

Long Reads

Civil Liberties in a Pandemic

Oct 30, 2020 | STEFANIE STANTCHEVA

CAMBRIDGE – The implicit social contract underpinning democratic governments everywhere aims to ensure both the well-being of citizens and respect for their civil liberties, which include freedom of expression, assembly, and worship, as well as procedural fairness. These liberties are so fundamental to the functioning of modern democracies that political philosophers sometimes consider them to be “sacred values” that should not be subjected to comparisons or trade-offs.

Nonetheless, major crises – from wars and terrorist attacks to natural disasters and pandemics – can bring civil liberties into conflict with the broader commitment to the well-being of citizens, particularly when it comes to safety and security. Such moments of tension tend to shed light on the otherwise obscure dickerings implicit in the social contract, because temporarily curtailing certain civil liberties is often a crucial component of the policy response to major crises. This is the case with COVID-19. Technological fixes are still few, and the public-health measures involve, at a minimum, restrictions on movement, assembly, and – in some instances – media content.

Is there a reason to worry that the pandemic will serve as a pretext for the erosion of rights in the long run? According to some outlets, there is. The think tank and watchdog organization Freedom House found that since the start of the pandemic, “the condition of democracy and human rights has worsened in 80 countries, with particularly sharp deterioration in struggling democracies and highly repressive states.” According to *The Economist*, governments have understandably assumed emergency powers to deal with the crisis, but have also sometimes abused them by selectively banning protests, scapegoating minorities, and perhaps taking advantage of the fact that the world’s attention is focused on issues other than human rights. A recent open letter in defense of democracy from the International Institute for Democracy and Electoral Assistance called for keeping democracy alive amid COVID-19.

The Age-Old Trade-off

The COVID-19 pandemic is one of the largest crises in recent history, owing not only to its scope and scale, but also to the particular challenges it poses to liberal

democracies, which have struggled to find a balance between maintaining civil liberties and containing the spread and broader effects of a highly contagious and deadly virus. It provides a unique and tragic window into the age-old trade-off between civil liberties and (health) security, given that the pathogenic threat and the relevant containment measures are the same across a variety of different settings. How citizens view this fundamental dilemma, and which factors shape what they are willing to sacrifice, are essential questions we have an opportunity to answer. The more we know about what people are willing to forfeit in order to protect their health or their liberty, and how such preferences have evolved over the course of the crisis, the better positioned we will be to design effective policy.

In general, democratic governments seek to be responsive to and take into account their citizens' preferences. The degree to which citizens agree with the rationale for legislative or regulatory restrictions on their liberty bears directly on their willingness to comply with emergency-response policies. And this question of compliance ultimately could determine whether a government's response succeeds or fails.

Moreover, even if most people are willing to accept a temporary suspension of many civil liberties, there is always the risk that governments or interest groups will exploit the state of exception in order to seize additional power or advance their own narrow agendas. Public attitudes toward these trade-offs thus have implications for policymaking far beyond the immediate health issue in the COVID-19 crisis. For example, how Americans assess the risks of fulfilling a civic duty like voting could determine the outcome of the US election next month, especially if voters in swing states fear that mail-in ballots will not be deemed valid. And, of course, the same concerns apply to citizens considering whether to participate in public demonstrations, such as those demanding racial justice this year.

