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The limits of liberty: We're all suspects now

Identity cards. Number-plate surveillance. CCTV. Control orders. The list of ways in which the Government has sought to manipulate and define the limits of our liberty grows ever longer. Ten years ago, the novelist and polemicist Henry Porter would have felt silly speaking out about human rights in Britain. But that was before the most fundamental assault on personal freedom ever undertaken. Now, he argues, it's time we woke up to reality

By Henry Porter

10/19/06 "The Independent" -- -- On new year's day 1990, three days after becoming president of Czechoslovakia, Vaclav Havel looked his people in the eye and spoke to them as no one had done before. It is difficult to read his words without feeling the vibration of history of both the liberation and the horrors of the regime that had just expired, leaving the Czech people blinking in the cold sunlight of that extraordinary winter.

This is what he said. "The previous regime, armed with its arrogance and intolerant ideology, reduced man to a force of production. It reduced gifted and autonomous people to nuts and bolts of some monstrously huge, noisy, stinking machine whose real meaning was not clear to anyone. It could do no more but slowly and inexorably wear itself out, and all the nuts and bolts too."

That perfectly defines the true tyranny, where the state takes all liberty and bends each individual will to its own purpose. And here is the interesting thing that Havel put his finger on: no matter how brutal or ruthless the regime, the act of depriving people of their freedom starts the stopwatch on that regime's inevitable demise. What he was saying was that in modern times a state can only thrive in the fullest sense when individuals are accorded maximum freedom.

I agree. Individual liberty is not just the precondition for civilisation, not just morally right, not just the only way people can reach their full potential, live responsibly and have fun; it is also a necessity for the health of government. Ten years ago I would have felt silly speaking about liberty and rights in Britain with

the very real concern that I have today. But I am worried. And it's not just me. Last month *Le Monde* asked "Is Democracy Dying in the West?". In the spring of this year Lord Steyn, the distinguished former law lord, made a speech despairing at this Government's neglect for the Rule of Law, which was followed by Baroness (Helena) Kennedy's alarm call in the James Cameron Lecture.

The inescapable fact is that we have a Prime Minister who repeatedly makes the point that civil liberties arguments are not so much wrong as made for another age [my italics]. We have a Government that has ignored the Rule of Law, reduced rights and has steadily moved to increase the centralised power of the state at the expense of the individual.

So I don't feel quite as silly or as alarmist as I might.

The relationship between the state and individual is really at the heart of any discussion about democracy and rights. In Eastern Europe and the Soviet Union it was the state's mission not just to prevent people from expressing themselves, from moving about freely and unobserved, from pursuing their chosen careers and acting upon their religious and political convictions, but to stop them from thinking freely. It needed to occupy people's thoughts - to take up a kind of permanent residency in the mind of the average citizen. And as the many psychological studies published in the Nineties make clear, this led to psychic disrepair on a massive scale - paranoia, clinical depression, chronic internalised anger and learned helplessness.

We fell morally ill, Havel said in that speech, because we became used to saying something different from what we thought. We learned not to believe in anything, to ignore one another, to care only about ourselves. Concepts such as love, friendship, compassion, humility or forgiveness lost their depth and dimensions, and for many of us represented only psychological peculiarities.

Why am I harping on about communism? It died and was buried 17 years ago, at least in Europe and Russia. We're into another century. We've got Google and speed-dating and globalisation and melting ice caps and reality TV and al-Qa'ida and al-Jazeera and Al Gore. We've moved on.

As a character in Alan Bennett's *The History Boys* says, there is no period more remote in history than the recent past. Indeed, but we need to remember that recent past a little more than we do. For one thing, our knowledge of what existed on the other side of the Iron Curtain meant we valued and looked after our own freedoms much more than we do today.

It is perhaps the absence of an obvious confrontation between freedom and tyranny that allows Tony Blair to say that civil liberties arguments are made for another age. I profoundly disagree with this. It is dangerous arrogance to say that the past

has nothing to teach us and that all the problems we face now are unique to our time.

During his speech to the Labour Party conference, Tony Blair said: "I don't want to live in a police state, or a Big Brother society or put any of our essential freedoms in jeopardy. But because our idea of liberty is not keeping pace with change in reality, those freedoms are in jeopardy."

What in heaven's name did he mean by that? Liberty is liberty. You can't update it. You can't divide it. You are either free, or you're not. A society is either just, or it isn't. People have rights or they don't. The rule of law is upheld, or it isn't.

