

AMERICAN UNIVERSITY OF ARMENIA

**The Strategic Debate Between
Human Rights and National Security**

By

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GLOSSARY

AI – Amnesty International

CAT – United Nations Convention against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment

CCPR – Center for Civil and Political Rights

CTO – Counter-terrorism operation

ECHR – European Convention on Human Rights

ECtHR – European Court of Human Rights

HRW – Human Rights Watch

ICCPR – International Covenant on Civil and Political Rights

ICESCR – International Covenant on Economic, Social and Cultural Rights

ICRC – International Community of Red Cross

IO – International organization

NATO – North Atlantic Treaty Organization

NGO – Non-governmental organization

OSCE – Organization for Security and Co-operation in Europe

POW – Prisoner of war

UDHR – Universal Declaration of Human Rights

UNCAT – United Nations Committee against Torture

UNDP – United Nations Development Program

UNHRC – United Nations Human Rights Council

CHAPTER ONE — INTRODUCTION

BACKGROUND

The promotion of human rights has long been the cornerstone of democracy. Over the past decades, foreign policymakers in the West have debated about the promotion of human rights and the protection of national security as concepts that are inherently filled with tension and mutually exclusive. Policy makers and security advocates have argued that promoting human rights stands at the expense of national security or, vice versa, protection of national security often sidesteps international human rights. The *September 11* terror attacks in the U.S. have fueled this tension generating extensive discussion and change in the security policies of Western democracies.

In an attempt to guarantee national security, particularly to effectively fight terrorism, states have gone as far as adopting new measures to counter terrorism — measures that often have included actions that violate fundamental human rights. More specifically, recent cases have shown that the enforcement of national security policies poses a threat to the very rights and values these security policies aim to protect. The basic human rights that are being violated mostly include the right to fair trial, free speech, free movement, privacy, and most importantly, the right to life. These rights are embedded in various international human rights charters and conventions (e.g., United Nations 1948; United Nations 1966), as well as national constitutions.

The implementation of strict security measures limiting human rights in times of national emergency — when there is a threat to the existence of a state or its citizens and therefore to the fundamental rights of those citizens — seems to be logical and is widely accepted by the

international community. The turn of the new century has witnessed a continuing shift in the nature of conflict and security, with attention turning to issues such as threats and attacks by non-state actors and the responses of states to threats from terrorism. International law even permits limitation of human rights in situations of threats to national security. However, where does one draw the red line of limiting human rights? What should be the balance between the effective protection of national security and the respect and protection of basic human rights?

PURPOSE AND IMPORTANCE OF THE STUDY

The purpose of this study is to show that in situations of crisis states hold national security as their utmost priority, for the protection of which they use every available means, including the use of excessive violence against foreign, and even their own citizens. On the other hand the research wants to show that in such situations the population of these states understand the need for the government to protect the national security which is also their own security.

There is ample research that shows how important are both the protection of national security and the protection of human rights, and that states should strive to find a balance between the two. This research investigates the extent to which state policy tilts toward the national security side of the balance when required to choose between human rights and national security. The paper also tries to show that citizens, on an individual level, generally uphold national security protection, sacrificing their own rights as humans and justifying state policy and actions.

RESEARCH QUESTIONS AND HYPOTHESES

This study begins with a set of assumptions drawn from prior research and lessons learned from recent history and life experiences. In order to find out whether those assumptions, which will be discussed later in the research, are true or not a set of research questions were developed. The research questions are:

RQ₁: Do states use excessive means in crisis situations?

RQ₂: Is national security sufficient reason for using excessive force?

RQ₃: Does the use of excessive force violate international human rights conventions?

RQ₄: Does the international community disapprove of such government action?

RQ₅: Does the population disapprove of government actions?

RQ₆: Does the state continue using excessive means?

RQ₇: Have states punished persons guilty of authorizing and executing excessive means?

RQ₈: Which is more important on an individual level, security or individual rights?

RQ₉: In crisis situations, which is more important on an individual level, security or individual rights?

Subsequently, the hypotheses of the research are:

H₁: In matters concerning national security, most states hold security issues above the protection of individual human rights.

H₂: On an individual level, in times of crises people prefer their own personal security over the protection of human rights overall.

CHAPTER TWO — LITERATURE REVIEW

SECURITY AND NATIONAL SECURITY

Security is a goal that every society strives to achieve. It is envisioned as a state in which the balanced physical, spiritual and material existence of both the individual and the community as a whole is ensured in relation to other individuals and communities, as well as to the natural environment (Grizold 1994). It is often argued, however, that security is unachievable or, otherwise stated, that it is simply a psychological phenomenon, a state of mind (Hank 2005).

In a broader sense, national security generally refers to the absence of threats to a nation. No clear definition of what constitutes ‘national security’ has emerged from international jurisprudence. The concept of national security has traditionally included political independence and territorial integrity as values to be protected; but other values are sometimes added. For instance, the former U.S. Secretary of Defense Harold Brown (1983) considers the maintenance of “economic relations with the rest of the world” as a significant value for a nation. But, failure to specify which values are included in the concept of national security often generates confusion and debate (Baldwin 1997; Berkowitz et al. 1965; Smoke 1987; Wald 2010).

Along those lines, national security is required for assuring the sustained survival of a state through the use of economic power, diplomacy, and political power. This concept was developed mostly by the United States after World War II. In earlier studies, national security was almost equal to state security and was defined as the absence of external threats to acquired or internal values; scarcity of external threats to security problems faced by nations and/or existence of policies and processes that address such problems (Berkowitz et al. 1965, Smoke

1987, Wolfers 1952). The basic elements of national security involve safeguarding the existence of the state, the nation, and the physical existence of the population, protecting territorial integrity, and maintaining political independence and development, etc. (Dimitrijevic 1973, Nobile 1988).

Initially focusing on military might, the concept of national security now encompasses broader factors, all of which impinge upon the non-military or economic security of a nation and the values espoused by its citizens. Accordingly, in order to ensure national security, a nation needs to possess economic security, energy security, environmental security, etc. (Sarkesian 2008, Wolfers 1952). Security threats involve not only conventional foes such as other nation-states but also non-state actors such as terrorist organizations, narcotic cartels, multinational corporations and non-governmental organizations; several governments (U.S., U.K., the Philippines, etc.) also include on this list of security threats natural disasters and events causing severe environmental damage (Sarkesian 2008, Smoke 1987, Wald 2010).

National security, however, is also viewed as a preferred legal tool for governments around the world to impose restrictions on freedom of speech and movement. The justifications for these measures are often vague or do not address real threats, e.g., the existing possibility of a terrorist attack. On the contrary, justifications often include false blames on opposition groups and result in violent activities that threaten or cause harm to citizens under the pretext of achieving political purposes (Palfreman 2004, Smoke 1987).

HUMAN RIGHTS

Human rights are fundamental rights and freedoms that all humans possess regardless of nationality, age, sex, origin, religion, language, etc. They include civil, political, social, cultural and economic rights, most importantly the right to life, security, equality and freedom of expression. Human rights are recognized and protected by international treaties and conventions, as well as national laws.

Human rights are typified between revocable and non-revocable rights in international law. The ICCPR (United Nations 1966) includes the right to privacy, the right to free speech, and the freedom of movement among the rights that can be derogated from or partially revoked in extreme situations involving threats to national security. The same document suggests several rights that are not allowed to be violated under any circumstance, not even in case of war or state of emergency. These rights are the right to life, protection from torture, slavery, and inhuman and degrading treatment.

Human rights violations have been used as a pretext to justify military interventions (e.g., Kosovo in 1999, Libya 2011). Moreover, the connection between human rights violations and military interventions has received greater conceptualization. The developing recognition of the need to repress and prevent international crimes, such as genocide and other crimes against humanity, has been linked to the developing possibility of a right for states to intervene militarily in another state on humanitarian grounds (humanitarian intervention). Following the disagreement by the U.N. Security Council over the 1999 NATO intervention to protect the population of Kosovo, various governments, including that of the United Kingdom, sought to

outline situations in which it would be legal for states to use force against another state in the face of a 'humanitarian catastrophe' (Clapham 2007).

NATIONAL SECURITY V. HUMAN RIGHTS DEBATE

The respect for human rights by governments has opposing effects on national security. On the positive side, granting inalienable rights — such as freedom of speech, freedom of religion, the guarantee of impartial treatment in court, the protection from invasion of privacy, and even more importantly the absence of torture, extrajudicial killings, and political imprisonment — enables citizens to live in freedom and safety and to express political criticisms nonviolently. On the negative side, exercising greater enforcement of human rights increases a country's vulnerability to external and internal threats. According to Dreher et al. (2010), who carried out extensive research on the effects of terrorism on democracy, the net effect of human rights on national security is not so clear.

The debate becomes more subtle and complex in times of war, particularly in the case of such non-conventional wars as the war against terrorism. During wartime, the executive branch traditionally gets more power than the other branches of government. Domestic policies also become scrutinized for extra security during wartime in order to serve the special demands and provisions of national security. As pointed by Attorney General John Ashcroft, the tactics of human rights activists only aid terrorists as they erode the national unity and diminish the resolve to fight terrorism (U.S. Senate 2001 in Baker 2003).

In Western democracies, the majority of leading politicians seem to endorse the negative view of the consequences of human rights, at least concerning the threat of terrorism associated

with fundamentalist religions. After terrorist attacks, politicians tend to suggest the restriction of human rights as a means to improve national security. In 2005, U.S. President George W. Bush, for instance, explicitly formulated objections against legislation that would prohibit torture and inhumane treatment of detainees anywhere in the world, as this would hamper the ability of U.S. authorities to obtain information, especially in the “war against terror” (Baker 2003; Amnesty International 2006). Until the U.S. Supreme Court rendered such practices unconstitutional, prisoners in Guantanamo Bay, Cuba, were treated neither as prisoners of war nor as typical prisoners. They were denied all basic human rights as well as fair treatment according to the Geneva Convention.

