



Candidates must complete this page and then give this cover and their final version of the extended essay to their supervisor.

Candidate session number			
Candidate name			
School name			
Examination session (May or November)	May	Year	2015

Diploma Programme subject in which this extended essay is registered: Politics

(For an extended essay in the area of languages, state the language and whether it is group 1 or group 2.)

Title of the extended essay: To what extent has the enactment of the USA Patriot Act restricted civil liberties in America and made US policies more similar to those in the People's Republic of China?

Candidate's declaration

This declaration must be signed by the candidate; otherwise a mark of zero will be issued.

The extended essay I am submitting is my own work (apart from guidance allowed by the International Baccalaureate).

I have acknowledged each use of the words, graphics or ideas of another person, whether written, oral or visual.

I am aware that the word limit for all extended essays is 4000 words and that examiners are not required to read beyond this limit.

This is the final version of my extended essay.

Candidate's signature:

Date:

1/22/14

Supervisor's report and declaration

The supervisor must complete this report, sign the declaration and then give the final version of the extended essay, with this cover attached, to the Diploma Programme coordinator.

Name of supervisor (CAPITAL letters) _____

Please comment, as appropriate, on the candidate's performance, the context in which the candidate undertook the research for the extended essay, any difficulties encountered and how these were overcome (see page 13 of the extended essay guide). The concluding interview (viva voce) may provide useful information. These comments can help the examiner award a level for criterion K (holistic judgment). Do not comment on any adverse personal circumstances that may have affected the candidate. If the amount of time spent with the candidate was zero, you must explain this, in particular how it was then possible to authenticate the essay as the candidate's own work. You may attach an additional sheet if there is insufficient space here.

Lack of meeting time was not a concern with this candidate as she was extremely well prepared and on track. I would have liked to have seen the question worded more 'clearly', but other than that, it was well written, could also have used more Chinese sources.

This declaration must be signed by the supervisor; otherwise a mark of zero will be issued.

I have read the final version of the extended essay that will be submitted to the examiner.

To the best of my knowledge, the extended essay is the authentic work of the candidate.

As per the section entitled "Responsibilities of the Supervisor" in the EE guide, the recommended number of hours spent with candidates is between 3 and 5 hours. Schools will be contacted when the number of hours is left blank, or where 0 hours are stated and there lacks an explanation. Schools will also be contacted in the event that number of hours spent is significantly excessive compared to the recommendation.

I spent hours with the candidate discussing the progress of the extended essay.

Supervisor's signature: _____

Date: 2/14/15

Assessment form (for examiner use only)

Candidate session number						
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Achievement level

Criteria

Examiner 1 maximum Examiner 2 maximum Examiner 3

A research question	1	2		2	
B introduction	1	2		2	
C investigation	2	4		4	
D knowledge and understanding	2	4		4	
E reasoned argument	2	4		4	
F analysis and evaluation	2	4		4	
G use of subject language	2	4		4	
H conclusion	1	2		2	
I formal presentation	2	4		4	
J abstract	1	2		2	
K holistic judgment	2	4		4	

Total out of 36

18

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Name of examiner 1: _____ Examiner number: _____
(CAPITAL letters)

Name of examiner 2: _____ Examiner number: _____
(CAPITAL letters)

Name of examiner 3: _____ Examiner number: _____
(CAPITAL letters)

IB Assessment Centre use only: B:

IB Assessment Centre use only: A:

To what extent has the enactment of the USA Patriot Act restricted civil liberties in America and made US policies more similar to those in the People's Republic of China?

Extended Essay in Politics

Word Count: 3,135

Abstract

After the terrorist attacks perpetrated on American soil on September 11, 2001, a series of legislative acts were passed in the United States in an effort to protect the country from future acts of terrorism. The most notable example of such legislation is the USA Patriot Act, passed in 2001. Some advocates of civil freedoms have decried the measure as the catalyst to the systematic rollback of fundamental liberties in the United States. Comparisons have been drawn between policies passed after 9/11 in the United States and limiting policies adopted in the People's Republic of China. The question that logically follows is to what extent has the enactment of the USA Patriot Act restricted civil liberties in America and made US policies more similar to those in the People's Republic of China?

