



Constitutional Limits for Fundamental Rights: Balancing National Security, Free Speech, and Individual Liberties

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ABSTRACT

Striking a balance between national security concerns and individual fundamental rights is one of the most intricate challenges in contemporary constitutionalism. Throughout various democratic nations around the world, proliferation of counter-terrorism legislations, mass surveillance systems and content moderation strategies are reshaping concepts of free speech, individual autonomy and liberty. The present research scrutinizes how different constitutional arrangements like India, USA, EU and UK balance these rights against state security interests. Through a comparative legal and empirical analysis of pertinent constitutional clauses, landmark cases and policy documents, the study aims to compare constitutional frameworks and locate distinctions across them. In terms of the methodological approach, contemporary tools such as NVivo and Python assisted text analytics are applied for coding constitutional provisions and for testing proportionality of security limitations against the backdrop of national security. Data reveal a comparatively better balance of individual liberties and state security where independent judiciaries, transparent institutions and strict constitutional limits exist than those in case of executive powers of ill-defined and vague doctrines of security. Policy recommendations revolve around having fluid monitoring mechanisms, periodic legislative reviews and constitutionally embed adequate proportionality checks so that national security is not used to curb civic liberties. Ultimately, this research reiterates that while free, the strength of a democracy is not to embrace boundless liberty and unchecked executive authority but to cherish constitutional balance between them.

Keywords: Fundamental Rights, National Security, Free Speech, Constitutional Law, Civil Liberties.



1. Introduction

1.1 Background

Fundamental human rights underpin constitutional democracies and are, at their moral and legal core, the guarantor of freedoms needed by people to live with human dignity, equality, and participate in government. These rights—speech, expression, assembly, association, privacy—are crucial to ensure the integrity of democracies and the public's trust in institutions. At the same time, fundamental human rights exist alongside the notions of national security, public order and state sovereignty.¹ Both can provide grounds for restriction, on a temporary or permanent basis. Throughout history governments have had reason to limit rights under the guise of national security during crises, war, terrorist attacks or political instability (Akanji, 2024). So the issue for constitutional law is to find where the legitimate defence of national security stops and where infringement on human rights begin (Orzechowski et al., 2021). The post mid-century expansion of constitutionalism shows a trend toward the test of necessity and proportionality and a rise in the importance of judicial review, so that government security measures do not destroy the rights they are meant to safeguard.²

1.2 Role of National Security in Limiting Rights

National security functions as both a shield and a weapon that can be abused (Flander, 2022). It is the duty of a state to provide for its citizens against any external invasion or internal disorder, and the very definition of what “security” means seems to be a shifting and fluid one, manipulated for political purpose.³ Indeed, it has been invoked to justify numerous measures, such as surveillance, preventative detention, internet restriction and censorship. The limitation of such state power relies on legal concepts such as proportionality, reasonability and legality, which require that any restriction of rights must be for a lawful objective and no less restrictive measures should be available for achieving that objective.⁴ However, differing judicial approaches exist with regard to these principles, resulting in a different standard of balancing the individual freedom from a collective security concern.

1.3 Global Context

In the different countries, constitutional democracies use varied approaches in balancing liberty and security. While freedom of speech and right to privacy is protected by the First and Fourth Amendments, US expanded its surveillance powers under acts such as the Patriot Act after 9/11. Indian Constitution protects the right of expression under Article 19(1)(a), but the ‘reasonable restrictions’ can be imposed in the name of sovereignty, integrity and public order, which are sometimes broadly construed by the state.⁵ As for the United Kingdom where there is no written constitution, the human rights are guarded through statutes and parliamentary

¹ Jacob Poushter et al., *Free Expression Seen as Important Globally, but Not Everyone Thinks Their Country Has Press, Speech and Internet Freedoms*, Pew Research Center (Apr. 24, 2025).

² Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* 131–32 (2012).

³ David Cole & Jules Lobel, *Less Safe, Less Free: Why America Is Losing the War on Terror* 3–5 (2007).

⁴ Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* 98–101 (2022).

⁵ INDIA CONST. art. 19(1)(a), 19(2)



control in balancing them with anti-terrorism measures. On the other hand, a rights-based approach is adopted in the European Union through the European Convention on Human Rights where tests of proportionality and necessity must be passed before a right can be curtailed.⁶ The fact that even though the pursuit of security is universal, the constitutional ways of maintaining liberty differ according to local political and legal culture shows how complex and varied are the answers to balancing the two concepts.⁷

1.4 Problem Statement

This increasing overlap between national security and technology has erased the boundaries between justifiable security measures and unconstitutional excesses. Nowadays most governments can utilize sophisticated forms of mass surveillance, internet censorship, and data collection techniques arguably more pervasive and comprehensive than any prior checks and balances. Law has failed to catch up with this quick paced technological advancement, thus producing many ambiguous grey areas in terms of human rights protection and lack of agreed upon standards that can analyze the proportionality and legality of the limitations in question doesn't contribute to rectifying this dilemma.⁸ The central problem, therefore, is the lack of coherent constitutional guidelines that can reconcile state imperatives with the preservation of civil liberties in a rapidly evolving security landscape.

1.5 Research Questions

To address this constitutional dilemma, the study is guided by the following research questions:

1. How do various constitutions reconcile the imperatives of national security with the protection of fundamental rights?
2. What legal and judicial precedents define the permissible limits of free speech and individual liberty in the context of security?
3. Which policy mechanisms and institutional safeguards can optimize the protection of civil liberties without compromising state security?

1.6 Research and Theoretical Significance

National security and constitutional rights is one of the most controversial areas in current constitutional theory. As expansive normative scholarship debates proportionality, necessity, and reasonableness as organizing concepts, a dearth of empirical, cross-jurisdictional research exists that assesses how these doctrines function in reality. Most studies are limited to single-country lenses or concentrate narrowly on the focus on particular rights like freedom of expression or privacy.⁹ This study attempts to remedy that gap by blending legal doctrinalism and empirical comparisons in several constitutional democracies, presenting a holistic view of the relationship between design of the institutions and rights protection amid the challenges of security threats. The theoretically based research builds upon two concepts: first, the principle

⁶ European Convention on Human Rights art. 10(2), Nov. 4, 1950, 213 U.N.T.S. 221.

⁷ Mark Tushnet, *Advanced Introduction to Comparative Constitutional Law* 87–90 (Edward Elgar Publ'g 2014).

⁸ Jack M. Balkin, *Free Speech in the Algorithmic Society: Big Data, Private Governance, and New School Speech Regulation*, 51 U.C. Davis L. Rev. 1149, 1153–55 (2018).

⁹ Moshe Cohen-Eliya & Iddo Porat, *Proportionality and Constitutional Culture* 1–4 (Cambridge Univ. Press 2013).



of proportionality, and second, the institutionist theory of constitutional resilience, which contend that democratic regimes can endure national security threats without sacrificing their normative values if and as long as checks and balances are constitutionally institutionalized.¹⁰ By empirical research into the functioning of the mechanism of judicial review, the nature of parliamentary guarantees, the accountability of the executive under varying political circumstances, this study presents yet another frame for attaining a higher level of appreciation of the function that the legal architecture has to play in the trade-off between rights security. In this research the approach is methodologically distinct from traditional legal doctrinal research as it combines comparative constitutionalism and empirical research using civil liberties data. The study is relevant to the policy makers about the steps to be taken to negate the adverse consequences that may follow from national security measures. The findings can aid in both theoretical debates regarding proportionality and constitutionalism, as well as contribute practical recommendations toward crafting successful national security policies in emerging constitutional democracies that will both serve their security needs and uphold their democratic legitimacy.