Furthermore, as posited by Risen and Lichtblau (2005), Bush authorized the U.S. National Security Agency to eavesdrop on telephone and e-mail communication between people in the United States and those abroad without warrants based on the U.S. Uniting and Strengthening America by the Patriot Act (Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) of 2001. This Act and the subsequent practices authorized by the Act have been severely criticized from the viewpoint of violating human rights (Barnidge & Robert 2007; Dreher et al. 2010; Guiora 2011).

In the United Kingdom, the Prevention of Terrorism Act 2005 (c.2) allows government ministers to issue control orders restricting the liberty, movement, and activities of people purportedly suspected of terrorism-related activity. A similar legislation was recently enacted in Australia. Thus, it looks like countries respond to terrorism and threats to their Western values by diminishing the very rights they wish to protect in the first place.

The threat of terrorism led to a situation in which national security became the major political topic in recent U.S. elections. Similar developments can be observed all over the Western world, although only a few countries, such as Great Britain, acted as strictly as the United States did. This pattern of behavior already existed in the years before September 11, 2001, however only after the 1993 bombings of the World Trade Center and the federal building in Oklahoma City, the Antiterrorism Act of 1996 was enacted in the U.S. Congress. Cole and Dempsey (2002, p. 117) rank the Act as “some of the worst assaults on civil liberties” prior to the 2001 antiterrorism measures. Overall, it seems reasonable to expect that terrorism leads to restrictions on human rights. Governments seem to react to an increase in terrorism by constraining the freedom and privileges of their own citizens, and this change in the level of restrictions is potentially based on the demand for higher levels of security for the protection of citizens (Baker 2003, Cole and Dempsey 2002, Dreher et al. 2010, Foot 2007).

A widespread view on government restrictions suggests that such tactics are doubtful to reduce or eliminate terrorism. If anything, it will merely make terrorists shift tactics or perhaps targets. What this may result in, however, is an increase in violence in the country where such limitations are imposed. One of the primary objectives of terrorism is to provoke the ruling elites of the target regime into overreaction. Where this works, the results can be disastrous, which would ultimately benefit terrorists.

The defenders of this view argue that once human rights are lost, they are difficult, if not impossible, to restore. While it is certainly the duty of governments to protect their countries and defend their citizens, this must be accomplished without violating fundamental human rights. The primary reason is that if these rights are marginalized or lost, then the terrorists have the

right to declare success. Therefore, citizens must see through the cloak of national security and speak and work against the dismantling of human rights whenever and wherever encountered (Turner 2004).

The example of President Bush initially objecting to a bill prohibiting the torture and inhumane treatment of detainees anywhere in the world — merely because it would negatively affect the ability to obtain information (Amnesty International 2006) — demonstrates that even fundamental human rights and values are questioned if they are thought to reduce national security. This logic leads us to expect that terrorist activity leads to a reduction in the level of human rights.

Contrary to this reasoning, many international organizations and even governmental agencies take the position that human rights and national security should not contradict each other. The Australian Human Rights Equal Opportunity Commission, for example, argues that characterizing human rights as conflicting with national security is imprecise. According to the Commission, governments have the right and the duty to take counter-terrorism measures but only if such measures comply with that country's human rights obligations (Australian Human Rights Commission 2007).

Yet another argument is that an increase in human rights would improve national security. Terrorist attacks are viewed as reactions to inadequate human rights. According to this view, governments should fight terrorism by protecting and paying more attention to protecting human rights (Dreher et al. 2010, Sandler 2005). National security affects both types of human rights, revocable and non-revocable. The most common violations of such rights are limitations of free speech and information, irregularities in due process of law, etc.

INTERNATIONAL CONVENTIONS ON NATIONAL SECURITY V. HUMAN RIGHTS

Through the above presentation of relevant literature, one can infer that in the face of threats to national security states tend to implement policies that limit human rights. One can also reveal that some international conventions accept that in situations of threats to national security several types of human rights can be limited, but others are strictly denied to derogate from. To get a clearer insight into this debate between human rights and national security, it becomes important to examine this from the positions of applicable international human rights treaties.

The Universal Declaration of Human Rights (UDHR) is the foundation of the international system of protection for human rights. It was adopted by the United Nations General Assembly on December 10th, 1948. That same day is celebrated annually as International Human Rights Day. The 30 articles of the UDHR establish the civil, political, economic, social, and cultural rights of all people (Amnesty International 2013; United Nations 1948).

Closely tied to UDHR, the International Covenant on Civil and Political Rights (ICCPR) (United Nations 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (United Nations 1966) are considered to be conventional within the Human Rights framework. Together with the UDHR, these treaties are referred to as the International Bill of Human Rights. These cover different aspects of human rights extending to all people and include the right to determine their political status, the right to freely pursue their economic, social and cultural development.

Another important treaty on human rights is the European Convention on Human Rights (ECHR), adopted in 1950 by the Council of Europe. The ECHR contains articles that protect all basic human rights, including the right to life, freedom, prohibiting torture and slavery, etc. Thus, in some circumstances international law permits states to limit or suspend part of their legal obligations by way of restricting some rights. The derogations are strictly applicable only under special circumstances, such as states of emergency and the exigencies of the situation.

These derogations, however, are subject to certain provisions. The state must not derogate from any obligations they currently have toward other states, as stipulated by statutes, charters or covenants under international law. Several rights, such as the right to live and protection from torture, are not subject to derogation. The derogating state must inform all other parties through the U.N. Secretary-General that they intend to derogate from certain provisions and must state which provisions they intend to derogate from providing the reasons for doing so. Lastly they must inform the U.N. Secretary-General of the date they terminated the derogations (United Nations 1966).

Aside from the above restrictions, rights that are absolutely prohibited to derogate at all times include the right to life (Article 6.1), protection from slavery, torture, cruel, inhuman or degrading treatment (Article 7). The sentence of death may only be imposed for the most serious of crimes in accordance with national laws but not contrary to the provisions of the Covenant. Anyone sentenced to death may have the right to seek pardon or amnesty (Article 6.4).

The aforementioned rights are non-revocable rights; exceptions to their derogation are not even possible in a state of emergency. All other rights, including those that are non-revocable during peaceful times, may be subject to limitations under states of emergency. These

include arbitrary arrest and detention, right to free and fair trial, liberty of movement, and right to privacy.

The European Convention on Human Rights also contains derogation clauses and several rights that are even vaguer than that of the ICCPR are not subject to derogations. These rights include the right to life, excepting deaths resulting from lawful acts of war, the ban on torture or inhuman or degrading treatment, and prohibition on slavery or servitude (Articles 2 - 4).

The U.N. Human Rights Council has at least made it clear that suppression of democratic discourse and human rights cannot be justified on grounds of national security. International courts (European Court of Human Rights) have generally accepted that the limitations of freedom of expression and other rights are directed toward the protection of national security. The arguable question posed by the courts is whether the restrictions were strictly necessary to achieve the goals. Two requirements are proposed to judge the legitimacy of limitations on national security grounds. First, the requirement of intent that aims to distinguish between the legitimate actions on matters of national security and conducting illegal actions. And the second requirement, that there must be a clear line of demarcation between the claim of an existing threat to national security and the actual probability of harm, emphasizes that states should not take a 'better safe than sorry' approach.

The U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities has tried to clear the referenced ambiguities in the Siracusa Principles. Principle B (IV) defines when a restriction can be applied to national security. First, national security may be used to justify measures limiting certain rights only when the measures are taken to protect the existence of the nation, its territorial integrity or independence against threat of force. Second, national

security cannot be used as reason for imposing restrictions to prevent threat on local or relatively isolated levels. And third, national security must not be invoked as pretext for imposing limitations unless there are adequate safeguards against abuse (Kaponyi 2007). Thus, this definition underlines that restrictions on the basis of national security are justifiable only when there is a threat to the existence of a nation and its territorial integrity or independence.

HUMAN SECURITY

Another aspect of national security v. human rights conflict is the concept of ‘human security’ or the individualistic approach to security. While not being as widely known and used as the national security, this concept may provide a different angle from which to look at the continuing debate between national security and human rights.

Security is an all-encompassing condition, in which individual citizens live in freedom, peace, and safety; participate fully in the process of governance; enjoy the protection of fundamental rights; have access to resources and the basic necessities of life; and inhabit an environment which is not detrimental to their health and well-being. Personal security entails protecting people from physical violence, whether from the state, from external states, from violent individuals and sub-state actors, from domestic abuse, or even from the individual himself (as in protection from suicide) (Hank 2005).

Being relatively new,¹ the concept of human security is a subject of intense debate. There is no agreement among policy-makers and academics on the importance of personal or human security, and ‘national security’ gets more attention. There are, however, many defenders

¹ The concept was shaped in the 1994 UNDP Development Report by Mahbub ul-Haq.

of the individual-oriented approach of security. The initial Human Development Report (UNDP 1994) argued that human security should be the dominant security paradigm. Accordingly, there are states that agree with this statement, and have taken this approach in developing their respective national security agenda (e.g., Republic of South Africa). Several other states, such as Canada and Japan, show a complementary approach by viewing human security as tantamount to national security (Hank 2005). In the same vein, former U.N. Secretary General Kofi Annan has frequently stressed that “human security is in its broadest sense the cardinal mission of the United Nations” (Newman 2010, Oberleitner 2005).

Similar to national security, there is no common definition for human security. The definitions agree on the point that the referent unit for security should be the individual, but disagree on the nature and range of threats that human security should address and what means should be employed. Definitions range from narrow concepts focusing on physical integrity to a broad understanding that also encompasses psychological and emotional aspects of security. The Commission on Human Security defines human security as "protecting the vital core of all human lives in ways that enhance human freedoms and human fulfilment." This entails protecting vital freedoms that are fundamental to human existence and development. In this rather broad view, human security means protecting people from severe threats, both natural and societal, including economic, social and environmental security (Newman 2010; Oberleitner 2005; Palfreeman 2004).