To answer this question, the content of the USA Patriot Act, rights afforded to citizens in both countries, and the constitutions of both nations will be examined. The method of investigation includes examining both primary and secondary sources. To appropriately address the research question, it is necessary to analyze Americans' perceptions of their individual freedoms and how the reality of free expression in America compares with the experience in the People's Republic of China.

The conclusion reached is that the primary rationalizations for restriction of civil liberties in these countries are wholly opposed. Therefore, the enactment of the USA Patriot Act has not shifted US policy in a direction that is similar to policies in the People's Republic of China. While certain rights in America have been altered after 9/11, it has largely been done in the name of safety. The experience in America presents a stark contrast to the People's Republic of China, where stifling political dissent is the primary reason for curbing civil liberties. Words: 298

Too vague a question

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To many, the iconic line “for the land of the free, and the home of the brave” rings hollow in the face of newly imposed restrictions on American civil liberties. In modern society, how truly “free” are American citizens? The Founding Fathers set forth principles in the Constitution that placed emphasis on civil liberties that they concluded were the rights of every U.S. citizen. Particularly in the Bill of Rights, many privileges have been afforded to citizens in the form of civil liberties. The rights to privacy, freedom of speech, and freedom of the press have specifically been lauded as invaluable rights afforded uniquely to Americans. Set forth in the Constitution, the civil liberties granted to Americans have come to represent a central facet of the national identity. However, in the wake of the 2001 terrorist attacks on domestic soil, a marked shift away from these founding principles has occurred in U.S. policy. The events of 9/11 were the catalyst to the systematic rollbacks of civil liberties that have been occurring in the decade following the attacks. F, comparisons are being made between modern policy in the United States and the policies of the so-called “surveillance state” in the People’s Republic of China.

In order to critically examine if the impact the passage of the USA Patriot had on United States policy represents a shift toward policies enacted in China, it is first necessary to undertake ^{www} a study of the political conditions in China. The People’s Republic of China is essentially a communist single party state that rules under the guise of promoting the principles of a multi-party system. Although eight legal democratic opposition parties are allowed to operate in China, they present no real threat to the rule of the Communist Party of China (Kesselman, Krieger, and Joseph 399). Essentially, any party other than the Communist Party of China (CPC) exists solely to legitimize the “democratic” system of government that exists in China. As one of the few

remaining communist party-states left in the world, the policies in the People's Republic of China are unique. Ostensibly, the policies in the U.S. and China are diametrically opposed as it relates to civil liberties for citizens, but in reality there are many unsettling similarities between the two nations.

Both the U.S. and China have constitutions that are intended to provide a framework for the government. In contrast with the Constitution of the United States, the Constitution of The People's Republic of China is relatively young. The People's Republic was established in 1949 after a victory of the CPC over forces loyal to the Kuomintang-led government of the Republic of China. Mao Zedong proclaimed the victory of the CPC and became the People's Republic of China's first leader. From 1949 onward, essentially a single-party state has ruled China. Under the provisions of the Constitution, the leader of the Communist Party of China has expanded executive powers and undisputed authority within the party hierarchy. Today, under President Xi Jinping, any perceived challenges to the status quo promoted by the party are stifled swiftly.

This policy is not inherently expressed in the Constitution of the People's Republic of China. The Constitution grants the citizens of China many rights that are considered to be essential civil liberties. Many of the rights enumerated to citizens in the Constitution of the People's Republic of China are similar to rights provided in the American Bill of Rights. Comparable sections of the Chinese Constitution include Articles 33-50. Among other numerous rights, citizens are granted universal suffrage upon reaching age 18, protection from libel, access to education, and gender equality. In particular, Articles 35 and 40 promise many liberties to citizens of the People's Republic of China that contradict the argument that China is a "surveillance state". Article 35 promises that "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration"

(People's Republic of China 35). Article 40 guarantees the right to “freedom and privacy of correspondence of citizens of the People’s Republic of China” (People’s Republic of China 40).