But Blair believes there is nothing that can't be modernised, updated, pared down or streamlined to keep pace with change. And liberty is no exception to the modernising fury which serves as New Labour's only ideological foundation. What the Prime Minister is saying in this cute little Orwellian paradox is that in the particular circumstances of the war on terror and the rash of crime and anti-social behaviour, we must give up freedom to be free.

What an odd idea! Who is to decide which freedoms are essential and which can be sacrificed to make us secure? Tony Blair, Gordon Brown, Lord Falconer or the former Stalinist and now Home Secretary John Reid?

"Those who would give up essential liberty," observed Benjamin Franklin, "to purchase a little temporary safety deserve neither freedom or safety." That's exactly right because you can't barter one for the other even though that has been the tempting deal on offer from the British and American governments since 9/11. The truth of the matter is that relinquishing our rights in exchange for illusory security harms each one of us, and our children and grandchildren. Because once gone, these rights hardly ever return.

But let's just return to the first part of that statement by Tony Blair - the bit about him not wanting to live in a police state, or a Big Brother society. Don't get me wrong, we do not live in either a police state or a Big Brother society - yet. But there is no Englishman alive or dead who has done more to bring them about.

The trouble is that it's happening so very quietly, so very discreetly that few really see it. You have to concentrate very hard to understand what's going on and put the whole picture together because so much has been buried in obscure corners of legislation.

We used to believe in innocence until guilt was proved by a court. Not any longer. That distinction disappeared when the Serious Organised Crime and Police Act came into force and police started taking innocent people's DNA and fingerprints

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We used to believe in Habeas Corpus. Not any longer. Under terrorism laws, suspects may be held for 28 days without being charged. Now the Home Secretary wants to make that 90 days, and Gordon Brown seems to share that view.

We used to believe that there should be no punishment without a court deciding the law had been broken, and that every defendant had the right to know the evidence against him. Not any longer. Control orders effectively remove both those rights and John Reid said recently that he wanted stronger powers to detain and control, and stronger powers to deport, which would clearly require the UK to derogate from the European Convention on Human Rights.

We used to believe that an Englishman's home was his castle. Not any longer. A pincer movement by the Courts Act 2003 and the Domestic Violence, Crime and Victims Act 2004 put paid to the 400-year-old principle that entry into your home could not be forced in civil cases.

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interception of e-mails and monitoring of internet connections that they amount to general warrants, last used in the 18th century under George III.

I could go on because there is much more, but I worry about boring you and I know I am beginning to seem obsessed. There will be many reasonable people among you who will argue that the fight against terrorism or some other compelling problem makes the removal of a fragment of liberty the best option available to us. A little bit here, a little bit there doesn't really matter, particularly when it involves somebody else's rights. Without thinking very deeply, we say to ourselves "if you've done nothing wrong you've got nothing to fear from these new laws". Not true. There is something to fear - because someone else's liberty is also your liberty. When it's removed from them, it's taken from you even though you may not be able to conceive of the circumstances when you might need it. A system of rights must apply to bank managers, illegal immigrant cockle pickers and every type of defendant otherwise it doesn't count.

Cumulatively, these small, barely noticed reductions in our rights add up to the greatest attack on liberty in the last hundred years. No wonder the Prime Minister dismisses traditional civil liberties arguments as being made for another age. With his record he can do nothing else.

In an e-mail exchange between him and me in the spring, he suggested a kind of super Asbo for major criminals. This is what the unmediated Blair sounds like. "I would go further. I would widen the powers of police to seize cash of suspected [my italics] drug dealers, the cars they drive round in and require them to prove that they came by them lawfully. I would impose restrictions on those suspected of being involved in organised crime. In fact I would harry, hassle and hound them until they give up or leave the country."

I'm sure that echoes many people's desire just to be rid of these awful people. But think about it for a moment: Tony Blair is a lawyer, yet nowhere is there any mention of due process or the courts. Apparently it will be enough for the authorities merely to suspect someone of wrongdoing for them to act. And the police won't be troubled by the tiresome business of courts, defence lawyers or defendants' rights. I wonder what Vaclav Havel would think of such a suggestion. Certainly, he would be all too familiar with the system of arbitrary arrest and state persecution that Blair seems to be suggesting.

Blair dresses up his views in a vocabulary of modernisation and inclusivity. Yet when he talks about rebalancing the criminal justice system in favour of the victim, it takes just a few moments to see that this will be achieved by doing away with the priority in our legal system of protecting the accused from miscarriages of justice. He simply wants to reduce defendants' rights in order to satisfy public demand for more prosecutions.