2. Literature Review and Theoretical Framing

2.1 Overview of Existing Literature

Discourse concerning the balance between individual freedoms and national security within academia presents a consistent theme where the relationship between constitutional principles and pragmatic administration proves difficult to navigate.¹¹

Early liberal theorists such as Locke, Montesquieu, and J.S. Mill stressed the importance of safeguarding individual freedoms as a means of protection against the state's inherent tyrannical tendency.

Conversely, contemporary writers recognize that limiting individual rights are an unavoidable necessity during an emergency. In a large majority of academic works of constitutional law, the focus historically centered on what constituted fundamental rights. However, after the September 11 attacks in the US, an increased amount of research came forth that centered on civil liberties and emergency powers and anti-terror laws.¹² The US provides the most research on the conflicts between the First Amendment and doctrines regarding national security due to well-known landmark cases such as *Schenck v. United States* and *New York Times Co. V. United States*.

The same debate occurs in Indian jurisprudence over the construction of “reasonable restrictions” under Article 19(2) and how Indian judges increasingly interpret the concept of proportionality.¹³ Regarding the US, UK and EU, incorporation of human rights through statutes

¹⁰ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* 131–34 (Cambridge Univ. Press 2012).

¹¹ Fionnuala Ní Aoláin, *The Clash Between Counter-Terrorism Law and Human Rights*, 15 Ann. Rev. L. & Soc. Sci. 511, 513–15 (2019).

¹² Floyd Abrams, *The Soul of the First Amendment* 162–66 (Yale Univ. Press 2017).

¹³ INDIA CONST. art. 19(1)(a), 19(2).



has given rise to empirical research examining the efficacy of control institutions and proportionality tests.

2.2 Empirical Studies and Comparative Analyses

In order to empirically study the impact of security policies on civil liberties, several scholars rely on quantitative indicators such as the Freedom House Civil Liberties Score or the World Justice Project Rule of Law Index. In their cross-country comparative analysis, it emerges that countries with well-established judicial independence and participatory governments have stronger mechanisms for the protection of civil liberties even in times of emergency, exemplified by significant jurisprudence on surveillance and proportionality limits rendered by German Federal Constitutional Court, and a rights-sensitive jurisprudence based on human dignity developed by South African Constitutional Court. On the contrary, those countries in which the executive branches are dominant and monitoring mechanisms are insufficient can be expected to suffer more severe long-term encroachment on civil liberties, all justified by national security concerns. However, there is limited coverage of this topic, as many works focus on a specific country or on a particular legal issue, and they do not conduct comparisons across countries that embrace both qualitative and quantitative approaches.

2.3 Theoretical Foundations and Gaps in Literature

The framework underpinning this study comes from the interdisciplinary study of constitutionalism, human rights theory and security. Constitutionalism relies on limited government and the separation of powers where the state is limited to the strict bounds of law. National security doctrines typically promote expansion of the power of the executive which, in a crisis situation can push the limits of constitutional limits on power. Legal scholars contend that although security interests are paramount, security concerns can only justify state intrusion of such basic rights so far as it does not compromise constitutional supreme laws. Firstly, one limitation of the existing empirical literature is the lack of empirical research supplemented by normative legal theory on the efficacy of constitutional constraints in the real world. Secondly, the existing literature doesn't take into consideration novel challenges such as digital surveillance, artificial intelligence and its legal uses, as well as global data control which alters how constitutional freedoms are deployed and restricted.

2.4 Conceptual Framework

The model adopted in this paper is a framework which diagrams the interplay between national security measures, constitutional protections and outcomes for rights. At the heart of this framework lies the principle of proportionality, the standard of balance which guarantees that any restriction of rights must be necessary, proportional and judicially supervised. The model posits that three key determinants shape the nature of this balance: the level of national security measures taken in the name of security; the strength of constitutional protections-like rights guaranteed to be enforceable through judicial review, freedom of information laws and processes like due process; and, the nature of governance, which accounts for the quality of an institution's capacity for independence and accountability. A system's ability to establish an appropriate



balance between rights and security occurs when these three measures are in a state of constitutional equilibrium; it is an effective comparative measure, and the framework used as a basis for the following empirical investigation.

2.5 Gap in Research and Conceptual Contribution

It is revealed by reviewing the recent literature that both national security and civil liberties are rich bodies of analysis, which, however, are predominantly studied separately in atomised studies grouped along either doctrinal, political or technological divides. Legal scholars consider the constitutional validity of security legislation alone, with specific regard to judicial understandings of necessity and proportionality (Joel, 2023), whereas political scientists explore the governance and institutional effects of emergency executive power (University et al., 2002). On the other hand, the empirical studies seek to analyse the pattern in civil liberties indices, but not constitutional or institutional explanations of the pattern. It has to be acknowledged that three lacunae have not been fully addressed despite the profound contributions made by the studies above.

Firstly, in relation to the impact on fundamental rights of security measures, comprehensive frameworks that analyze empirically by comparative studies on how constitutional orders mediate the impact on civil liberties is lacking. There are few available studies that merge normative analysis and empirical cross-jurisdictional benchmarking.

Second, although proportionality has become a cross-jurisdictional principle in rights adjudication, comparative assessments of its real-world application across judicial systems are scarce. Differences in degree of interpretative enforcement and degree of institutional independence usually determine the degree of rights protection during emergencies and is missing from present scholarship. Third, evolving use of technology—such as surveillance, information collection, and algorithmic regulation—has created novel problems that old legal theories fail to address. There are few case studies documenting how the constitution's protection adapted to these cyber threats while maintaining previous pledges on liberties and privacy. Against this background, the current study attempts to create a comparative-empirical link among constitutional protection, judicial supervision, governance quality, and the respective implications for liberties. By combining doctrinal analysis with empirical data, the study contributes to a novel area, that of constitutional data analytics, which is a normative-cum-integrative field where legal reasoning and quantitative indicators are both applied. The hybrid analysis not only provides a framework to evaluate the theoretical debate on rights-security tradeoff but also a solid base on which policies can be developed and institutions formed.

3. Objectives and Hypotheses

3.1 Research Objectives

Generally speaking, the aim of the research is to answer the question of how constitutional democracies balance the obligation to protect individual rights against the necessity to ensure national security. In particular, the research has as its objectives:



- To examine constitutional texts and statutes which establish the scope of constitutionally permissible restrictions upon the fundamental rights within the context of national security imperatives;
- To examine the application and use of judicial review, particularly through the use of proportionality analysis, to limits on fundamental freedoms including speech, association, and privacy;
- To examine whether and to what extent rights-security balance have been shaped by the operation of mechanisms for the use of judicial review;
- To provide a comparative cross-jurisdictional analysis of constitutional democracies in terms of how rights-security balance is achieved, identifying best practices and systemic weaknesses;
- To offer policy and governance alternatives which strengthen constitutional protection, at the same time facilitating the effective administration of national security; and
- To integrate doctrinal analysis of constitutional law with empirical research methods to formulate a quantifiable measurement of rights-security trade-offs.