The liberties granted to Chinese citizens in the Constitution at first glance appear to be indicative of a democratic environment where citizens are free to openly criticize the government, exercise political freedom, and have unlimited access to information. However, under closer examination of the contingents associated with these rights found in the Constitution, it is revealed that in reality civil liberties in the People’s Republic of China are severely abridged. Article 40 grants citizens the freedom of correspondence except in cases where it needs to be censored in order to “meet the needs of State security or of criminal investigation,” and if information is determined to fall into this category “public security or procuratorial organs are permitted to censor correspondence” (People’s Republic of China 40). This stipulation opens up the rights of Chinese citizens to infringement. The government has cited this clause repeatedly as partial justification for their censorship of the media and its detention of vocal citizens who criticized the actions of the government. Article 41 states that Chinese citizens have the right to make a complaint about the government, as long as the complaints are “true” (People’s Republic of China 41). Citizens that do not question the policies of the government receive democratic rights, but those who do not live in terror of a totalitarian state (Kesselman, Krieger, and Joseph 386). In theory, citizens of the Republic of China have been granted many of the same rights as American citizens, but in practice the ideals set forth in their Constitution have not come to fruition.

Today, under President Xi Jinping, the Communist Party of China has cultivated a culture of suppression and fear. The advent of the internet and the information age has exacerbated the root issue of government surveillance and authoritarianism. Even though many elements of the

Chinese government are considered to be more liberal and westernized than they were under Mao, the political climate in the People's Republic of China is still one that stifles civil liberties (Kesselman, Krieger, and Joseph 401). Any opposition to propaganda released by the government is quickly silenced. Under past leadership, dissent was quickly resolved with violence, but the current government in China has a subtler approach to silencing discord. The broad interpretation of the Constitution has allowed the government to expand their powers of surveillance. Before conflict is brought into the public arena, it is carefully extinguished by prohibiting discussion or search for it on the internet.

Today, censorship is ubiquitous in Chinese society. The ready availability of data in the information age has contributed greatly to the issue of censorship of Chinese citizens and made the practice much more prevalent than it was even two decades ago. With a middle class the size of the entire population of the United States, China has a large group of people who now have access to a wealth of information on the internet. This has presented a problem for the Chinese government. In order to maintain their unquestioned grip on authority, the Communist Party of China must quickly stifle any perceived threats to their power structure. Today, this is achieved through a censorship of the internet; state-controlled media rarely reports stories that could have even marginally negative implications for the party. The internet in China is controlled by a limited number of Internet Service Providers that are strictly regulated by a special state organization that has 50,000 employees (Kesselman, Krieger, and Joseph 401). Certain inquiries on search engines like Google and Yahoo are blocked when they can lead to information that is perceived as harmful to the CPC. It is in this manner that the iconic Tiananmen Square revolt has been erased from the Chinese memory. The pro-democracy protests of Chinese citizens were violently shut down in 1989. Today, searching for any terms relating to "Democracy" or

“Revolution” in China will result in a blocked page. All references to the protests have been erased from the collective memory. Even recently, key terms relating to the protests for autonomy and free elections in Hong Kong (dubbed the “umbrella revolution” because of the unique use of umbrellas by protesters to shield themselves from tear gas) have been blocked on search engines in China. The CPC justifies this censorship by citing threats to national security. The CPC is worried about “the potential influence of email and electronic information it cannot control” and has arrested people accused of “disseminating subversive information” (Kesselman, Krieger, and Joseph 401).