It is now plain that he intends nothing less than to open the ancient charters of British rights in order to tip acid into them.

The way cabinet ministers think of themselves today and what they do are at odds. They think of themselves as reasonable, tolerant, humane and liberal people, but their actions tell an altogether different story. This brings me to the Big Brother state that Tony Blair says he doesn't want to live in, but which has nevertheless rapidly come into being during his premiership.

Most people have very little understanding of what the ID card scheme will actually mean for them. They think that it just involves a little plastic identifier. But it is much more than that. Every adult will be required to provide 49 pieces of information about themselves which will include biometric measurements - probably an iris scan and fingerprinting. If you refuse to submit to what is called, without irony, enrolment, you will face repeated fines of up £2,500. The Government is deadly serious about this thing because of a simple truth. They want to know pretty much everything there is to know about you.

Personally, I find the idea of having a card repugnant and I cannot believe it will be long before policemen are stopping us on the street and asking for our papers. But this is by no means the most sinister aspect. Every time your card is swiped when you identify yourself, the National Identity Register will silently make a record of the time and date, your location and the purpose of the ID check. Gradually, a unique picture of your life will be built, to which nearly half-a-million civil servants are apparently going to have access.

But of course you will never be told who is looking at your file, or why. And nor will you be able to find out.

MPs must take responsibility for passing this invasive law but they cannot be blamed for the other half of the Big Brother society that is upon us. I refer to the total surveillance of our roads in a linked-up system of Automatic Number Plate Recognition cameras. These cameras cover every motorway, major dual carriageway, town and city centre and will feed information from billions of journeys into one computer, where the data will remain for two years.

The decision to put British motorists under blanket, round-the-clock surveillance was never taken by Parliament. It just happened. As the cost of processing enormous quantities of data came down, the police and Home Office just simply decided to go ahead. Traffic cameras became surveillance cameras. This, I gather, is known as function creep, and, as always, half the pressure comes from technological innovation.

We are about to become the most observed population in the world outside North Korea, and absolutely no work has been done on how this will affect each one of us and what it will do to our society and political institutions.

I worry that we are not alert to the possibilities of social control. No matter how discreet this surveillance, it increases the spectral presence of the state in the everyday consciousness of each individual. I grant that it is a slow process and that it is nothing like the leaden omnipresence of the Stasi in the GDR. But I think we're heading for a place from which we will not be able to return: the surveillance society where the state will crowd in on the individual human experience and threaten the unguarded freedoms of privacy, solitude, seclusion and anonymity. We may continue to attest to the feeling of freedom but in reality we will suffer more and more restrictions. Inexorably we are becoming subjects not citizens, units on a database that may be observed and classified by a Government which is taking control in areas where it has never dared in democratic times to trespass before.

Where this will all lead I cannot say, but I do know that it is neither good for us nor for the state. Humans work best when they have the maximum freedom, and so does government. As our Government gains more power in relation to us, confusing itself on the way with the entity and interests of the state, it will become less responsive to our needs and opinions, less transparent and less accountable.

Havel said of the Communist tyranny in that glorious but sombre new year's day speech: "None of us is just its victim. We are its co-creators." That is true of any society. And I believe we all need now to acknowledge what has happened to British rights and do something about it.

Firstly, there needs to be some kind of formal audit made of the rights which have been already compromised. An exact account. Linked to this should be a commission looking into the effects of mass surveillance. Second, we need a constitution which enshrines a bill of rights and places our rights beyond the reach of an ambitious Executive and Parliament. Third, we should be writing to our constituency MPs or clogging up their surgeries - asking what they are doing about the attack on liberty. And fourth, all schoolchildren should be taught about British rights and freedoms, what they mean and how they were won. History, as the National Trust is fond of saying, matters. Rights and liberties are as much a part of our heritage as St Paul's Cathedral and Shakespeare's plays.

This may all sound rather prescriptive but I have become certain over the last two years that we need to do something to save us from our Government and the Government from itself.

This was taken from the Summerfield Lecture given at the Everyman Theatre, Cheltenham, on 12 October as part of the annual literary festival. Research by Emily Butselaar

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A promotional banner for the Amazon Honor System. It features a dark red border. Inside, the text reads: "Hi Please help support Information Clearing House. Click here now". Below this is a blue button with a yellow arrow pointing right, containing the text "Click to Give fully refundable". At the bottom, it says "amazon honor system" in white on a dark red background, with a link "[Learn more.](#)" below it.

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