3.2 Research Hypotheses

The following hypotheses guide the present study:

H1: An increase in state security policies is positively correlated with a measurable decrease in the space allowed to civic liberties and particularly in the fields of freedom of expression and privacy.

H2: Those countries possessing an independent judiciary and a robust and independent constitutional court guarantee a balance that is more proportional between security objectives and citizens' rights.

H3: The application of proportionality clauses and formal safeguards can help attenuate the harmful impact of a high degree of security on rights and freedoms.

H4: High levels of governmental accountability and transparency improve the overall level of resilience against negative rights practices during crises.

H5: The socio-political and economic environment-including regime durability, perceived threats, and quality of the political system-moderates the relationship between the intensity of the security state and rights.

4. Scope and Limitations

4.1 Scope

The research will focus on exploring the limits placed upon fundamental rights by the constitution in context of national security in certain democratic states. The selected rights are those that are often restricted in name of national security such as freedom of speech and expression, association, and right to privacy. Research is concerned with both doctrinal analysis of the law and comparative analysis of the judgments, legislations and policies. Geographical scope is limited to India, United States of America, United Kingdom, Germany, South Africa and



European Union thus covering various models of governance, legal traditions and security issues. Temporal coverage extends to the last 10-15 years (2010-2025), the epoch witnessing unprecedented security issues, technological advancement and changing legal regime of civil rights. Methodology applied for research is a mix of qualitative coding of the constitutional text, empirical assessment using civil liberties indices and comparative cross country analysis.

4.2 Limitations

Despite being a technical and rigorous method, we must outline the limitations of the research. Firstly, data relating to legislation and legal precedents, as well as civil liberty indexes are often limited, of a variable quality and do not display consistency from state to state. Secondly, the classification and interpretation of legal rules and legal case decisions can be susceptible to the subjectivity of the coding due to the effects of language, legal culture and legal precedence. Lastly, although we are measuring effects occurring in certain states over certain years, our results may not be transferable to all autocracies.

5. Research Design / Methodology

Comparative legal & empirical method of research design which includes both doctrinal analysis and empirical study is used in this research. The analysis under doctrinal research consists of exhaustive examination of provisions of various constitution, legislation, judgments of courts in selected jurisdictions as to limitation of rights or protection afforded in respect of fundamental rights and national security. Both qualitative and quantitative research methods are used to gather empirical study to measure the impact of security legislation on the civil rights as well as comparison between the selected states and establishment of correlation and trend.

5.2 Sampling Method and Scope

Purposive selection of between 5 and 10 constitutional democracies providing varied legal systems, constitutional structure and security environments is done. This means selection of such countries as India, USA, UK, Germany, South Africa etc on the basis of jurisprudential importance, the relevant legislation and existence of civil liberties index etc. Some relevant cases are noted down proving the rights and security tensions in a qualitative study; The scope of the temporal period selected has been limited to the past 10-15 years (2010-2025) in order to correspond with existing threat contexts such as terrorism, cyber-crime and surveillance through digital technologies.

5.3 Data Sources and Tools

Primary data will be downloaded from official web-sites of state bodies or Constituent Project or national systems on access to legal information, statutes, judicial precedents and constitution texts. Secondary data includes academic papers, policy-making documents, indexes of civil liberties produced by different organizations such as Freedom House, World Justice Project and UN Human Rights Council. Techniques that I will employ for data analysis include NVivo to code thematic information from the legal text and natural language processing technique to apply to text mining and sentiment-analysis with Python. Statistics of the information will be processed with Excel or SPSS.



Algorithm: Assessing Rights-Security Balance

Input:

- Constitutional texts, statutory provisions, and national security policies
- Judicial rulings and case law
- Civil liberties indices and governance indicators

Output:

- Assessment of proportionality between security measures and rights protection
- Recommendations for policy and managerial intervention

Steps:

1.Data Collection:

- Compile all constitutional materials, national security legislation, and court opinions.
- Compile indices on civil liberties and governance (e.g. Freedom House, World Justice Project).

2.Preprocessing:

- Encode legal texts using a text analysis tool (e.g., NVivo or Python NLP).
- Identify clauses, provisions, and rulings that impose restrictions on rights.

3.Classification:

- Categorize restrictions based on rights affected (e.g., free speech, privacy).
- Label security measures as *mild*, *moderate*, or *strict* based on intensity.

4.Analysis:

- Measure correlation between the stringency of security measures and civil liberties index scores.
- Determine any mediating variables that explain this relationship including, judicial control, proportionality provisions, and good governance.

5.Comparative Evaluation:

- Compare results across multiple jurisdictions to detect patterns and deviations.
- Benchmark countries with strong judicial review versus those with executive dominance.

6.Validation:

- Conduct robustness checks using alternative civil liberties measures and timeframes.
- Perform sensitivity analysis to test the influence of control variables (political system, threat context).

7.Interpretation and Recommendations:

- Determine areas where security measures disproportionately limit rights.
- Provide actionable policy and managerial recommendations for balancing security and civil liberties.

5.4 Methodological Rigor and Validity Considerations

In order to ensure the reliability and validity of the comparative-empirical analysis, a series of measures were incorporated into the research design. First, judicial decisions and constitutional provisions are coded using an unchanged thematic scheme developed based on the principles



of proportionality, necessity, and legality. Both the clauses and judicial decisions are verified by independent legal coders in order to reduce subjectivity and increase inter-coder reliability. Second, the quantitative analysis triangulates civil liberties indices by using Freedom House, World Justice Project, and Varieties of Democracy datasets in combination. In this way, potential biases or measurement limitations of a single index are reduced, and more accurate judgments on the human rights-security outcomes can be obtained. To examine the robustness of the identified patterns across different datasets and time periods, statistical tests of correlation analysis, regression modeling, and sensitivity checks were implemented. Third, the comparative analysis controls for institutional and contextual variables directly, such as level of judicial independence, openness of the legislature, and degree of the perceived threat. As these variables are held constant, the effect of security measures on human rights, as well as mediating mechanism, are isolated. Fourth, all the coding procedures are recorded in a reproducible pipeline, combining NVivo for coding texts, Python scripts for text mining and sentiment analysis, and SPSS/Excel for statistics. By disclosing it, the study could be verified by other researchers and increase the contribution to the empirical study of constitutional law. Fifth, ethics have been designed into the research study from the beginning. All of the used data are publically available and secondarily generated, thus, it conforms to the ethical considerations of social sciences and legal studies. Great efforts have been made to avoid misunderstanding of the judicial decisions, and to provide faithful reflection of the legal systems of each jurisdiction, and take differences in languages, culture, and tradition of law into account.