The narrower definitions suggest that individual security entails the physical safety of a person from various threats related to armed conflicts, terrorism, or repressive governments. Human security shifts its focus from the state toward the individual, and it bases security on

common values, the well-being, safety, and dignity of individual human beings (Mack 2004, Oberleitner 2005, Palfreeman 2004).

On special occasions the security of an individual is threatened by national security. For example, the governments of Sudan, Eritrea, Congo, etc. spend huge amounts of money on the ‘protection of the state’ while most of the population lives in insecurity — in civil disorder, persecution, poverty, etc. Even in mature democracies, ‘national security’ is a justification for laws that deprive individuals and ethnic minorities of their expected level of security (Palfreeman 2004).

According to research on this topic (Brysk and Shafir 2007, Topaloff 2012) citizens are arguably willing to make a trade-off between human rights and security. In challenging times, such as war on terror, they may perceive terrorist attacks to be more likely and thus afford greater weight to security. Consequently, citizens might be willing to accept a lower level of human rights in order to see an increase in national security

Stricter surveillance and controls make it harder to exchange secret information and ideas. Because stricter controls impair terrorists’ ability to plan attacks, the public is more willing to accept them in times of increased threat. Citizens may correct their subjective judgment and speculations on terrorist attacks in their country. Consequently, they may be more willing to accept a decrease in the level of protection of human rights in order to enhance the perceived level of security (Turner 2004).

Human security can also be explained through the Maslow hierarchy of needs, proposed by Abraham Maslow in 1943. Maslow’s hierarchy of needs is widely known and is frequently used in psychological researches. This hierarchy of needs is mostly portrayed as a pyramid,

where on the lowest level are the most necessary needs of humans, the physiological requirements (food, water, shelter, etc.). At the next level are the basic needs for safety, which includes the physical security of human beings, security of the family, etc. Only at the third level ones feels the need for love, self-esteem and self-actualization (Maslow 1943). This concept comes to support the security aspect in the national security v. human rights debate, as it shows that people first require to be safe and only then understand and value their rights.

TERRORISM

In recent years, terrorism has become a major threat — even the number one threat to the security of the vast majority of developed countries. More specifically, terrorism has received more attention and importance after the *September 11* terrorist attacks, which marked a decisive point for the U.S. and other countries to take terrorism more seriously, and to strengthen their counter-terrorist legislation and policies. As such, terrorism can be considered the most important and present example of national security v. human rights debate. For this purpose, we should look at relevant literature on terrorism which may help us understand and open new perspectives in the considered debate.

Most Western democracies recognize that terrorism is a threat to national security and its values. Moreover, terrorism has been recognized as a threat to international peace by most international organizations. This has led to the implementation of strict measures to combat terrorism. But, how does one define the term terrorism? There is no widely accepted definition of the term or a clear delineation of who is to be considered a terrorist, and whether terrorists are combatants or non-combatants (Deutch 1997, Gibbs 1989).

Terrorism is not a new phenomenon considering that it has been used in earlier centuries, albeit in different contexts. Its manifestations have evolved over the centuries and state positions in their fight against terrorism have also evolved respectively. There are various types and uses of terrorism such as political terrorism, state-terrorism or state-sponsored terrorism (Gibbs 1989).

The term ‘terrorism’ does not have a single accepted definition neither in academic discourses, nor in international law, despite the efforts to find a generally, if not universally, accepted definition. As a consequence, governments and international organizations tend to approach the phenomenon from varying viewpoints in different contexts. This supports the saying that one person's terrorist is another person's freedom fighter. Governments, therefore, try to label different acts of violence in a way that fits their own interests. There are many reasons for such a difference ranging from ideological clashes to national interests (Kaponyi 2007).

Not having a consensus on defining terrorism, a number of states that were interested in outlawing terrorism through international treaties have concentrated on defining and prohibiting specific acts such as hostage taking, aircraft hijacking, etc. The U.N. pioneered this approach with the adoption of the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft. Subsequently, ten more conventions of similar approach were adopted until 1999. However, a general definition of terrorism and a categorical outlawing of the practice remained politically elusive.

In 1999, the U.N. General Assembly adopted the International Convention for the Suppression of the Financing of Terrorism. The Terrorism Financing Convention includes the first general definition of terrorism in an international treaty:

“Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act” (United Nations 1999).

The emphasis in this definition is on the status of the target, which also appears in the definition employed in the U.S. government’s annual reports on terrorism: “premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents” (Neuman 2003).

A significant step towards achieving a universal definition was initiated by the U.N. Security Council. Russia introduced resolution #1566 in August 2004, one month after the hostage crisis in Beslan. The resolution aimed at broadening the scope of Security Council committee beyond its existing focus beyond Al Qaeda and the Taliban. The resolution adopted a language that would enable providing a general definition of terrorism:

“criminal acts, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act... are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature...” (United Nations 2004).

The resolution was adopted unanimously.

This resolution is one of the examples of legislative acts that have vague language. Resolution 1566, for example, calls on states to deny refuge and bring to justice those people who support, participate or attempt to participate in the financing, planning, preparation or execution of terrorist act. This clause was criticized on the ground that the resolution is too

vague, that individuals would not know whether their actions will be lawful or not, and innocent citizens can easily fall under the restrictive and punitive measures of the resolution.

In academic literature on terrorism, attention is paid to acts of violence against innocent people and to the political nature or goals of terrorist acts (Deutch 1997, Laqueur 2000).

Violence can be directed against a government, but at times also against another ethnic group, class, race, religion, or political movement. Terrorists intend to achieve their goals by creating fear and intimidating the population (Deutch 1997).

International institutions responded to the September 11, 2001 attacks in a swift and extraordinary manner. The U.N. Security Council determined that the attacks constituted a “threat to international peace and security” and also recognized the “inherent right of individual or collective self-defense in accordance with the Charter” (Res. 1368 2004). Accordingly, the resolution implicitly recognized that the acts of *September 11* constituted an ‘armed attack’ under Article 51 of the U.N. Charter. Although the U.S. and other countries have experienced and responded to terrorist attacks with force in the past, the Council had never before issued such a rhetorical statement.

Also unprecedented, both the North Atlantic Treaty Organization and the Organization of American States formally considered *September 11* an armed attack and invoked the collective self-defense provisions of their respective treaties. In late September, the Security Council, acting under its binding Chapter VII powers, required all states to take financial, penal, and other regulatory measures against individuals and organizations involved in terrorist activities (Res. 1373).

The Security Council, however, was also concerned that the states, acting under the dictates of the Council, comply with universal human rights obligations. In several resolutions, including resolution No.1566, the Council stated that all the signatory states must ensure that their anti-terrorist measures comply with their obligations under international law, particularly with international human rights, refugee, and humanitarian law (Resolutions No. 1535 and No. 1566).

The empowerment of states to fight terrorism, as approved by the Security Council, is argued by some analysts to have encouraged repressive states to exploit anti-terrorism discourse and try to repress or de-legitimize political opponents, and to connect them with Al-Qaeda. Many countries around the globe have attempted to intensify their own crackdowns on political opponents, separatists and religious groups. Thus, China characterizes Uighur separatists in Xinjiang as terrorists, Russia asserts that Chechen rebels are terrorists, India seldom distinguishes militants from terrorists in Kashmir, and Israel has identified Palestinians with Al-Qaeda, with Ariel Sharon calling Arafat ‘our Bin Laden’ (Human Rights Watch 2014; Saul 2005).

CHAPTER THREE — METHODOLOGY

A mixed research method was used for the study, employing both qualitative and quantitative approaches using an explanatory design. Data collected and analyzed included documents, speeches and interviews. Additionally, primary data was collected through a survey conducted in the U.S. and Armenia; secondary data included a survey conducted by other entities.

For the purpose of answering several research questions content analysis was performed of government documents, as well as reports and other documents issued by non-governmental and international organizations. Also, discourse analysis was performed of speeches and interviews of heads of states and key members of governments. It is important to mention that historical and political context was considered in each of the cases studied in order to get a complete understanding and interpretation of data. Secondary data analysis was conducted to measure public opinion on the cases selected for discussion.

The survey conducted in Armenia and in the U.S. aimed to measure public opinion about the importance of protecting human rights v. the protection of personal security on an individual level. The data collected through these surveys was basically used for testing the second hypothesis.

DATA COLLECTION INSTRUMENTS & SAMPLING

The survey questionnaires for Armenia and the United States were developed identically to minimize bias. The surveys were tested using a group of university students and several residents in the immediate community of the researcher. Ten students and seven heads of households participated in testing the questionnaire. Their feedback was used to modify and improve the questionnaire.

The survey in Armenia was distributed in Armenian and in English in the United States for the purpose of eliminating comprehension errors. The survey in Armenia was conducted both online, through social websites, as well as in person, by distributing the survey mainly in the neighborhoods of Yerevan, the capital city of Armenia. The purpose for doing this was to target the younger people that use social websites more often and collect responses from older people through paper-based surveying. In the United States the survey was conducted online only, using social websites.

The research used a random stratified population for the survey. The complete responses received were 133 in Armenia and 104 in the United States. The survey did not target a population of any specific age, education or employment, rather the aim was to get a record of public opinion in different strata.

The primary data gathered from the survey was analyzed using SPSS statistical software. Data analysis included mainly cross tabulations and mean comparisons. As mentioned earlier, for the qualitative part of the research content analysis of documents and discourse analysis of speeches was performed. The classification and coding of reviewed text was based on the research questions; descriptors were formulated to facilitate analysis and reduce bias. Each

descriptor was measured by its corresponding strength in the analyzed text following pre-established criteria used consistently throughout the analysis.