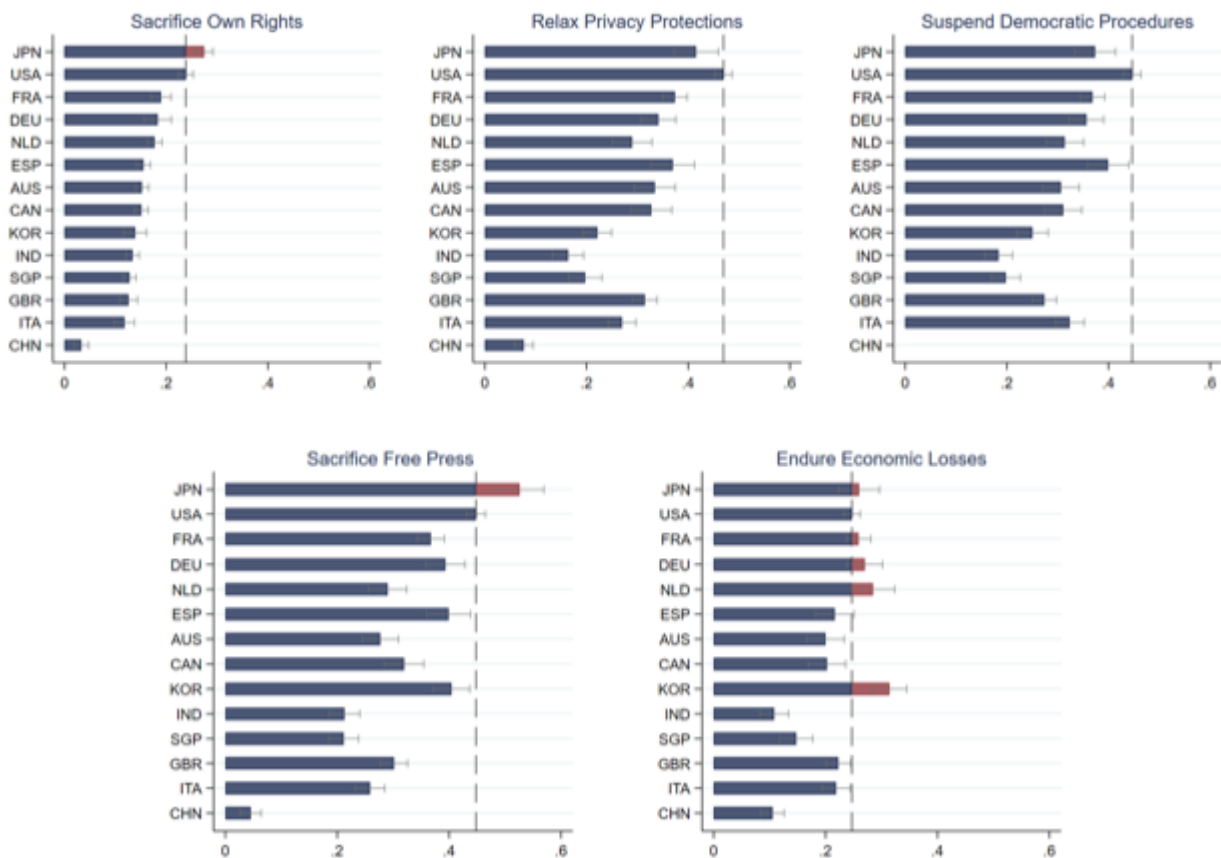
Around the world, countries have assumed very different positions on these issues, with some relying merely on individual responsibility and simple guidelines, and others pursuing intensive programs of testing, tracing, and tracking through mobile devices. Even within Europe, policies have differed widely. While the French government imposed a national lockdown, Germany adopted less restrictive measures and decentralized management at the regional (*Länder*) level.

Government responses also have varied in terms of their timing and sequencing. For example, Germany made face masks mandatory on public transport in April, whereas the Netherlands waited until June, and Sweden has not done so at all. Some countries suspended privacy protections and pushed for the sharing of personal data early on. In South Korea, public authorities have been very effective at tracing contacts with the help of a smartphone app that tracks mobility and credit-card data, as well as movements through CCTV footage. But a similar approach met with little enthusiasm in France when the government launched a voluntary smartphone contact-tracing app.

The Ground-Level View

To determine where people stand on these issues around the world, my colleagues and I have conducted large-scale representative surveys of more than 370,000 respondents (and counting) in 15 countries – Australia, Canada, China, France, Germany, India, Italy, Japan, the Netherlands, Singapore, Spain, South Korea, Sweden, the United Kingdom, and the United States – at various phases of the COVID-19 pandemic. By focusing directly on citizens’ evolving attitudes toward public-health policies and civil liberties, we can see how people navigate the trade-offs brought on by the pandemic, as well as the factors that shape public preferences.

Share of Respondents in different countries unwilling to for the sake of public health
(vertical line: USA benchmark)



In the surveys conducted thus far, several conclusions stand out. First, while many people around the world said they would give up some civil liberties for better public health conditions, there were substantial differences between countries. Overall, about 80% of respondents were willing to sacrifice at least some of their own rights in times of crisis, and citizens from the countries surveyed ranked the importance of core civil liberties similarly. For example, people tend to be *least* willing to give up rights to privacy or cede power to a central figure, and most willing to endure personal restrictions or significant economic losses.