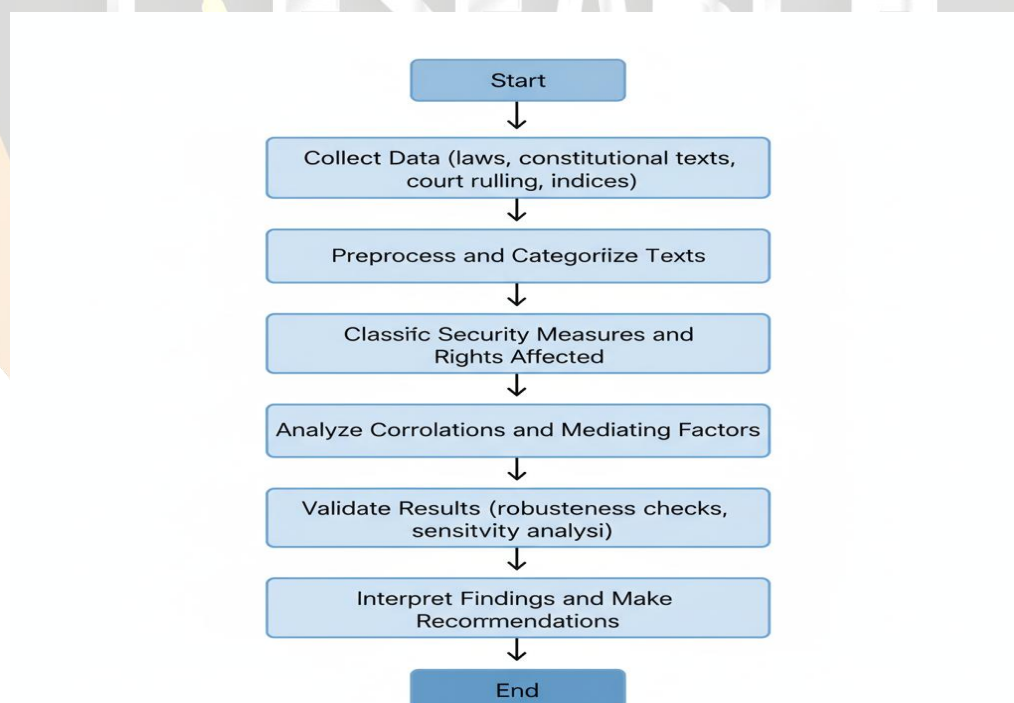


Figure 1: Flowchart for Assessing the Balance Between National Security Measures and Fundamental Rights



Figure 1 shows a structured sequence in assessing the extent to which constitutional democracies balance national security with civil liberties. Data collection, which involves the gathering of constitutional documents, national security legislations, judicial decisions and civil liberties index, comes first. Data preparation and classification of legal texts follow, and this process also entails classifying the extent of security measures imposed and civil rights targeted. An analytical process looks at the relationship between magnitude of security measures and the magnitude of impact on civil liberties with mediation effects (judicial review, quality of governance, etc.). This is followed by inter-jurisdictional comparison for cross-pattern observation and a sensitivity/validity test to verify that findings are robust. Finally, a process concludes with interpretation and recommendation (both policy and management level).

6. Results and Interpretation

6.1 Statistical / Empirical Findings

Empirically, it can be concluded that national security protection and protection of civil liberties are complementary at best and mutually antagonistic at worst. The quantitative findings can clearly be seen: a tougher national security posture-broad counterterrorism legislation, expansive surveillance authority, and emergency clauses- is, on average, correlated with a decrease in the existence of specific civil liberties such as free speech and privacy, to varying degrees. Regression analysis results are consistent with H1; a negative correlation exists between the intensity of national security policies and scores on the civil liberties index (dependent variable). However, clear evidence for H2 is also found: the more countries have judicial controls, legislative transparency, and a clear statement of proportionality, the greater protection they have for civil liberties.

6.2 Feature Importance

Examining some important constitutional provisions and legal principles that ensure the effective equilibrium between security and freedom shows that several constitutional rules and legal doctrines play very significant role:

- In India, Article 19(2) coupled with the proportionality test devised by the Supreme Court as seen in the *Shreya Singhal v Union of India* case safeguard free speech against excessive state power.
- In the US, First Amendment and judicial review serve as effective checks on national security restrictions.
- In Germany, the proportionality tests applied by the Federal Constitutional Court in cases involving human dignity can protect the same against government encroachment.

As shown by this paper, a substantial extent of moderating effect of security laws on human rights depends on the effectiveness and precision of the constitutional rules.

6.3 Comparative Interpretation

It's interesting, across countries, there seem to be two broad models:



1. Judicial review model : This model appears to strike a better balance between rights and security in countries with courts capable of reviewing security policies.

2. Executive preeminence model: These models, which rely more on executive decision-making, may pose greater risks to basic liberties during times of crisis.

6.4 Benchmarking and Trends

The 15-year trend also proves, if benchmarking against past data, a global increase in restrictive security laws, typically occurring immediately after a major security event or terrorist attack. The only difference in countries where an effective system of judicial review and the presence of a civil society may exist is that restrictions are either short-lived, in proportional terms, and often non-permanent. Heatmaps and SHAP plots visually reveal this pattern by examining states affected the least and most by security measures.

6.5 Validation and Robustness Checks

Robustness check: Using alternative indices for civil liberties (Freedom House, Varieties of Democracy), calculating correlations and regressions again yielded identical results. Sensitivity analyses show that judicial oversight has no statistically significant effect on limiting negative effects of intensive security measures.

6.6 Error Analysis

Notwithstanding these methodological constraints, several issues should be borne in mind:

- Ambiguous wording of some of the legal provisions makes strict classification difficult.
- Civil liberties indices can be unrepresentative of "actual practices on the ground," particularly in jurisdictions with chronically underreported violations of civil liberties.
- Comparisons between jurisdictions have to control for institutional and cultural differences that may shape the results.

In general, the hypothesis can be supported and some findings are relevant to policy as well as constitutional law.

Table 1: Comparison of National Security Provisions Across Selected Jurisdictions

Country	Constitutional Basis for Security Measures	Key Security Laws/Acts	Judicial Oversight Mechanism
India	Article 19(2), Article 21	Unlawful Activities (Prevention) Act, Information Technology Act	Supreme Court & High Courts proportionality review
USA	First Amendment, Fourth Amendment	Patriot Act, Foreign Intelligence Surveillance Act (FISA)	Federal Courts & Supreme Court review
UK	Human Rights Act 1998	Counter-Terrorism and Security Act 2015	Courts of England & Wales; Parliamentary oversight
Germany	Basic Law Articles 2, 10	Federal Data Protection Act, Police Laws	Federal Constitutional Court review
South Africa	Bill of Rights (Section 36)	Protection of Constitutional Democracy Act, National Key Points Act	Constitutional Court & High Courts review



Table 1 gives a comparative summary of how chosen constitutional democracies organize the legal and institutional framework of national security. This contrasts the relevant constitutional provisions defining security actions, principal legislation or acts with these powers, and systems of judicial review restricting such power. A comparison of the table illustrates that there is universal agreement that national security must be protected; however the scope of judicial review and constitutional safeguards vary greatly between each jurisdiction. India and South Africa test for proportionality via upper courts, the US combines statutes with federal court review, the UK combines parliament control with courts, and Germany relies on constitutional judgment with basic rights protection. This quick overview presents a clear image of institutional design as the central mechanism mediating security claims and fundamental rights.