LIMITATIONS OF THE STUDY

The research study has certain limitations which need to be addressed. Time has been a major limitation, denying possibility to gather a larger number of respondents for the surveys, as well as to gather and analyze additional official documents and speeches to eliminate the risk of error in the content and discourse analyses. Another limitation is the attempt by states of the selected cases to classify or dispose of some data that may have produced different results in the current study. Other certain sources of error, which the researcher has been vigilant to reduce or eliminate, were the political motivations behind the actors in each case whose documents and speeches were analyzed in order to answer the questions of this research.

CHAPTER FOUR — DATA ANALYSIS AND DISCUSSION

The research questions of the study were analyzed through discussions of three selected cases from the perspective of state behavior in times of crisis. These cases are:

- The use of excessive force in Guantanamo detention facility by authorization of the U.S. government during 2002-2008;
- The use of excessive force against unarmed civilians by Russian and Chechen security forces during 1999- 2009; and
- The use of excessive force against peaceful protesters during March 1, 2008 protests by the Armenian police and security service.

For each case, a specific set of violations of human rights by the state was selected. The violations are referred to as ‘use of excessive force’ in the classification of content and subsequently explained and discussed more thoroughly.

For every research question specific descriptors were developed and measured on a five point scale, where 1 meant complete disagreement with the descriptor, and 5 meant complete agreement; on this scale, 3 was the neutral position of neither agreement nor disagreement. The mean values of the descriptors were calculated enabling discussion and conclusion.

In this research, the phrase ‘non-governmental organizations (NGO)’ is used to refer to all non-profit non-governmental organizations, both local and international. ‘International organizations (IO)’ refer to international governmental and non-profit organizations, such as the United Nations, Council of Europe, etc. The official documents are mostly reports by

governments submitted to the Human Rights Council of the United Nations, Center for Civil and Political Rights, Committee against Torture, official responses to the questions by the referenced organizations, and official responses to the European Court of Human Rights. The NGO and IO documents are mainly annual reports and reports released after observations of the situation in the countries of discussion. The interviews with government officials used in this study were those conducted by various news media. All the documents, speeches and interviews used were open source documents accessed through Internet.

GUANTANAMO CASE

The Guantanamo Bay detention camp, known also as Gitmo or GTMO, is a U.S. military prison located in Guantanamo Bay Naval Base, Cuba. The camp was established after the September 11 attacks on the United States, in January 2002, by the Bush administration for detaining ‘extraordinarily dangerous prisoners, mainly terrorists,’ interrogating and prosecuting them for war crimes. Most of the prisoners² were captured in Afghanistan, but to a lesser extent also in Iraq, African countries, South-East Asia, the Middle East, and even some European countries (U.K. France).

Without delving into the well-known events of *September 11* (as it is outside the scope of the current study) it is important to get a brief picture of the context behind Guantanamo. *September 11* was a national tragedy for the U.S., often referred to as the Pearl Harbor of the 21st century. President Bush declared it as an attack by stateless terrorist organizations on the U.S. and announced a global war on terror. Terrorism was perceived as the primary threat to the U.S. national security, and accordingly the security agencies of the U.S. received extraordinary

² Almost 800 by 2009 (White House 2009)

authority to use any means necessary to capture and eliminate the primary terrorist organization *Al-Qaeda* members and its head, Osama bin Laden.

Working with a unique strategy, the Bush administration put Guantanamo in a very special geographic position outside of U.S. jurisdiction, thus making it fall outside of any Congressional or judicial scrutiny. The Bush administration also declared that prisoners in Guantanamo were not entitled to protection under the Geneva Conventions as they were not prisoners of war but ‘enemy combatants’ and ‘unlawful combatants,’³ which however was later rebutted by the U.S. Supreme Court in *Hamdan v. Rumsfeld* (2006). What this means is that from 2002 till 2006 Guantanamo functioned outside of any kind of legal jurisdiction.

Throughout its existence, the Guantanamo camp has received many criticisms and reports of abuse and torture of detainees. Detentions in this facility have also been criticized for being unconstitutional, as the detainees were indefinitely detained without charge of crime. Obviously, Guantanamo was created to hold persons who pose or may pose serious threat to the U.S. national security. The prisoners were (and continue to be) ‘processed’ by way of interrogations to gain access to important information about the identities and whereabouts of other suspects, plans and operational secrets of terrorists and terrorist cells. The means implemented to gain such information for the purpose of eliminating further threats to national security ranged from simple questioning to methods that are referred to by the U.S. government as ‘enhanced interrogation methods’ which, according to NGOs and international organizations, are synonymous to torture.

³ Both terms were created by the Bush administration to ensure that the detained terrorists not be covered by Geneva Conventions.

According to international human rights law torture is a violation of human rights. Moreover, protection from torture and inhuman treatment is one of the few human rights that is considered non-revocable: no one is permitted to torture another person under any circumstance. This is clearly stated in Article 7 of the International Covenant on Civil and Political Rights (1968). The United States has ratified the Covenant on 8 June, 1992.

We have a clear contradiction between national security and protection of human rights in the Guantanamo case. By the authorization of the U.S. government prisoners that are also human beings, albeit alleged terrorists, were tortured to gain information that might help protect U.S. national security.

Naturally, the Bush administration has denied the mistreatment of prisoners in Guantanamo for years. However, throughout the years, a large quantity of evidence has accumulated indicating that torture was used in Guantanamo and the U.S. government had indeed authorized it. To get a clear picture from a decade-long debate on Guantanamo, I have conducted a discourse analysis of speeches of members of the Bush and Obama administrations, members of the U.S. Congress and other high-level officials. I have also looked into reports and publications of NGOs and international organizations that have conducted observations in Guantanamo and are concerned with recorded human rights violations. By comparing evidence obtained from the speeches by officials and the reports of NGOs and international organizations, this research provided a clearer understanding of whether there were violations of human rights in Guantanamo, whether the government was responsible for those violations, and whether the international society and the public disapprove of the actions taken by the government to protect its national security.

In the first part, presented below is a review of key international conventions that condemn torture and call for the protection from torture.

INTERNATIONAL CONVENTIONS

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the U.N. General Assembly on 16 December 1966. The United States ratified the Covenant in 1992. Article 7 of the ICCPR states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,” and article 4.2 states that “no derogation from article 7... may be made under this provision.”

The U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations Convention against Torture) was adopted in 1984. The United States ratified it in 1994. Article 2 of the convention clearly states that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.” Similarly, Article 17 of the Third Geneva Convention guarantees basic dignities and fundamental procedural rights to the prisoners of war (POW), including rights to humane treatment, protection from violence, intimidation, insults, public curiosity, and coercive interrogation tactics. Further, Article 3 of the Fourth Geneva Convention⁴ provides more protective guarantees, covering all other persons, besides prisoners of war and wounded or sick, captured during an armed conflict, known as “protected persons.” This includes not only civilian bystanders to the conflict, but even those individuals who may be definitely suspected of or engaged in activities hostile to the security of the State.

Until 2004 *Rasul v. Bush* and 2006 *Hamdan v. Rumsfeld*, the U.S. declared that the detainees in Guantanamo are not entitled to protection under the Geneva Conventions, not being

⁴ Also known as Common Article 3 as it is common for all Geneva Conventions

there as POWs but detained as ‘unlawful combatants’, a new term to indicate any person supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the U.S. Under this definition, a “little old lady in Switzerland” could be held as an enemy combatant if she — unknowingly — donated funds to a charity that funneled the money to Al Qaeda. Moreover, the government used the ‘extraterritoriality’ of Guantanamo indicating that the Guantanamo camp falls outside the jurisdiction of the U.S. legislature. In the abovementioned cases, however, the U.S. Supreme Court denied those claims and granted the Guantanamo detainees protection under the Geneva Convention and other international treaties.

CONTENT ANALYSIS

The international conventions above clearly show that committing torture is a gross violation of human rights and does not recognize any justification, including national security. The U.S. government, however, has been criticized and blamed for severe human rights violations, including torture, in Guantanamo camp. To be more precise, the current study looks into documents, reports and statements by various organizations and officials that claim that torture was used in Guantanamo, as well as other sources denying those claims.

The major U.S.-based human rights protection oriented non-governmental organizations (NGO) claim that the United States has violated human rights in Guantanamo by implementing torture (with a mean of 4.83 out of 5; see [Table 1](#), descriptor #1). Several international organizations (IO), including the United Nations, OSCE and the Organization of American States, which were allowed to observe the situation in Guantanamo, also criticize the U.S. for violating human rights in Guantanamo, and particularly for implementing extreme interrogation methods that are equivalent to torture (mean = 4; see [Table 1](#), descriptor #2).

Table 1: State has used excessive force in Guantanamo

N	Descriptor	Mean
1.	NGOs claim that U.S. has violated the rights of victims by using excessive force	4.83
2.	International organizations claim that the state has violated the rights of victims by using excessive force	4.00
3.	There is evidence that the state has used excessive force	4.63
4.	The state accepts that it has used excessive force	3.10
5.	Key state officials accept that the government used excessive force during Bush administration	3.41
	➤ Bush administration	2.66
	➤ Obama administration	4.33
	➤ Guantanamo key officials	4.00
	Overall mean	3.99

These claims are generally supported by evidence of cases of torture in Guantanamo, presented by the International Community of the Red Cross (ICRC), U.N., and several other IOs and NGOs (mean = 4.63; see [Table 1](#), descriptor #3).

Analyzing official documents and reports by the U.S. government from 2002 to 2013 we see that until 2006 the government generally rejected that it has implemented excessive force in Guantanamo (mean = 2.00). After 2006 the picture changed, with the Obama administration condemning the ‘enhanced interrogation methods’ and criticizing its predecessor for having used such methods (mean = 4.10). The overall mean equals 3.10, indicating that there is no clear slant in either direction; the views of the sides are contradicting to the extent that they are, most probably, politically influenced (see [Table 1](#), descriptor #4).

