



Nothing to Hide:  
The False Tradeoff between Privacy and Security

Chapters 6 & 7

Tuomo Harjula

# Chapter 6: The Pendulum Argument

- = During a crisis, the weight on security goes  and privacy goes 
- Common view is that during a crisis curtailment of rights is OK
  - Instead, writer says crisis is the time when privacy & liberty should be protected
  - Unnecessary sacrifices
  - Billy Budd: absence of sound judgment. Same has applied to U.S. gov
    - E.g. WW1: anti-war talk led to prosecution, WW2: 120 000 U.S. citizens of Japanese descent imprisoned
    - War: rules do not apply?
    - Same happened 9/11: E.g. Yassar Hamdi: Cut from outside world with no charges, released after 3 years: 'no longer a threat'

- Pendulum swings back after crisis, but should not swing forward in the first place
- Justification is required!
- Pendulum argument's false assumption:
  - 'sacrifices of rights and liberties are necessary'

# Chapter 7: The National-Security Argument

- Distinction between regular crime and national security (NS) is blurry
- 1972, Nixon administration: wiretapping bombers without warrant.  
Why? ->Threat to NS, gov not bound by 4th Amendment
- Supreme Court rebuffed, but stated that regulation is flexible depending on situation

## What is national security?

- Depends. In many cases the reason is not clear, whether is it a regular crime or concerns NS (school shootings, plotting bomb)
- There does not seem to be clear difference versus regular crime (not victim count, means of attack, bombs involved), especially when U.S. citizen involved

- NS is at times used abusively by government
  - E.g. Pentagon papers -> NY Times: concealed gov's deception about Vietnam War
- State secrets privilege
  - CIA kidnapped & tortured man -> tried to sue
  - Other improper use: plane crash -> 47y later revealed docs: no state secrets, but gov negligence
- 1975 Church Committee to investigate gov activities on NS
  - > led to many reforms and legal protections
  - > led also to FISA (Foreign Intelligence Surveillance Act)

# Questions to think about

- How would you balance security and privacy during wartime?
- How to separate national security matter from regular crime?
- How to keep state secrets but still comply with citizen rights?