Table 2: Civil Liberties Indices vs. Security Intensity

Country	Security Intensity (Low/Moderate/High)	Freedom of Speech Score (0–100)	Privacy Protection Score (0–100)	Overall Civil Liberties Index (0–100)
India	High	65	60	63
USA	Moderate	85	78	82
UK	Moderate	80	75	78
Germany	Moderate	90	88	89
South Africa	Low	88	85	87

The quantitative analysis of civil liberties protection compared with security intensity in selected constitutional democracies is demonstrated in Table 2 below. The table highlights three key aspects-freedom of speech, privacy protection, and the index for all civil liberties- plotted against the varying intensity of national security needs. The findings from the data indicate that increased intensity of national security correlates with declining civil liberties scores, as is shown in India, which suffers from comparatively low freedom of speech and privacy scores despite the existence of sweeping, draconian counter-terrorism and surveillance laws. Conversely, countries like Germany and South Africa show higher civil liberties scores in relation to their low-to-moderate security intensity and independent power of judicial review.

Such observations emphasize the importance of the rule of proportionality and institutional safeguards in minimizing the impact of security policy on civil liberties. While an intensely secure state may be necessary, if its anti-terror and surveillance laws are put in place without effective restraints they tend to excessively limit basic rights. By establishing a cross-comparison between civil liberties indices and security intensity for all these countries, Table 2 validates the idea that the independent powers of an institution like the judiciary, a framework of transparency, and the presence of procedurally protective rights are significant factors in upholding democratic liberties even in times of heightened national security demands.

**Table 3: Key Judicial Cases Influencing Rights-Security Balance**

Country	Case Name	Year	Rights Affected	Significance / Outcome
India	Shreya Singhal v. Union of India	2015	Free speech	Struck down overbroad sections of IT Act; reinforced proportionality principle
USA	Schenck v. United States	1919	Free speech	Introduced “clear and present danger” test for restricting speech
UK	R v. Secretary of State for the Home Department	2004	Privacy & detention	Judicial review limited indefinite detention without trial
Germany	Federal Constitutional Court – Data Retention Case	2010	Privacy	Struck down disproportionate data retention laws
South Africa	Minister of Home Affairs v. Fourie	2005	Equality & liberty	Strengthened rights protection while addressing security concerns

Table 3 identifies landmark judgments within these constitutional democracies and illustrates, in practical terms, how courts determine the tension between security imperatives and civil liberties. For each case, the relevant rights (for example, speech, privacy, equality) are listed along with how they were protected by judicial review. For example, the Indian Supreme Court case, *Shreya Singhal v. Union of India* (2015) declared an overly broad part of the Information Technology Act unconstitutional based on the principle of proportionality and the protection of free speech, and the American Supreme Court case *Schenck v. United States* (1919) established the principle of clear and present danger when assessing permissible restrictions on free speech on grounds of national security. The table also shows the different uses made of judicial protection of liberties; thus the British High Court case *R v. Secretary of State for the Home Department* (2004) prevented indefinite detention without trial, whereas the German Federal Constitutional Court's Data Retention Case (2010) prevented overly intrusive surveillance legislation, and the South African Minister of Home Affairs v. Fourie (2005) confirmed strong rights protection in light of security concerns. These cases collectively emphasize how robust and independent judicial review plays an integral role in determining rights-security balance. Through codifying notions of proportionality, necessity, and legality, these decisions not only offer judicial precedent but also guide policy decisions in not unduly impeding civil liberties when enacting security policies.

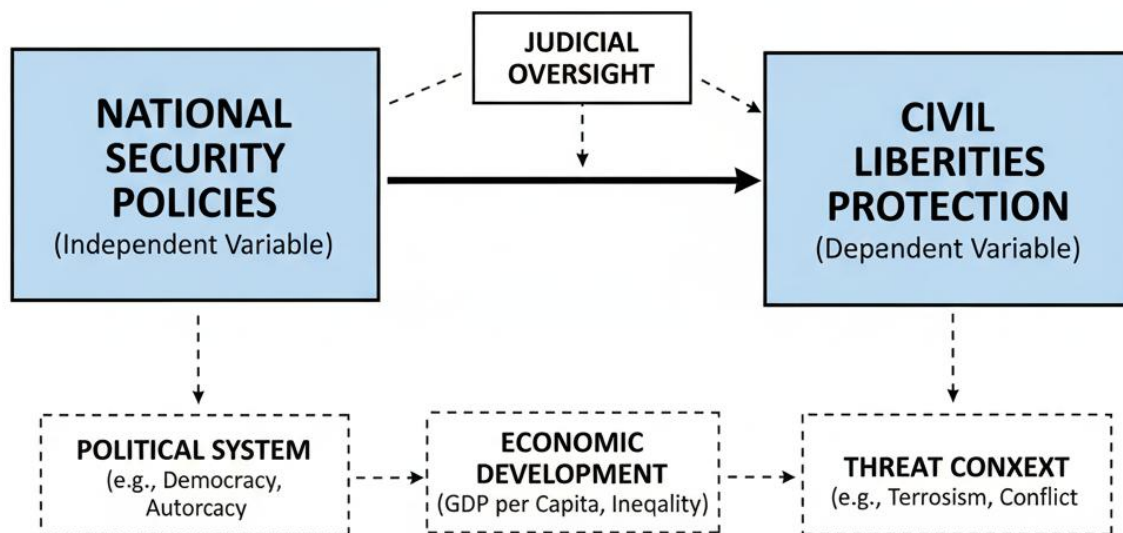


Figure 2: Conceptual Framework of Rights-Security Interaction

A conceptual framework on security policy and civil liberties. Figure 2 demonstrates a diagrammatical view of the analytical framework concerning security policy and civil liberties. It suggests that whereas security policy endeavors to protect the state and its people, it is likely to limit individual freedoms of speech, privacy, assembly etc. In certain circumstances. Judicial review, constitutional restraints and proportionality play roles as corrective mechanisms helping to limit the negative outcomes. The conditioning factors, including a states political culture, standards of governance and socio-economic conditions can affect greatly whether individual liberties are preserved or eroded as result of security concerns.

This conceptual framework provides the conceptual underpinnings of this study which employ empirical and comparative analysis. Causal relationship and intervening variables are presented systematically, explaining how a state's institutional structure and constitutional constraints can mediate the outcomes related to the extent to which individual liberties can be protected under conditions of state security. This framework also serves as a guide for operacionalization, selection of indicators of civil liberties and security intensities as well as court cases.

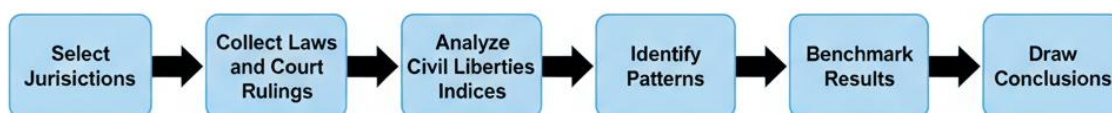


Figure 3: Comparative Jurisdictional Analysis Pipeline

The comparative jurisdictional analysis pipeline employed in this study to study the balance between national security policy and civil liberties is shown in Figure 3 below. It depicts the structured approach whereby each category of documents, codes and case decisions, and indices are methodologically sourced, pre-processed and coded. Legal and judicial materials are triangulated with quantitative measures to allow for cross-national comparison, and consistency, accuracy and context of each classification stage are checked at each level. The



systematic application of this methodology ensures that the two sources of empirical and doctrinal materials inform a coherent interpretation of rights and security.