Comparing and analyzing the statements and speeches by key officials in the Bush and Obama administrations and commanders of Guantanamo facilities, we see almost the same

picture of division by administration. We get an overall mean of 3.41 (see [Table 1](#), descriptor #5), slightly more than we had from the document analysis, meaning that the key officials generally accept that the government has violated the rights of the victims during the Bush administration by using excessive force or torture. Reflecting on the results from the document analysis, the positions of the two administrations differ. The members of Bush administration generally deny that they have authorized torture (mean = 2.66), whereas the Obama administration accepts that its predecessor has conducted excessive force and criticizes them (mean = 4.33). Guantanamo camp officials accept having received authorization and order to use excessive force in interrogating the detainees (mean = 4.00).

The official publications and reports by the government indicate that the use of excessive methods was justified by the need to protect national security (mean = 4.60; see [Table 2](#), descriptor #6). The discourse analysis shows a contradictory picture between the two administrations (see [Table 2](#), descriptor #7). While members of the Bush administration (both first and second terms) mostly reject authorizing ‘enhanced interrogation methods’ with the exception of President Bush himself, nearly all of them refer to the events of *September 11* and the need to protect national security (see [Table 1](#), descriptor #5). Notably, Bush stated that “Had I not authorized waterboarding on senior al Qaeda leaders, I would have had to accept a greater risk that the country would be attacked” (Bush 2010). Waterboarding is one of the enhanced interrogation methods used to refer to torture in most international treaties. Condoleezza Rice, the National Security Advisor to President Bush during in his first term and later U.S. State Secretary, states in an interview that “Unless you were there, in a position of responsibility after *September 11*, you cannot possibly imagine the dilemmas that you face in trying to protect Americans” (Washington Post 2009). In contrast, President Obama and several members of his

administration, while accepting the existence of torture in Guantanamo and condemning it, did not touch the matter of national security, indicating that torture cannot in any condition be justified.

Table 2: National security is the reason for using excessive force in Guantanamo

N	Descriptors	Mean
6.	The state justifies the use of excessive force by necessity to protect national security	4.60
7.	Key state officials justify the government actions by the need to protect national security	3.44
	➤ Bush administration	4.33
	➤ Obama administration	1.66
	Overall mean	4.02

Leon Panetta, the Director of the U.S. Central Intelligence Agency from 2009 to 2011 and later Secretary of Defense until 2013, tells in an interview that the enhanced interrogation methods were not necessary at all as “We put together most of that intelligence without having to resort to that (tactics – T.H.)” (Voice of Russia 2013).

Table 3: The excessive means used in Guantanamo are violations of human rights

N	RQ3 Descriptors	Mean
8.	The state accepts that its actions are violations of human rights of the victims	3.25
	➤ Before 2006	2.00
	➤ After 2006	4.50
9.	State actions are violations of international human rights treaties that it has signed	3.77
	Overall mean	3.51

The respective positions of the current and former U.S. administrations differ on the question whether the actions in Guantanamo violated international humanitarian law. Before 2006 U.S. official documents generally rejected having violated any international treaties connected to the interrogation methods used in Guantanamo, referencing the official position that

Guantanamo is outside of the U.S. jurisdiction and thus outside any treaties the U.S. has signed (mean = 2.00). However, after 2006 or the experience from the *Hamdan V. Rumsfeld* case, the official reports accept that there have been violations of international law (mean = 4.50). In general, the combined mean is 3.25 (see [Table 3](#), descriptor #8), indicating that the combined responses accept that the U.S. has violated international laws by using methods that are equivalent to torture.

Comparing the analyses used by several non-governmental and international organizations on whether the U.S. actions are violations of international human rights treaties (accepted by the U.S.), together with an analysis of U.S. official documents on the same issue, we get a mean of 3.77 (see [Table 3](#), descriptor #9). This shows that the use of excessive force by authorization of the U.S. during 2002-2006 in Guantanamo is a violation of international human rights law.

The NGOs that claimed that the U.S. was using excessive force disapprove of U.S. government actions. They show that the U.S. has violated international human rights laws and also applicable U.S. laws by torturing detainees, going as far as to demand the prosecution of those who have authorized these actions (mean = 4.66; see [Table 4](#), descriptor #10). Most international organizations also disapprove of the government policy in Guantanamo (mean = 4.00; see [Table 4](#), descriptor #11).

Table 4: Disapproval towards state actions in Guantanamo

N	RQ 4 and 5 Descriptors	Mean
10.	NGOs disapprove of the actions of the state	4.66
11.	International organizations disapprove of the actions of the state	4.00
	Overall mean	4.33
12.	Society disapproves of the actions of the state	1.75

In stark contrast to the NGOs and IOs, who disapprove of state actions of violating human rights, several public opinion polls conducted in the U.S., while not directly touching on the subject of torture, indicate that between 54 and 70 percent of the respondents approve of the U.S. government's counter-terrorism policies and would like the Guantanamo facility to remain open and functional (mean = 1.75; see [Table 4](#), descriptor #12).

During his election campaign and also after, President Obama has criticized the former president for his counter-terrorism policy in general and for mistreating Guantanamo detainees, in particular, and vowed to close the camp. On his first day in office Obama signed an executive order to review the files of all detainees and to close the Guantanamo detention camp within a year. This decision was, however, countered by the U.S. Senate, which denied funding for the project of transferring detainees from Guantanamo to U.S. prisons. Despite his criticism of Bush, Obama continued the counter-terrorism policy of his predecessor. Moreover, according to several NGOs and IOs, the violations of human rights in Guantanamo, including the enhanced interrogation methods, are still in place (mean = 4.00; see [Table 5](#), descriptor #13).

Table 5: Follow-up actions of the U.S.

N	RQ 6 and 7 Descriptors	Mean
13.	The state continues the violations of human rights	4.00
14.	Individuals guilty for authorizing the use of excessive means have been prosecuted	1.00

Finally, notwithstanding the criticism by President Obama of the violations of human rights in Guantanamo, no criminal proceedings have been initiated against persons guilty of authorizing those crimes. The U.S. Senate has initiated fact-finding missions and hearings of key officials. However, no one has been punished.

Summarizing the analysis of the case, we can positively answer the first research question for this case that the U.S. has violated the rights of the prisoners in Guantanamo camp by using excessive means, i.e., torture, based on the overall mean (3.99 in [Table 1](#)) of the descriptors for RQ₁. We have a positive answer (mean = 4.02 in [Table 2](#)) to RQ₂ as well showing that the U.S. government refers to the protection of the national security as sufficient reason for the use of excessive force. Finally, the fourth research question leads us to conclude that the excessive means used by the governments are indeed human rights violations that are prohibited by several international conventions that the U.S. has signed (mean = 3.51 in [Table 3](#)).

In conclusion, the United States government has placed national security above obligations towards several international conventions, namely the ICCPR, CAT and Geneva Conventions, and the protection of fundamental human rights by authorizing the use of torture. The public generally supports the government in this aspect. The sixth and seventh research question support RQ₁, 2 and 3, by pointing that the government continues the use of excessive means, despite international criticism (mean = 4.33 in [Table 4](#)), and, moreover, has not punished anyone guilty of authorizing the use of excessive means.

CHECHNYA CASE

The second case to be analyzed is the Second Chechen War from 1999 to 2000 and the ensuing Counter-terrorist operation regime until 2009. This war was initiated by the Russian Federation on 26 August 1999 in response to several terrorist bombings and the invasion by the de facto independent Chechen Republic into neighboring Dagestan. Russian troops started their offensive on October 1 which lasted until May 2000, when the government established direct control over Chechnya, appointing Akhmed Kadyrov as the head of the Chechen Republic. The

violence did not stop there. Chechen separatists, disagreeing with the results of the referendum conducted in 2003 that afforded Chechnya a certain level of autonomy but kept it in the Russian Federation, continued armed resistance in several mountainous regions of Chechnya. Although large military operations did not follow, small daily attacks and bombings were common. The Russian government declared counter-terrorist operations (CTO) in Chechnya, claiming that the separatists were getting support from international terrorist groups, thus classifying the fight in Chechnya under the global war on terror. The guerilla fighting lasted until 15 April 2009, when the government declared that it has successfully ended the counter-terrorism operation in Chechnya.

During the war and the insurgency both sides, Russian forces and Chechen separatists, were criticized for severe violations of human rights and war crimes. Local and international NGOs and international organizations, including the European Council, the Human Rights Watch and Amnesty International, that had observed the situation on the ground, reported extrajudicial killings, bombing of villages, murder of innocent civilians, torture, kidnappings, disappearances, and other violations of international humanitarian law. From the alleged violations of human rights, the focus of the study is on extrajudicial killings and forced disappearances of civilians in Chechnya.

The Russian Federation is a party to several international treaties on human rights, including the UDHR, ICCPR, CAT, the European Convention of Human Rights, Geneva Conventions, etc. The ICCPR⁵ Article 6 states that every human being is inherently entitled to the right to life (as defined by law). No one should be arbitrarily deprived of this life. The right to life is non-revocable, i.e., it cannot be limited or denied by the state under any circumstance

⁵ USSR ratified the ICCPR on October 16, 1973, which the Russian Federation succeeded.

unless it applies to enemy soldiers during war. The ECHR⁶ Article 2 states that no one should be deprived of his life intentionally except in the execution of a court sentence following conviction. The right to life is also protected by the Russian Constitution and criminal law, as required for membership in the above referenced conventions. The Russian Federation also has accepted that in case of a contradiction of norms in ratified international conventions and applicable national laws, the international conventions prevail. This shows that unnecessary deprivation of life is a violation of international human rights and Russian criminal law.

