the entities which are targeted are non-citizens. All of the aforementioned parts of the law apply to all citizens and noncitizens alike. Moreover, the fact that any person may be held indefinitely, without any mention of due process or any type of review, infringes on basic human rights. I believe that this is a natural extension of the Executive Order passed during World War II. In the same way that the laws which relate to *Korematsu v. United States* never explicitly mentioned the suspect class of citizens, it is understood now that only some Americans' rights are forcefully taken away.

Conclusion: rights and safety

Chief Justice William Rehnquist suggested in his book, "All the Laws but One: Civil Liberties in Wartime" (1998), that during times of war, the balance of freedom and order shifts toward order, so the government can deal with conditions that threaten the national wellbeing. The assumption is that when people feel that their life is on the line, they are willing to give up rights which they hold dear during times of safety. Citizens attempt to make a rational cost benefits analysis when it comes to safety and liberties, but as soon as it becomes personal, the scales sway towards the former. In particular,

safety is favored when people consider how the issues under discussion might or might not affect themselves (Chong, 1993). This makes it easier for one select group of citizens to be easily targeted and have their rights and liberties restricted.

The concept of citizenship has changed drastically due to terrorism. There are less rights and liberties during wartime, but it is a shared struggle between citizens, which is explicit in enforcement and reenactment, through declarations of war and peace treaties. Terrorism, on the other hand can never truly be stopped, and rights may never be reclaimed. Wars have had strong public support in our past, and whenever the United States is attacked, the ease with which we give away rights is incredible. In both cases of *Korematsu* and the Patriot Act, the Supreme Court upheld the extreme withdrawal of rights, and they have not been declared unconstitutional- although they both clearly infringe on many aspects of our founding documents. Our world is a globalized one, in which interaction between nations is nonstop. The future seems bleak, as a single terrorist attack has the ability to change the American government in relation to citizens and rights forever.

I believe that a separate review process should be created to evaluate war time laws and policies and ensure that our foundational documents are followed. Unfortunately, the Supreme Court does not seem to realistically review governmental war time acts. Citizens may lose some rights to privacy during actual war time, especially when it is on our land- but this should not include times of instability or slight risk. This raises another question: what actual permanent inalienable rights do the citizens of the United States retain, in a constantly fluctuating world? As a society, we must understand how far the citizens' liberties can be stretched. Can and should we allow the government to redefine the powers of a citizen, on an ongoing basis? Is the concept of citizenship changing so rapidly that it is losing all of its significance, and should we care? Or can we stop it?

The importance of these research questions explicitly enters our collective consciousness whenever terrorism occurs. On April 15th, 2013 during the Boston Marathon two individuals triggered multiple bombs in a terroristic attack which injured hundreds and killed three, including an eight year old child. Boston and surrounding cities were shut down for the investigation and public safety. One of the terrorists was a citizen of the United States and the other was not. The Patriot Act was in full effect during this tragic event, and although the rights of some are still greatly reduced, lives were lost. Although there is an unrelenting urge from the government and the public alike to forcefully and swiftly bring the individuals to justice, we must understand that there are important liberties citizens and noncitizens have fundamentally. Whenever an event such as this occurs, however tragic, we must not allow all liberties to become null and void. After all, it is when they are most forcefully challenged, that their importance shines above all.

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