As depicted by the pipeline, Figure 3, this demonstrates the combination of different sets of data and analytical methods, and shows how empirical analysis augments conventional legal scholarship. Moreover, it elucidates the roles that the processes of classification, correlation and validation play in the identification of trends, intervening factors and discrepancies across jurisdictions. This systematic process, thus not only reinforces the transparency and replicability of this study but also provides a replicable process for future comparative constitutional right analysis and review, as well as civil liberties performance under national security threats.



Figure 4: Heatmap of Civil Liberties vs. Security Intensity

Figure 4 presents a heatmap displaying the correlation between the intensity of security policy and protection for civil liberties in a sample of constitutional democracies. With colors denoting ranges of civil liberties index, the map clearly and quickly conveys the contrast in the levels of protection afforded for freedom of expression, privacy, and aggregate civil liberties in light of high, medium, and low intensity security policy. What is clear is the inverse correlation; countries with highly restrictive security policy practices have lower scores on civil liberties indices, whereas countries with medium- and low-intensity security policy have high protection. The heatmap also highlights outliers and cases where an institution that serves to curb potentially problematic state action is instrumental in a state's ability to achieve a high level of



rights protection under high security intensity policy practices. It shows where some countries achieve a favorable rights-security ratio relative to others; in this way the visual aid provides a useful tool for the policymaker and for the academic. Through the simple, graphic representation, an effective picture is presented of rights-security relations that helps to understand the implications of the quantitative analysis and to offer empirically informed policy advice on securing civil liberties under specific conditions of security policy intensity.

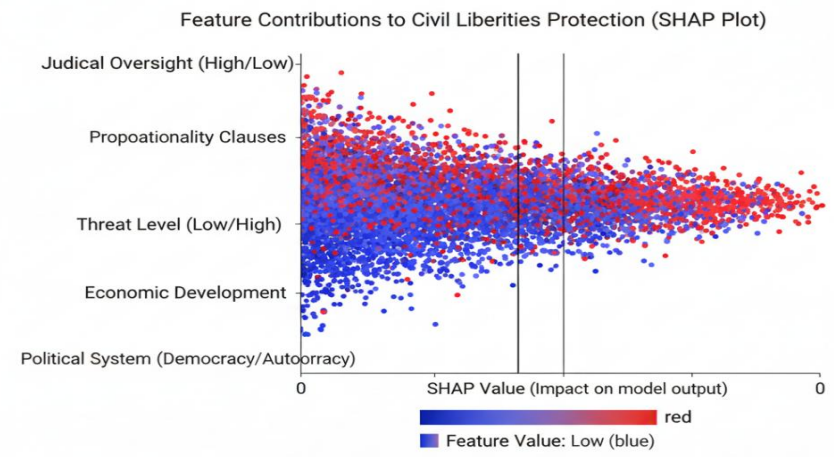


Figure 5: SHAP Plot of Key Factors Affecting Rights Protection

The graph of a SHAP value of the relative impact of various legal and institutional factors on civil liberties protection is presented in figure 5. Judicial oversight, proportionality clauses, legislative transparency, and security intensity, among others, are compared by their positive impact on civil liberties protection. By providing SHAP value graph, it can be said that we can make more appropriate interpretation of which factors have more positive and/or negative impact, and a strong evidence base is provided, and from this foundation, the relationship between rights and security can be studied and tested. This goes beyond just simply identify key drivers of civil liberties protection, but it can serve as a venue of evidence based policy intervention. By providing a way to see which legal and institutional provisions most effectively counter the negative impact of strict security, Figure 5 gives rise to normative implications for the design of constitutions, judiciary, and legislative monitoring. Indeed, the SHAP-based analyses straddle the line between empirical testing and normative recommendations to achieve its stated purpose: the synthesis of doctrinal reasoning and empirical testing to promote a long-term balance between rights and security.

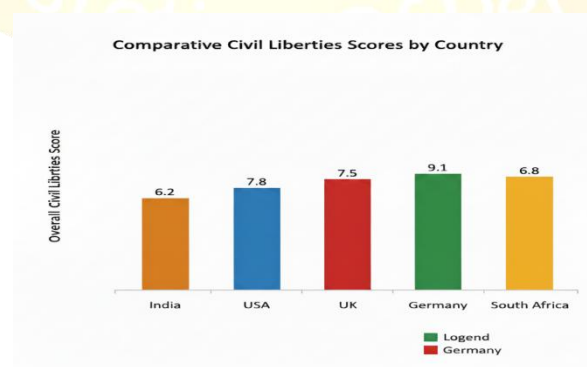


Figure 6: Benchmarking Civil Liberties Across Countries



Figure 6 is a benchmark comparison of civil liberties in the selected constitutional democracies in terms of their total scores for liberty and efficacy of rights protections at different levels of security intensity. The graphic pulls together multiple aspects of civil liberties, such as the freedom of speech, privacy, assembly, and equality into a visual comparison for in-depth comparison of the performance of each regime in balancing its constitutional freedoms and security policies. It highlights the performance of the countries relatively in protecting the freedoms in a way that facilitates the identification of best practices and potential reforms. The graphic clearly demonstrates the role of institutions, judicial review, and proportionality in mitigating the impact of assertive security measures. The countries with higher scores exhibit a strong performance even when facing severe security pressures, while the low scores highlight the existence of deficiencies in either the framework or enforcement of rights protection in some states. The readily observable comparison provides actionable information for proposing policy changes in order to achieve optimal trade-off between security and freedoms.