CONTENT ANALYSIS

Unlike the United States after *September 11*, the Russian government did not deprive Chechen extremists of protection under the abovementioned treaties and the Geneva Convention. In several cases the Russian authorities have stated that counter-terrorism operations should be conducted with full respect of human rights in accordance with U.N. Resolutions 1373 and 1566. However, multiple reports indicate that military, FSB and police personnel carried out extrajudicial killings of civilians during military and counter-terrorist operations during the 1999-2000 war.⁷ Local and international non-governmental non-profit organizations (Human Rights Center “Memorial”, Human Rights Watch, Amnesty International, etc.) strongly claim that during 1999-2009 Russian security forces have violated the rights of victims by using excessive means in combating terrorism (mean = 4.60; see [Table 6](#), descriptor #1). International governmental organizations (Council of Europe, United Nations, etc.) add their claims (mean = 4.75; see [Table 6](#), descriptor #2). Some of the NGOs and IOs present evidence of governmental violations, mainly the Memorial, which during the specified period and until now monitors

⁶ The Russian Federation ratified the ECHR in May 1998.

⁷ Most of such cases are related to “mop-up” operations, night raids on villages and homes for the purpose of finding terrorists.

human rights violations in Chechnya, also the Human Rights Watch and International Committee of Red Cross (mean = 4.66; see Table 6, descriptor #3).

Overall, the Russian authorities accept that excessive force has been used during military and CT operations (mean 3.60; see Table 6, descriptor #4). Notably, the European Court of Human Rights has made 232 judgments concerning the violation of right to life in Russia, most of the cases in Chechnya, and the Russian government almost in every case has accepted them and has subsidized the victims. The discourse analysis shows a denial of authorization for the use of excessive force or even acknowledgment of such incidents (mean 1.43; see Table 6, descriptor #5). In contrast to presidential positions in the Guantanamo case, the picture here is nearly equal, with a mean of 1.25 for the second Putin presidential term and a mean of 2.00 for the Medvedev term (see Table 6).

Table 6: The state has used excessive means in Chechnya

N	RQ1 Descriptors	Mean
1.	NGOs claim that the state has violated the rights of the victims by using excessive means	4.60
2.	International organizations claim that the state has violated the rights of the victims by using excessive means	4.75
3.	There is evidence that the state has used excessive means	4.66
4.	The state accepts that it has used excessive means	3.60
5.	Key state officials accept that the government used excessive force	1.43
	➤ Putin second term government members	1.25
	➤ Medvedev administration	2.00
	➤ Chechnya, members of government	1.00
	Overall mean	3.80

However, state official reports and other documents almost in any of the cases studied blame the military and the police, denying any authorization by central government. Looking at the same official documents in which the state has accepted or denied the use of excessive force,

namely extrajudicial killings and kidnappings, we see that most of them do not touch upon the aspect of national security and do not justify the violations by the need to protect it (mean 2.40; see [Table 7](#), descriptor #6). As stated earlier, individual soldiers and commanders are blamed for the abuse of authority and committed crimes.

Table 7: National security is the reason for using excessive means in Chechnya

N	Descriptors	Mean
6.	The state justifies the use of excessive means by necessity to protect national security	2.40
7.	Key state officials justify the government actions by the need to protect national security	4.66
	➤ Putin second term government members	4.75
	➤ Medvedev administration	4.50
	Overall mean	3.53

Using the same method to examine how national security is tied to the violations of human rights, i.e., looking whether the same document or speech articulates the necessity to protect national security, while admitting or denying the use of excessive force, the discourse analysis reveals a different picture. Officials of the government, who generally deny authorizing the use of excessive force (or in many cases deny or refuse to comment on such cases), consistently refer to the events as a terrorist threat to Russia and the necessity of protecting national security (mean = 4.66; see [Table 7](#), descriptor #7).

President Putin has vowed to the Russian population affirming that “We will strongly and decisively continue the battle against terrorists until their total annihilation.” The Russian Defense Minister (2001-2007) Sergei Ivanov also has commented on several statements by Russian officials affirming that those statements mean that Russia has the right not only to protect itself but also to deliver preemptive strikes at terrorist bases. The Russian ombudsman, Vladimir Lukin, taking an elusive middle ground on the issue, affirms in an interview that

“Russia and the West do not possess objective information about violations of human rights in Chechnya, considering that the available information is too politically motivated on both sides.”

Table 8: The excessive means used in Chechnya are violations of human rights

N	RQ 3 Descriptors	Mean
8.	The state accepts that its actions are violations of human rights of the victims	3.00
9.	State actions are violations of international human rights treaties that it has signed	4.66
	Overall mean	3.83

As mentioned earlier, the Russian government, unlike that of the U.S., did not create a legal framework to put Chechnya in a legislative black hole (not counting the CTO regime that had to respect human rights). Subsequently, the Russian government did not protect the legality of the use of excessive force in Chechnya and neither did it comment on whether it was a violation of human rights and international law. Therefore, considering official governmental reports, reports and analyses by NGOs and international organizations, one could conclude that the use of excessive means in Chechnya during 1999-2009 is clearly a violation of international human rights conventions that the Russian Federation has signed (mean 4.66; see [Table 8](#), descriptor #9).

Table 9: Disapproval towards state actions in Chechnya

N	RQ 4 and 5 Descriptors	Mean
10.	NGOs disapprove of the actions of the state	4.40
11.	International organizations disapprove of the actions of the state	4.75
	Overall mean	4.58
12.	Society disapproves of the actions of the state	2.00

The international community strongly disapproves of the extrajudicial killings and kidnappings in Chechnya as indicated by the computed means (4.40 for NGOs and 4.75 for IOs; see [Table 9](#), descriptors #10 and #11) from the analysis of reports and documents by NGOs and

IOs. Similar to the U.S. case, the public generally supports government actions in Chechnya. According to a survey conducted in 2002, 38.7 percent of the respondents were in favor of escalation of military action in order to annihilate the Chechen fighters, 18 percent did not express any opinion on the issue and only 4.6 percent were in favor of rebuilding Chechnya.

Table 10: Follow-up actions of Russian government

N	RQ 6 and 7 Descriptors	Mean
13.	The state continues the violations of human rights	4.20
14.	Individuals guilty for authorizing the use of excessive means have been prosecuted	2.66

After 2009 and the declaration of the end of the CTO regime, and despite statements by Russia and international organizations that human rights situation in Chechnya has improved, several NGOs and IOs report that the extrajudicial killings and kidnappings of civilians continue (mean = 4.20; see Table 10, descriptors #13).

The state does not take responsibility for the use of excessive means in Chechnya during 1999-2009; rather it blames certain individuals, soldiers, policemen and seldom commanders, for abuse of authority. As a result, according to official records, nearly 500 militants and 200 police officers were convicted for abuse of authority by 2008, although human rights NGOs claim the number is far less and not directly related to cases of extrajudicial killings and kidnappings. No one in governmental circles, both in Moscow and Grozny, has been condemned for authorizing the use of excessive force, despite frequent allegations by human rights defenders that the Chechen government (particularly the president of the Chechen Republic, Ramzan Kadyrov) and Russian security services are mostly behind such acts (mean 2.66; see Table 10, descriptor #14).

Thus, we see a picture in Chechnya that has similarities and differences with the Guantanamo case. For national security purposes (mean = 3.53; see Table 7) the Russian

military forces entered Chechnya and later established counter-terrorism regime to eliminate the terrorist threat to Russia. During the military and ‘mop-up’ operations, the military and the police used excessive force and violence killing and kidnapping civilians (mean 3.80; see [Table 6](#)). In this endeavor the government generally had the support of the population that wanted to see a forceful response to the terrorist acts in Moscow, Beslan, etc., perpetrated by Chechen extremists. These acts of excessive violence, however, were violations of international human rights and humanitarian laws that the Russian Federation had signed (mean 3.83; see [Table 8](#)).

Findings related to research questions 1 through 3 lead us to conclude that the Russian government, like the U.S. government, has put national security concerns above the protection of human rights of victims. Russian authorities generally deny having authorized such measures, mostly putting the blame on soldiers, police officers and commanders of military forces for abuse of authority. A few people have been prosecuted compared with the large number of kidnappings and murders, and no governmental official has been convicted for authorizing such actions. Moreover, incidents of extrajudicial killings and kidnappings are still ongoing, which together with the earlier findings, point to the government’s involvement in or authorization of the use of excessive force.

MARCH 1 CASE

The last case to be considered is the violations of human rights by the use of excessive force and torture by the Armenian government on March 1, 2008 in order to protect the government from a ‘coup’ by the opposition and for maintaining constitutional order.

After the 19 February 2008 Armenian presidential elections, mass protests started in Yerevan claiming that the elections were fraudulent. The protests were organized by the supporters of the first Armenian president Levon Ter-Petrosyan who was defeated in these elections. The peaceful protests that included tens of thousands of people started on February 20 and lasted till March 1. Starting from the morning of March 1 the information on what really happened between police and the protesters is unclear and politically motivated, with each side blaming the other. The situation was further complicated by the government's ban of free media coverage and frequent confiscations of journalists' cameras by the police.

An attempt to briefly describe the events in an unbiased way reveals the following. In the morning of March 1 police units dispersed some 700-1000 protesters that had spent the night in Freedom square by beating them with clubs and electric-shock devices. The police claimed that they had received information that the protesters had firearms and grenades and showed armed resistance, which the protesters deny. On that day and same evening, police and military forces were brought to the capital in order to disperse a crowd of 100-150 thousand protesters that had gathered in Miasnikyan Square. This resulted in the death of ten people and caused bodily injuries to many protesters. Both sides have blamed the other for starting the clashes and causing deaths. Several protesters have disappeared since that day and are still missing.