Conditions in the People’s Republic of China are very restrictive and seem to be in stark contrast with the numerous civil liberties enjoyed by citizens of the United States. However, after the passage of the USA Patriot Act in 2001, critics of the law argue that conditions in the U.S. were altered perceptibly and now resemble more closely the policies in place in the People’s Republic of China. The USA Patriot Act was created during a dark time in U.S. history, and the spirit of the law encompasses the fears of the American people after the largest terrorist attack perpetrated on domestic soil. The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act was passed on October 26, 2001- a mere 45 days after perhaps one of the most psychologically-scarring events to ever mar the collective American psyche. The culture of fear gripped the nation and incentivized legislators to craft a law to deter terrorism. In the United States, domestic terrorism is defined as “activities that involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; appear to be intended—to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government

by mass destruction, assassination, or kidnapping; and occur primarily within the territorial jurisdiction of the United States” (U.S. Code Title 18 §2331).

This broad definition of terrorism makes no explicit reference to the liberties of American citizens; it is ominously indicative of the broad interpretation of the authorities granted to the government under the USA Patriot Act. The enactment of the USA Patriot Act was the catalyst to an unsettling rollback on American civil liberties. In the name of “national security” flagrant violations of the Fourth Amendment have been tolerated. The ability to carry out surveillance of United States citizens without first obtaining a warrant has drawn the criticism of many advocates for civil freedoms. The purpose of the law is “to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes” (*USA Patriot Act 2*). Under the USA Patriot Act, the CIA and FBI were given expanded powers of surveillance, intelligence collection, and enhanced interrogation techniques. No explicit exclusion of U.S. citizens was made in the USA Patriot Act. This omission has made it possible for U.S. citizens to be caught in the wide net cast by these agencies in the search for terrorists.

The USA Patriot Act details “enhanced surveillance techniques” that grant entities of the United States government the “authority to intercept wire, oral, and electronic communications relating to terrorism” (*USA Patriot Act*, Sec. 201). Without issuing a warrant, law enforcement officials are able to monitor the private communications of U.S. citizens. Much like in a China, a government organization dedicated to monitoring the electronic exchange of information was created. The Director of the Secret Service was delegated the responsibility of maintaining a network of electronic crime task forces in order to prevent, detect, and investigate potential terrorist attacks (*USA Patriot Act*, Sec. 105). This government organization would have the

liberty to conduct surveillance operations on U.S. citizens without issuing a warrant. Clearly in violation of the Constitutional right “of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,” unless they are served warrants issued with “probable cause” (Amendment IV, *U.S. Constitution*). Under the USA Patriot Act, warrants are no longer required to be served to those under surveillance. There are many loopholes in the USA Patriot Act that allow the delivery of warrants to be delayed in cases where issuing a warrant would prohibit the seizure of tangible property or electronic communication that investigators deem necessary to countering criminal activity (*USA Patriot Act*, Sec. 213.2).

Delayed issuance of warrants means that government agencies can search the homes and offices of American citizens and not give notice until much later (ACLU, "Surveillance under the Patriot Act"). Sometimes however, the entire process of obtaining a warrant is forgone. In absence of standard warrants, government agencies under the USA Patriot Act are able to send National Security Letters, or NSLs. These generic letters are issued by FBI agents without judge approval in order to obtain personal information like phone and computer records (ACLU, "Surveillance under the Patriot Act"). Between 2003 and 2006, the FBI issued 192,499 NSLs, but only one led to a terror-related conviction (ACLU, "Surveillance under the Patriot Act"). Despite the apparent misguided use of NSLs, the percentage of NSL requests for U.S. citizens increased 18% during the same time period (*A Review of the FBI's Use of National Security Letters* 9). An investigation by the Department of Justice into the use of NSLs revealed that 5% of NSLs observed in a random sample contained “insufficient explanations” to justify the imposition of nondisclosure obligations on recipients of NSLs (*A Review of the FBI's Use of National Security Letters* 11). The provisions of the USA Patriot Act have allowed the United States government to amass huge databases of personal information with a limited number of

NSLs. The mass surveillance conducted by government agencies is a slippery slope to censorship and ultimately more erosion of civil liberties.