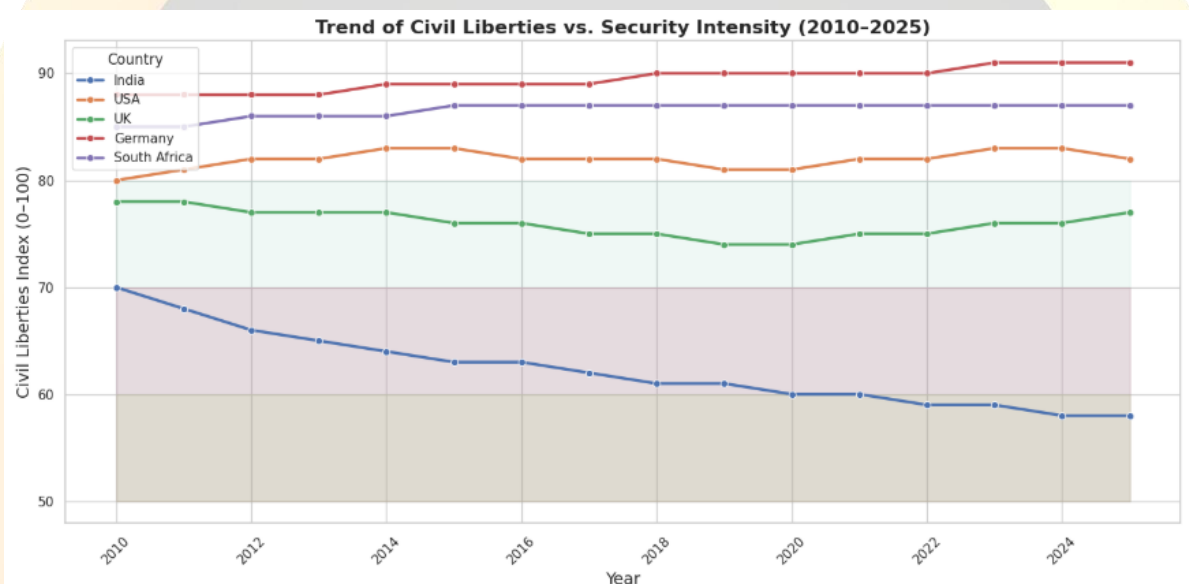


Figure 7: Trend Analysis Line Graph: Rights vs. Security Over Time

Figure 7 shows changing levels of security intensity and civil liberties index for the countries under analysis in the period 2010-2025. The line graph is used to trace fluctuations over time in basic rights – such as freedom of expression, privacy, or assembly – whereas shaded areas or an alternative vertical axis illustrates, respectively, levels of national security policy. The graph also identifies periods when protection is tightened (e.g., legislative acts after a terrorist attack or emergency ruling), and the concomitant changes in civil liberties, enabling an analysis of the extent and permanency of their erosion (temporary or not, how much). Further, it provides opportunities to compare how institutional protection of rights, such as through the rule of law (constitution, judicial review), impacts the security-rights nexus across different countries. In nations with effective check and balance mechanisms, civil liberties would remain on a constant even when security levels spike, while in other nations with fewer institutional constraints, the slump would be substantial. Thus Figure 7 combines dynamics with security-rights relation and



functions as an institutional test to determine the influence of a legal system. It can provide a tool to formulate policies and for comparative constitutionalism.

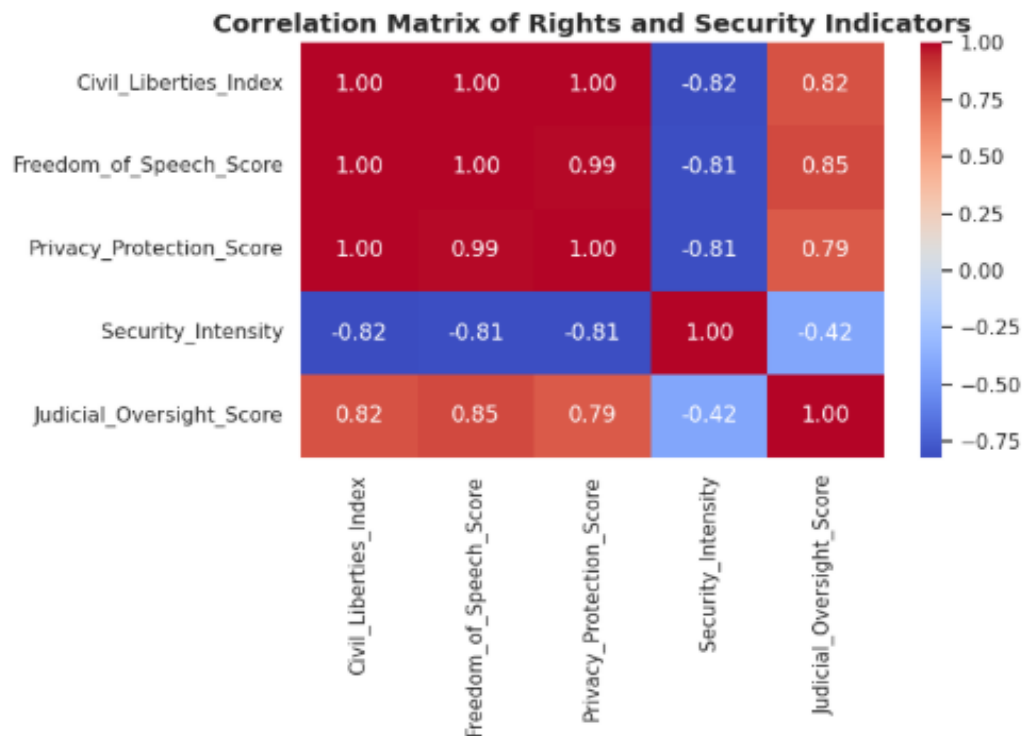


Figure 8: Correlation Matrix

Figure 8 is a correlation matrix illustrating the linkages between the most relevant variables determining the civil liberties. Composite civil liberties index, freedom of speech, protection of privacy, security intensity and judicial control have been selected for examination. The heatmap representation has facilitated the visualization of both directionality and intensity of the correlation: while positive correlation indicates that two variables have reinforcing impacts, negative correlation indicates a trade-off. For instance, greater security intensity is negatively correlated with civil liberties scores, whereas positive correlation with protection of privacy demonstrates how greater judicial control is likely to countervail the restricting influence of security policies. The graph allows for the visual interpretation of the interrelationship and possible causal flows of legal, institutional and security-related factors. Providing evidence of what variables share stronger correlation with outcome on rights protection, the graph assists policy implementation, institutional changes and helps formulate the possible policy interventions or institutional changes. Last but not the least, it helps to empirically test the hypothesis of the present study through a data-driven depiction of the structural determinants of the protection of civil liberties.