At around 10.30 PM on that same day, President Robert Kocharyan, having secured the approval of the Armenian National Assembly (parliament), declared a 20-day state of emergency, banning demonstrations and heavily censoring the media from broadcasting any political news except those released officially by the state. Kocharyan justified this decision on grounds of restoring public order casually referring to several looted stores and burned police and civilian cars (that the protesters disclaimed). Nearly hundred protesters were detained after

the protests, most of who were not charged but reported violent treatment during their detention. Levon Ter-Petrosyan was put under a de-facto house arrest for several days according to the opposition, which was denied by the government.

The state of emergency banned meetings, rallies, demonstrations, marches, strikes and other mass events, limited local residents' rights to movement in and out of the capital and within the capital, banned political propaganda and alternative news besides the official media, and placed the media and internet under censorship. Even after the lifting of the state of emergency several media outlets (A1+, Gala TV) remained closed or were denied future licenses to broadcast.

The March 1 case differs from previous cases by one important aspect. In the case of the two others, the threat to national security came from outside. In this case, the 'threat' came from within, from masses that demanded the annulment of the election results. The government feared a coup and took action to eliminate any possible revolt by dispersing the public gatherings and protests and declaring a state of emergency. Thus, the government took legal measures to limit the rights of citizens.

The first step in this drama was to claim that the opposition possessed firearms and grenades and was ready to attack government forces in the morning of March 1. This same allegation became ground for officials to claim that the opposition was preparing to carry out a coup. The second step was to bring military forces to the capital, in lieu of the police, and using excessive force dismissing the protesters, causing ten deaths. The third step was to declare a state of emergency, limiting several human rights and freedoms, including the right to assembly and the freedom of speech and media. Finally, on March 17 the National Assembly passed an

amendment to the Law on Assembly, significantly limiting freedom of assembly in peaceful times. Although the state of emergency was lifted on March 20, many of the limitations were upheld.

INTERNATIONAL CONVENTIONS

The Republic of Armenia is party to nearly all major human rights conventions, including the UDHR, ICCPR, CAT, ECHR, Geneva Conventions, etc. Clauses in these treaties that are applicable to this case include: Article 6 of ICCPR,⁸ which states that every human being has the inherent right to life, which is non-revocable and protected by law; Article 2 of ECHR⁹ which states that under no condition should one be intentionally deprived of life except when convicted by court or when strictly necessary for repressing mass riots; and Article 7 of ICCPR and Article 2 of CAT,¹⁰ which state that under no condition torture, inhuman and degrading treatment is justified, not even during war or emergency situation. The right of humans to life and the right to be protected from torture are also provided for in the Armenian Constitution and the RA Criminal Code.

Subsequently, the alleged actions of Armenian security forces resulting in the death of ten people, and the subjection of arrested protesters to torture and degrading treatment are human rights violations protected by the mentioned international treaties and the Armenian Constitution and Criminal Code.

⁸ Armenia ratified ICCPR on 23 June 1993.

⁹ Armenia ratified ECHR on 26 Apr 2002

¹⁰ The CAT entered into force on 13 September 1993

CONTENT ANALYSIS

A number of international organizations and NGOs have criticized various aspects of the government reaction to the protests, condemning the excessive use of force and the ensuing casualties and arrests, which were not necessary under such circumstances. Calling on the army to restore order in the capital was criticized on the ground that it violates the Armenian Constitution. The proclamation of the state of emergency was criticized as being disproportional to the situation, which also is a violation of the ICCPR.¹¹ Although the state of emergency was declared for the capital only, certain limitations of rights were exercised in several other cities. A number of NGOs, local and international organizations that observed the situation in Yerevan during the March events claim that the police used excessive force to disperse the protesters, namely firing gas grenades directly onto the crowd, severely beating many protesters using clubs, etc., causing the death of ten people (mean 5.00 for NGO reports and 4.80 for IO documents; see [Table 11](#), descriptors #1 and #2).

Table 11: Armenia has used excessive means during March 1, 2008

N	RQ1 Descriptors	Mean
1.	NGOs claim that the state has violated the rights of the victims by using excessive means	5.00
2.	International organizations claim that the state has violated the rights of the victims by using excessive means	4.80
3.	There is evidence that the state has used excessive means	4.57
4.	The state accepts that it has used excessive means	2.20
5.	Key state officials accept that the government used excessive means	1.42
	➤ Kocharyan administration	1.25
	➤ Sargsyan administration	1.66
	Overall mean	3.60

¹¹ Article 4 states that “In time of public emergency which threatens the life of the nation” ... states may derogate from some human rights, except the rights protected by Article 6, 7 (right to life and protection from torture).

NGOs and IOs bring evidence of cases on the use of excessive force by the government, namely in the case of eight casualties¹² during the March 1 evening clashes and reported torture of arrested protesters during the state of emergency and afterwards (mean 4.57; see [Table 11](#), descriptor #3). Armenian official documents generally deny that the government had authorized the use of or even used excessive force, and in some cases the opposition is blamed for the injuries and murders. Individual police officers are, in some cases, blamed for abuse of authority (mean = 2.20; see [Table 11](#), descriptor #4). Government officials take a stricter stance, brushing away any allegations against them and blaming the opposition for starting unsanctioned protests and riots (mean 1.42; see [Table 11](#), descriptor #5). There is some admission by the Sargsyan administration that the police did use excessive force compared to the Kocharyan administration (respectively 1.66 and 1.25; see [Table 11](#)).

Table 12: National security is the reason for using excessive means in Armenia

N	RQ2 Descriptors	Mean
6.	The state justifies the use of excessive means by necessity to protect national security	2.60
7.	Key state officials justify the government actions by the need to protect national security	4.00
	➤ Kocharyan administration	4.25
	➤ Sargsyan administration	3.66
	Overall mean	3.30

Comparing official governmental documents with individual statements by the two presidents and other officers, we see that the argument of protecting national security is weaker in official documents (mean 2.60; see [Table 12](#), descriptor #6). This supports the denial of state-authorized violence and holding a few officers responsible for abusing authority. State officials

¹² The other 2 casualties were police officers the condition of whose death is yet unclear.

generally explain the situation in the capital by the need to protect the constitutional order while denying that the state used excessive force (mean = 4.00; see [Table 12](#), descriptor #7).

In a 2011 interview, President Kocharyan states that the state of emergency was declared only when the situation got out of control, when there was a threat to the constitutional order; that the state of emergency was declared in compliance with the law and the RA Constitution. In an interview with the press, Foreign Minister Vardan Oskanian affirmed that “the president (Kocharyan) stood before a dilemma, the stability of the country, the security of the people on one hand and democratic values, human freedoms and rights on the other. ... A president must be able to balance between these two, but it is very complicated.” The opposition members claim that the emergency situation was pre-planned and the events of March 1 were simply choreographed. One of the most obvious facts supporting this claim is that the looting of Mashtots stores happened after the declaration of the state of emergency. In contradiction to this, in his 11 PM statement on March 1, President Kocharyan referred to the looting as the foremost need to control the situation by declaring a state of emergency in the capital.

Table 13: The excessive means used during March 1 are violations of human rights

N	RQ3 Descriptors	Mean
8.	The state accepts that its actions are violations of human rights of the victims	1.50
9.	State actions are violations of international human rights treaties that it has signed	4.85
	Overall mean	3.18

The official state position on the events of March 1 is that despite isolated incidents of excessive force, actions by law enforcement authorities were "largely legitimate and appropriate." According to government sources, persons that had used excessive force were prosecuted and punished. The state claims that every aspect of establishing law and order on

March 1 is in accord with the law and the Constitution (mean 1.50; see [Table 13](#), descriptor #8). In contrast, NGOs and IOs severely criticize the state for human rights violations, pointing to multiple incidents of violations of international treaties as well as the RA Constitution and other laws (mean 4.85; see [Table 13](#), descriptor #9).

Table 14: Disapproval towards Armenian government actions

N	RQ4 Descriptors	Mean
10.	NGOs disapprove of the actions of the state	4.50
11.	International organizations disapprove of the actions of the state	4.80
	Overall mean	4.65

As in the previous two cases, many non-governmental and international organizations highly disapprove and condemn the state actions in the March 2008 events and the subsequent mistreatment of political prisoners (respectively 4.50 and 4.80; see [Table 14](#), descriptors #10 and #11). Unlike in the previous cases, public opinion in this case is generally negative albeit basing this conclusion on the absence of polls or sufficient data.

Table 15: Follow-up actions of the Armenian government

N	RQ6 and 7 Descriptors	Mean
12.	The state continues the violations of human rights	1.00
13.	Individuals guilty for authorizing the use of excessive means have been prosecuted	1.50

Although NGOs and IOs report continuing cases of torture by the police during interrogations and detention, nearly all those detained during the March 2008 events have been released, leading us to accept that human rights violations for this specific case have stopped (mean 1.00; see [Table 15](#), descriptor #12). On the other hand no one has been prosecuted and punished for authorizing the use of excessive means during March 1, and no one has been prosecuted for the actual use of excessive force and for murdering ten people and injuring nearly

200 people (mean = 1.50; see [Table 15](#), descriptor #13). The state reports that four non-commissioned officers were prosecuted for beating people in violation of their official duties during March 1, and several military personnel were disciplined.

Similar to the previous two cases, we have positive answers to RQs 1, 2 and 3. Excessive means have been used against March 1 protesters by police and the military, resulting in ten deaths, and detainees were subjected to torture (mean 3.56; see [Table 11](#)). The state accepts that excessive means were carried and explains that it was necessary to protect constitutional order in fear of a *coup d'état*, i.e., national security (mean 3.3; see [Table 12](#)). The excessive means used by the government represent violations of human rights that are protected by a number of international conventions, as well as the Armenian Constitution (mean 3.17; see [Table 13](#)).

The Armenian government claims that it did not authorize the use of excessive force. However, in response to RQ7 (descriptor #13) the study finds that the government did not punish those guilty of use of excessive force, which annuls the government's earlier claim. This enables us to conclude that the RA government has placed national security concerns above the protection of human rights of its citizens during the March 2008 events, albeit beyond necessity.