In the precedent set by the landmark *Schenck v. United States* Supreme Court case, the government only had the authority to abridge the First Amendment right to freedom of speech when the actions of an individual presented a “clear and present danger” to the general population (“Landmark Cases: Schenck v. U.S. ”). This ruling was later superseded by the “imminent and lawless action” precedent established by the Supreme Court Case *Brandenburg v. Ohio* (ACLU Ohio, Free Speech on the Docket). The decision handed down in the *Brandenburg* case was remarkable because it banned individual speech that could be interpreted as inciting imminent lawless action. Though many were outraged by this blatant restriction on the First Amendment right to free speech, in truth this measure was an attempt to protect American citizens. These rulings provide a way for the government to stop the dissemination of harmful information that would incite chaos in a public arena. Today this principle of utilitarianism has been misconstrued under the USA Patriot Act. Censorship of the media in the United States is a far cry from the strict one-party state ownership in the People’s Republic of China, but it represents a disturbing trend in U.S. policy that was accelerated after the events of 9/11. The precedent that was established in the 1931 Supreme Court case *Near v. Minnesota* granted the government the authority to censor any publication deemed to be a “nuisance” (*Near v. Minnesota* 702). The characteristics outlined to define what constitutes a nuisance were highly subjective, and thus open to a wide variety of interpretations. Though this does not necessarily mean the U.S. government was intentionally vague in their definitions, it proves worrisome for the future of civil liberties in America. If every instance of surveillance and censorship is to be

justified using such broad definitions, it will be much easier for the United States government to justify any unconstitutional actions directed at its citizens.

It is also important to note the fundamental differences in the populaces of the United States and the People's Republic of China. While most Americans have grudgingly accepted limitations on civil liberties in the name of safety, Chinese citizens are more wary of an oppressive totalitarian government. In fact, after 9/11 a majority of Americans recognized the need to surrender some liberties for the sake of collective national security. 56% of respondents say the NSA program tracking the telephone records of millions of Americans is an "acceptable way for the government to investigate terrorism" (Pew Research Center, "Majority Views NSA Phone Tracking as Acceptable Anti-terror Tactic"). Though the trend in data has shifted overtime, the consensus has remained fairly constant that it is necessary to give up some civil liberties in exchange for national security. When a survey was conducted immediately following the aftermath of 9/11 but before the USA Patriot Act was passed, 55% of respondents said "in order to curb terrorism in this country it will be necessary for the average person to give up some civil liberties" (Pew Research Center, "Balancing Act: National Security and Civil Liberties in the Post 9/11 era"). When the same question was asked again in 2011, only 40% of respondents felt the same way (Pew Research Center, "Balancing Act: National Security and Civil Liberties in the Post 9/11 era"). Collectively, Americans view restrictions on civil liberties as an unwelcome necessity in the face of terror threats. There is a mutual social contract between the American people and the government that extension of government surveillance into the private lives of American citizens is genuinely for the safety of American citizens and is not motivated by any political purposes.

The history of surveillance and censorship in China has been for radically different reasons than the ones used in the U.S. Because the United States is a nation with leaders that are elected freely and democratically, it is not necessary to maintain such tight control on the opinions of the general populace. The primary stated purpose of surveillance in both the United States and the People's Republic of China are the same: safety for citizens. However, in China the true ulterior motive is political control while in the United States the claim that surveillance of citizens is for safety is closer to being genuine. In the wake of the information age, the line between acceptable safety precautions and unconstitutional surveillance has been blurred; but it is presumptive to assert that this trend is in any way indicative of a fundamental shift in U.S. policy, rather than an adaptive response to the modern era. The enactment of the Patriot Act did serve as a catalyst to rollbacks on American civil liberties, but only to an extent that was generally deemed appropriate by the American people. Superficially, policies enacted in America after 9/11 resemble those in the People's Republic of China, but deeper critical examination renders them completely dissimilar as they are based on entirely different principles. ✓

The breadth of the question and the 'usefulness' of the comparison mitigate against a focused essay. Leads mainly in generalities

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