But some of the differences between countries are substantial. For example, a mere 5% of respondents in China expressed an unwillingness to sacrifice any of their own rights during times of crisis, whereas four times as many respondents in the US did. Moreover, almost half of US respondents said they would not give

any ground on freedom of the press, compared to under 5% of respondents in China and 37% in France. Overall, citizens in South Korea, India, Singapore, the United Kingdom, Italy, and China seem to be more willing to give up liberties than those in France, Germany, the US, or Japan. (Australia, Canada, and other EU countries rank in between.)

A second finding is that individuals tend to cling more tightly to privacy rights when they have previously resided in countries where such protections are limited. Hence, South Korean respondents who had migrated from North Korea during the Korean War were less willing to give up their individual rights even during a crisis, as were people born and raised in the five German *Länder* that comprised East Germany before reunification.

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We also find a strong and robust pattern of individuals with greater exposure to health risks exhibiting a stronger willingness to give up civil liberties in the name of public health. Not surprisingly, citizens more prone to COVID-19-related health complications are more willing to sacrifice individual rights and freedoms than are those who have a lower risk. The former tend to accept policies to relax privacy protections, suspend democratic procedures, delegate decision-making to experts, and curtail economic activity and mobility. This is also a challenge for democracies. The fact that the incidence of the pandemic is so different across demographic groups, and that one's own risk shapes one's willingness to tolerate restrictions on civil liberties, means that people in the same country facing different levels of risk may disagree on the appropriate policy response.

More Than Health

A third finding concerns the prominence of certain socioeconomic factors over others in the public consciousness. People with less education and weaker attachments to the labor force, or (in the case of the US) are members of racial and ethnic minorities, are less willing to trade off their rights than are other groups, even in the face of heightened health risks. Perhaps being able to accept restrictions on civil liberties is a "luxury" that members of these groups, who may have a long history of exclusion and abuse, cannot afford, so they view any such restrictions as a threat to their lives and livelihoods. It also is possible that those who are more economically advantaged already have their interests well represented by policymakers, and don't necessarily have to rely on free speech and assembly, much less worry about state surveillance.

Our fourth finding is that one's information diet is also an important factor in one's assessment of trade-offs. When we experimentally exposed respondents to information highlighting the public-health risks and the rationale for strong measures to flatten the epidemic curve, they became more likely to accept restrictions on their civil liberties. On the contrary, respondents who heard about the aggressive public-health measures taken by some countries in response to the

virus and who were made to think about the possible longer-term erosion of rights became less willing to tolerate restrictions on their civil liberties.

Finally, we found that the willingness to sacrifice rights and freedoms gradually declined between March and mid-June of this year, as people's initial concerns about the health risks decreased. During this period, the willingness to sacrifice civil liberties began to plateau across all countries, despite their vastly different experiences with the virus. But by July, as some countries' infections began to spike again, so did public concerns about the health crisis. And more recently, with second and third epidemic waves sweeping many countries, public worries have ticked up again, mirrored by a greater willingness to trade off civil liberties.

Complicated, But Clear

Overall, recent surveys suggest that most people around the world are indeed willing to sacrifice at least some of their civil liberties in the name of public health. Even in liberal-democratic strongholds, most people do not view civil liberties as "sacred values" that must be upheld in all circumstances. Among the majority who accept trade-offs, an individual's willingness to accept fewer civil liberties correlates strongly with her own perceived health risks. Personal circumstances thus appear to play a significant role in the formation of attitudes toward democratic rights and freedoms in times of crisis.

But the overall picture is complicated by the fact that people's willingness to sacrifice rights declines over time. When it comes to maintaining long-term public-health policies, this tendency could undermine compliance; yet it also serves as an important check against governments or political leaders who would use the crisis as an opportunity to suspend basic liberties indefinitely.

Ultimately, democratic governments will continue to face the same basic challenge of responding to public preferences while also safeguarding public health. During a pandemic, protecting health almost always will require at least some restrictions on individual liberty. As such, there is a clear need for stronger safeguards to ensure that such states of exception remain temporary, lest a crisis of public health lead to a crisis of democracy – with all the social and economic hardship that may ensue.

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