SURVEY ANALYSIS AND DISCUSSION

The second hypothesis of this study was tested using survey data. Several assumptions were made regarding this hypothesis. First, that people value their safety more than the ability to exercise their rights, based on the Maslow hierarchy of priorities explained in the literature review. The survey, conducted in Armenia and the United States revealed the following:

Table 16: Which one is more important?

N	Variables	Mean	
		Armenia	U.S.
1.	The security of my country is very important for me	9.51	9.31
2.	My personal safety is very important for me	9.44	9.19
3.	My rights are very important for me	9.28	9.38

As we can see from Table 16, human rights, personal physical safety and national security are almost equally important for citizens in Armenia and in the United States; in both cases, the mean values of responses analyzed are above 9 (on a 10-point scale). However, there are slight differences in the responses by citizens of these two countries indicating that some variables vary in their importance to the population. More specifically, security of the country has the highest mean in Armenia (9.51), personal physical safety is second (9.44), and individual rights are last (9.28). In the United States the hierarchy of the responses is different, with individual human rights being the most important (mean 9.38), national security second (9.31), and personal physical safety last (9.19).

Another attempt was made to compare the importance of the mentioned variables by offering to rank order them, but also dissecting the variables a little, i.e. adding more variables representing human rights and safety.

Table 17: Safety, national security or human rights?

N	What is more important for you?	
	Armenia	U.S.
1.	The safety of my family	The safety of my family
2.	My personal physical safety	My personal physical safety
3.	The security of my country	My ability to exercise my rights
4.	My ability to exercise my rights	The security of my country
5.	The protection of human rights in my country	The protection of human rights in my country

Table 17 shows that both in Armenia and in the U.S. the safety of family and personal safety are the most important, which contradicts the results of Table 16, as national security was valued the most important in the Armenian case and individual human rights were the most important in the U.S. But, variables for safety outrank human rights in both tables.

The respondents were asked to answer statements that contrasted their human rights with their security, offering to choose between them. At first the statements were given in general terms, and later the same questions were put in a context of imminent threat to them to find out whether the views of the respondents would change under different circumstances. The questions were answered on a 5-point scale (1 being disagree, 5 agree and 3 a neutral point). For the purpose of simplicity points 1 and 2, disagree and somewhat disagree, are combined as negative answers, and points 4 and 5 as positive.

Table 18: Security vs. rights (in percentages)

Armenia				
N		Negative	Neutral	Positive
1.	I will agree to sacrifice some of my rights to be safe	24.1	15	60.9
2.	I will let the government limit all or some of my rights to protect the national security	36.8	15.8	47.4
United States				
3.	I will agree to sacrifice some of my rights to be safe	48.7	10.8	40.5
4.	I will let the government limit all or some of my rights to protect the national security	64.9	10.8	24.3

Table 18 shows that in Armenia the majority of respondents gave positive responses to the statements, adding to the common thread — that personal safety in Armenia is more important than the protection of human rights. Respondents from the U.S mostly gave negative responses, supporting the earlier results in Table 16. Although we see a contradiction in the

responses to the first statement between Table 17 and Table 18, responses to the second statement that refers to national security clearly supports the results of Table 17 where national security was ranked lower than the ability of individuals to exercise their rights.

Finally, to find out whether the views of the respondents change under different circumstances, such as in the case of a situation that is threatening security, both in Armenia and in the U.S. the majority of respondents agreed that they would sacrifice some of their rights to be safe and they would allow the government to limit some of their rights to protect national security, as shown in Table 19.

Table 19: Consider you live in New York on September 12, 2001 (in percentages)

Armenia				
N		Negative	Neutral	Positive
1.	I will agree to sacrifice some of my rights to be safe	14.8	9.4	75.8/14.9 ↑
2.	I will let the government limit all or some of my rights to protect the national security	18.7	13.3	68/ 20.6 ↑
United States				
3.	I will agree to sacrifice some of my rights to be safe	21.6	2.7	75.6/35.1 ↑
4.	I will let the government limit all or some of my rights to protect the national security	24.3	5.4	70.3/46 ↑

In Armenia we see an increase of 14.9 percent in the positive answers to the first question and 20.6 percent increase in the second. In the U.S. case, the responses increase dramatically, by 35.1 and 46 percent respectively.

Thus the survey results demonstrate that Armenian respondents deem their personal safety (and also the security of the country) more important than the protection of their individual rights. This thread runs through all questions. The answers are almost always the same, regardless of age, education, income and employment status. Those living in the U.S.

think that their rights are more valuable than their safety in 2 out of 3 cases. However, given a situation in which there is a threat to their security, the majority changed their minds, indicating that their security is, after all, more important.

This answers research questions 8 and 9. In Armenia the respondents value their safety more than their rights in each given case which leads us to answers the RQ 8 and 9 that on individual level people hold their safety more important than their rights both during normal conditions and during crisis situations. In the U.S. the respondents valued their rights more than their safety during normal conditions, which is the answer to RQ8, but reversed to giving higher importance to their safety in a crisis situation.

CHAPTER SIX — FINDINGS

The content analysis and the discourse analysis have enabled us to answer all research questions for the first hypothesis. In each case we showed that the state has used excessive means to protect the national security, and the excessive means are violations of international human rights. This leads us to conclude that the states have violated human rights when in a situation of crisis for the purpose of protecting their national security. Thus, H₁ that *states place national security concerns above the protection of human rights* is accepted.

The survey responses from Armenia showed that on individual level people prefer the protection of their security to the protection of individual rights in normal situations and especially in times of threat to their security. U.S. respondents indicate that in peaceful times, people value their individual rights more than the protection of their security and would not want to sacrifice them. However, in times of crisis the majority upholds safety to their individual rights. Thus, H₂, that *in crisis situations people uphold their personal security over the protection of human rights* is also accepted.

Running parallels between the first and the second hypotheses, and also connecting the findings with the academic literature reviewed, we see that when there is a high risk to national and personal security, both governments and individuals sacrifice human rights to protect security. This shows that although people criticize governments for their national security policies and restrictions of human rights, when put in a similar condition of threats to security people behave the same way as governments do, i.e., put safety above their personal rights.

CONCLUSION

The research study, initially based on several assumptions about state and human behavior in crisis situations, set out to investigate state and personal preferences in the national security vs. human rights debate. The assumptions were verified by looking at similar studies conducted by other researchers and, subsequently, were transformed into hypotheses, and research questions were developed to answer them. The methodology and data collection tools were identified and constructed to be able to conduct a solid research.

The data collected and analyzed for the study showed that states and individuals alike, when facing the dilemma of choosing between national security and human rights, opt for the first, thus enabling us to accept the hypotheses of the study. These findings support the findings from previous research.

RECOMMENDATIONS

During the data analysis several interesting connections were identified, which however were not within the scope of this research and were not addressed. For example, that in the absence of a threat, governments balance national security and human rights, and individuals, as articulate by U.S. respondents. But, this is not the case in Armenia, where respondents indicated preference for the protection of their rights more than their safety. Thus, the perceptions about safety and rights differ among people from different countries for various reasons, which can be the subject of further research.

During the discussion of the three cases we saw that the U.S. and Russian population supported their governments during crisis situations. In Armenia, although we did not have

exact data to picture the level of support or disapproval, the crisis was internal and the results differ. This can lead us to assume that the nature and source of the threat can be crucial for the support or disapproval of government actions. This assumption is also supported by the survey which referred to the September 11 attacks as a crisis situation coming from external sources, and the majority of both Armenian and the U.S. respondents agreed to allow the government limit some or all of their rights to protect national security. This topic too deserves further research.

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APPENDICES

1. Gender

- Male
- Female

2. Age

- Under 18
- 18 – 24
- 25 – 30
- 31 – 40
- 41 – 50
- Above 50

3. Residence

- United States
- Armenia
- Other _____

4. Education

- No education
- Secondary School
- High School
- Vocational education
- Bachelor
- Master
- Post-graduate
- Other _____

5. Annual family income

- Under 24000USD
- 24000 – 48000USD
- 48000 – 72000USD
- 72000 – 96000USD

- Above 96000USD

6. Nationality

- Armenian
- American
- Other _____

7. Religion

- Christian
- Muslim
- Atheist
- Other _____

8. Employment

- Non-working
- Student
- Retired
- Private Entrepreneur
- Private sector
- Public sector
- International NGO
- Local NGO
- Other _____

9. Please, indicate the importance of each statement for you, 1 being not important at all and 10 extremely important

	1	2	3	4	5	6	7	8	9	10
My rights are very important for me										
My personal safety is very important for me										
The security of my country is very										

important for me										
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10. Please, indicate whether you agree or disagree with the statements

	Disagree	Somewhat disagree	Neutral	Somewhat agree	Agree
I will use my right of free speech even if it causes a possible threat to my safety					
I would rather live in a condition when there is a constant threat to my safety than have the police record my phone conversations					
I will use my freedom of movement even if it causes a possible threat to my safety					
I feel safe in my country					
I will agree to sacrifice some of my rights to be safe					
I will let the government limit all or some of my rights to protect the national security					
During armed conflicts (war or engagement with terrorists) innocent casualties are acceptable consequences					
During armed conflicts torturing enemy combatants to gain information is an acceptable option					

11. Consider that you live in New York. The date is 12 Sept 2001, just after the terrorist attacks. There is a huge risk that another attack would follow. Would your answers change?

	Disagree	Somewhat disagree	Neutral	Somewhat agree	Agree
I will agree to sacrifice some of my rights to be safe					
I will let the government limit all or some of my rights to protect the national security					

12. Please, rank the following categories by importance for you, 1 being the most important, 5 the least important

	My personal physical safety
	My ability to exercise my rights
	The security of my country
	The safety of my family
	The protection of human rights in my country