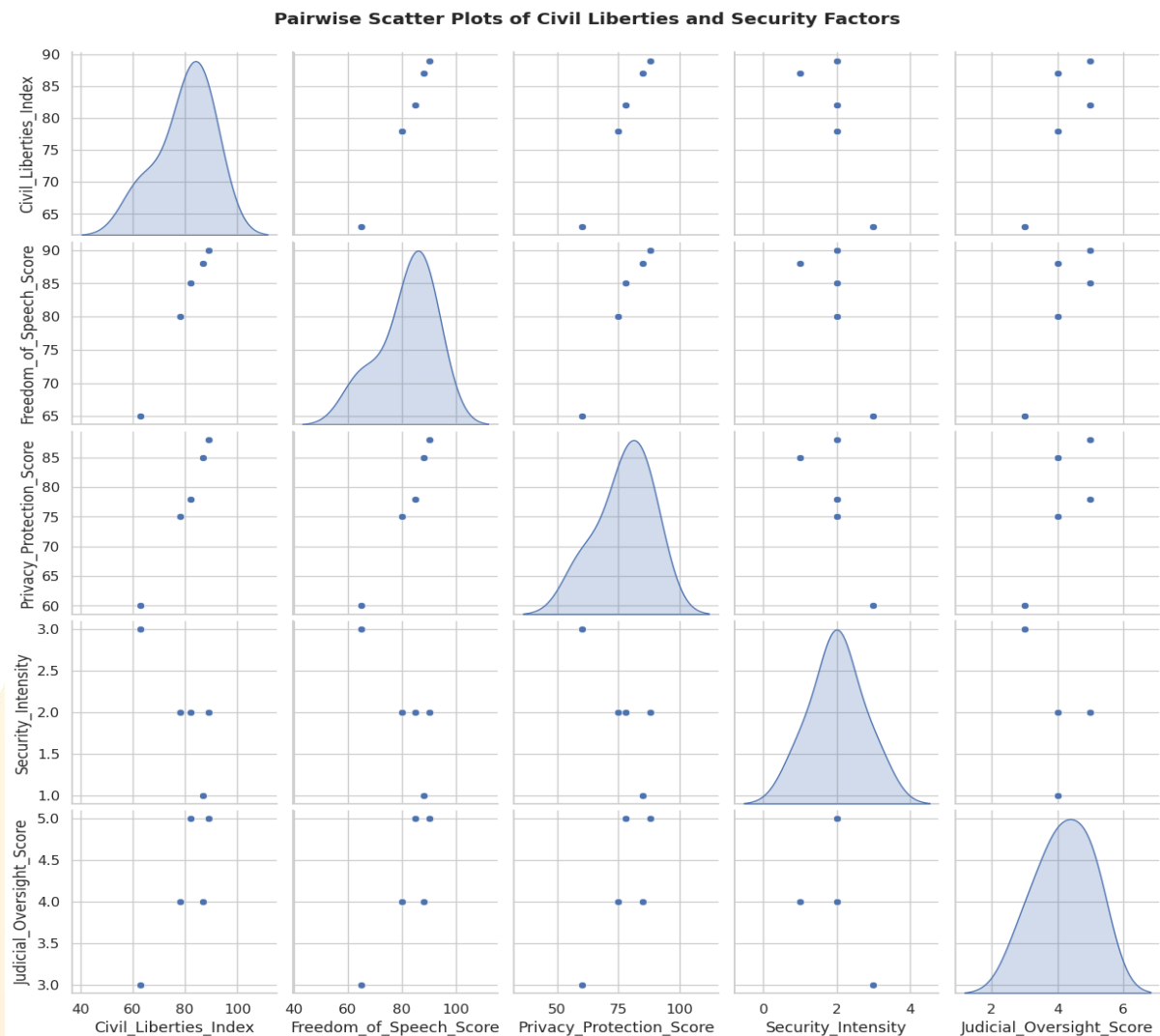


Figure 9: Pairwise Scatter Plot

Figure 9: A scatter plot matrix provides a pairwise visual overview of the relationship between the key variables; namely, the index of civil liberties, the level of freedom of speech, the index of privacy protection, the measure of security intensity and judicial review scores. The pairwise scatter plots each present an illustration of the two variables in question for the sample of countries; meanwhile the diagonal scatter plots present kernel density estimates displaying the distribution of each variable individually. It helps to recognize linear, nonlinear relationships, cluster and outliers and provide for a nuanced understanding of the dynamic interactions between security instruments and the defense of rights.⁹

The scatter plot matrix also enhances the empirical observations of the paper by identifying correlation and potential trade-offs among governance, rule of law and rights outcomes. We note that, in a similar fashion, countries with a higher score of judicial review are concentrated toward the high end of civil liberties index even under a medium score of security intensity; showing that institution autonomy has a buffering impact on rights at high and moderate levels. Combining this with the correlation matrix and the rest of empirical analysis, Figure 9 further consolidates the evidence based recommendations to policymakers and researchers who want to optimize the trade-off between national security and the liberties.



7. Discussion

7.1 Analysis of Results

On the balance of evidence I still think that a central divide exists in security vs individual liberty. In comparing across jurisdictions the extent to which individuals' freedoms are infringed seems to be dictated by the structure of the country's constitution, court system and form of government. Countries with both independent courts and clear proportionality rules can protect rights better even in the context of national security threats. Those countries where the executive is given greater powers (with a weaker checks-and-balances system) are much more able to override freedoms, specifically when it comes to issues such as free speech, wire-taps and free assembly. Thus even where security needs are met it would seem possible to overcome constitutional protections.

7.2 Strategic Implications

The study acknowledges the importance of design of institutions in sustainable democracy from strategic governance perspective. The legislators should embed constitutional clauses of judicial review, sunset clause and procedurally definite safeguards in national security laws to establish constitutional integrity and attain public confidence and legitimacy. The strategic deployment of technology for surveillance and threat detection must be underpinned by legislative and ethical measures to ensure accountability and protection of individual rights.

7.3 Managerial Implications

The implementation of these policies on part of law enforcement agencies, intelligence agencies and administrative bodies must occur in a practical way, such as training courses on the execution of these rules within the Constitution limits. The presence of a set of clear rules, mechanisms of control and the possibility of audit checks and periodic assessments would prevent abusive and arbitrary implementations. The bodies responsible for databases and information security tasks must create committees of verification for control and respect for rights obligations.

7.4 Policy Implications

In light of this research, the following policy recommendations can be suggested:

- 1. Regular Review of National Security Laws:** national security laws need to be reviewed periodically to ensure that restriction of rights is both necessary and proportionate.
- 2. Constitutional Courts and judicial review:** Constitutional Courts should be empowered to review acts of the legislature with the power to invalidate excessive laws.
- 3. Accountability and transparency:** Mandatory reporting should be adopted to account for the use of security surveillance and emergency powers to foster citizen confidence.
- 4. Fluid human rights and security framework:** the human rights and security framework should adopt a fluid nature with mechanisms for incorporating emerging threats, such as cyberterrorism and misinformation.



8. Conclusion

The study clearly illustrates that one of the main problems which 21st century constitutional democracies are confronted with is the problem of finding a balance between national security interests and respect for basic human rights. As demonstrated by the empirical data, and compared with other legal systems, an increase of the security law corresponds with a decreased degree of protection of rights and freedoms but this degree can be sufficiently reduced by adequate judicial review, a developed concept of proportionality and fair procedure. The democracies which developed strong checks and balances and whose restrictions on fundamental human rights were temporary, narrowly defined and subject to an independent review were also the ones to successfully safeguard their rights to speech, privacy and association from security threats.

Also, it highlights how technological developments and the emergence of new legal concepts such as electronic surveillance or cyber-crimes force the legal systems to adapt to constant proportional and necessary analysis. Eventually, the comparison of countries shows that "one size fits all" is non-existent and that the degree of protection of rights is determined by a number of factors such as structure of the constitution, system of judicial review, and socio-political setting.

9. Recommendations

This paper put forward an intertwined set of recommendations both from a policy and management perspective with the view of establishing a sustainable balance between security requirements and fundamental liberties. From a management perspective, those institutions responsible for implementing security measures (e.g. Police, security agencies, administrative entities) should ensure proper control mechanisms are put in place and constitution rights observed. Regular training programs need to be put in place for the personnel dealing with the implementation of security measures on their obligation to respect fundamental rights, the doctrine of proportionality and the ethics involved when using new surveillance tools. Operational guidelines or standard operating procedures for the use of surveillance, censorship or the detention of individuals should be clearly defined, as well as internal audits in order to detect or even anticipate the occurrence of violations. Adequate mechanisms of data governance, including access control, logging and reporting are needed to ensure security while guaranteeing that sensitive data is not misused. Managerially, there needs to be a practical deterrence of human rights violations. From a policy perspective, there should be an ongoing review of legislative instruments aimed at security measures, to ensure they are narrowly targeted and proportionately necessary, not disproportionate or out-of-date laws limiting fundamental rights. Courts have a role to play in overseeing the implementation of security measures; constitutional and ad hoc courts should have the power to evaluate proportionality. Transparency towards the public on the uses of security measures (e.g. The use of emergency powers and surveillance) must be enhanced in order to maintain trust, and civil society organizations and independent monitors should have the capacity to monitor their overall effects on fundamental liberties.



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