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## Security Rights Violations in Context of Counterterrorism: Analysis of the Post-Soviet Nations

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### Abstract:

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## **Security Rights Violations in the Context of Counterterrorism: Analysis of the Post-Soviet Nations**

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Since first recognized under international law, human rights have existed in tension with security considerations. Recently, a pervasive security-oriented agenda promoting states' obligations to combat the threat of terrorism has revived the challenge to human rights. Some governments have been quick to exploit the climate of insecurity to justify the long-standing repression of political opponents or punitive immigration measures citing the exigency of war on terrorism.<sup>1</sup> Others have allowed for human rights violations by enacting extensive security legislation and denying terrorism suspects due process and the protection of law.<sup>2</sup> Still other nations have shown restraint and resistance to the prevalent trends in counterterrorism opting for non-coercive preventive responses targeting causes of terrorism. What can explain this variation?

The answer to this question has far-reaching implications not only for our advances in stopping human rights violations committed under the guise of combating terrorism but also for our efforts at limiting the spread of activities of terrorist organizations. Terrorism, a premeditated use of violence by non-state actors against civilians in the furtherance of broader political objectives,<sup>3</sup> is the exact antithesis of human rights, a crime that takes individuals' lives and jeopardizes their freedoms. It is a state responsibility to ensure the public's protection from politically motivated violence of this type, and to safeguard people's freedoms against those who wish to violate them. Oddly enough, the governments across the globe forsake their human rights commitments in the name of combating terrorism, thus defeating the very purpose of counterterrorism policies. Determining conditions affecting the degree to which a state is willing to sacrifice individuals' freedoms under the pretext of fighting terrorism is important because 'the full realization of human rights and the practice of genuine democratic processes throughout the world...' is indispensable to the success of the war on terrorism.<sup>4</sup>

The goal of this work is to examine determinants of security rights violations of individuals implicated in terrorism, their family members and supporters, and other persons related to or acquainted with presumed terrorists (hereinafter, suspects of terrorism). Security rights violations consist of the use of torture, extrajudicial killings, unlawful detentions, trials, and disappearances of the suspects of terrorism. Seeking to explain the breaches of individuals' security rights, I develop a theoretical model that capitalizes on the earlier studies of state repression and expands their arguments to include accounts of human rights violations that are unique to the context of counterterrorism.

As a step toward a worldwide analysis of human rights and counterterrorism praxis, this study employs cross-sectional time-series analysis of 15 former Soviet Union republics – Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan – studied over the period of 13 years (1993-2005). The author uses original data on security rights violations of the suspected terrorists collected by means of systematic content analysis of several types of reports. The statistical assessment of the patterns of security rights violations in a sample of post-Soviet states is meant to shed new light on the critical issues of politics and human rights that leave us concerned about the future of democracy, development, and fundamental freedoms not only in the former Marxist empire, but everywhere in the world.

I begin by defining security rights followed by an outline of a theoretical framework describing conditions that prompt their violations. In the next section, I discuss operationalization and measurements of the concepts used to explain the denial of security rights to terrorism suspects. After a brief review of the design of empirical tests, I present statistical results and discuss implications of the findings for theory and practices of human rights.

### **Conceptualizing Security Rights in the Context of Counterterrorism**

It has long been noted that states' responses to terrorism differ in the extent of governments' commitment to the rule of law and respect for human rights. These differences have been captured in the 'war' and 'criminal justice' models of counterterrorism responses that were developed on the premise of a teetering balance of repressive and legitimate means of fighting terrorism.<sup>5</sup> In the 'criminal justice model' the strict observance of the rule of law outweighs the exigencies of the war on terror, while in the 'war model' this balance 'tips from the protection of individual rights, as embodied in the rule of law, to the protection of the state, as embodied in the rules of war'.<sup>6</sup> Another typology of states as 'soft-' or 'hard-liners'<sup>7</sup> refers to a series of 'harsh and effective temporary measures to isolate and eliminate terrorist cells' as pointers of the 'hard-line' approach to terrorism.

Despite their general usefulness, these and similar classifications of states' responses to terrorism are suboptimal for carrying out a comprehensive analysis of human rights practices in the context of struggle with terrorism. Originating in studies of counterterrorism strategies of liberal democratic states, these conceptualizations cannot be 'stretched' to counterterrorism policies of those states that lack a strong liberal tradition or are adverse toward democratic values. Dichotomizing a spectrum of counterterrorism measures into binary indices conceals important variation in the degree and types of human rights violations committed in the name of combating terrorism.

This study focuses on the nature and scale of security rights violations conceptualized as violations of human rights guaranteed by Article 3 of the Universal Declaration of Human Rights (1948) and Articles 6(1), 7, and 9(1) of the International Covenant on Civil and Political Rights (ICCPR) (1966). These include the right to life, the right to habeas corpus, prohibitions of torture and cruel and unusual punishment as well as prohibitions of arbitrary arrest and detention. The manifestations of violations of these rights in the context of counterterrorism are extrajudicial killings, instances of torture and physical abuse, unlawful detentions, trials, and disappearances of a broad category of the suspected terrorists.

There are several reasons for choosing the identified category of security rights over other human rights for the present analysis. Cognizant of the controversies surrounding the concept and typologies of human rights, and claims to universalism and primacy of some human rights over others, the author, nevertheless, concurs with those scholars who distinguish a category of the so-called 'fundamental' or 'core' rights that top the hierarchy of human rights.<sup>8</sup> Extrajudicial killings, torture and physical abuse violate peremptory international norms safeguarding non-derogatory human rights that cannot be suspended under any circumstances.<sup>9</sup> Because these rights have been regarded as intrinsically valuable to any human being, they have been granted a special normative status and recognition as 'core' human rights, or *jus cogens*.<sup>10</sup> A greater importance of the right to life and protection from physical harm have been forcefully defended on the ground that the realization of these rights fulfils intrinsic psychological and safety needs which dominate individuals' motivational life.<sup>11</sup>

Freedom from arbitrary arrests and due process guarantee more complete gratification of human physiological and safety needs since the rights to life and prohibition of torture are intimately connected to freedom from arbitrary detention and basic procedural rights. When the latter are circumvented, individual's rights to life and physical integrity are also jeopardized. Therefore, freedom from arbitrary arrests and procedural rights received a higher level of protection in the international legislative and judicial acts. The UN Human Rights Committee, for example, in its authoritative interpretation of international human rights law expanded the list of elements of the human rights regime that cannot be subject to lawful derogation in addition to the rights specified in Article 4 of the ICCPR.<sup>12</sup> These elements, *inter alias*, include the following: all persons deprived of liberty must be treated with respect for their dignity; hostage-taking, abduction, and unacknowledged detention are prohibited; and the right to a fair trial essential for the protection of non-derogable rights cannot be suspended as well.

In addition to the legal and philosophical justifications for the choice of security rights, my determination to focus on the violations of the right to life, physical integrity, freedom from arbitrary arrests, and procedural rights is also driven by empirical and practical concerns. The conceptualization of human rights as a set of security rights reflects the actual experiences of the suspected terrorists and epitomizes the breaches of individuals' rights that often occur in counterterrorism practices of individual states.<sup>13</sup> It depicts the widely criticized practices of governments using torture against alleged terrorists, in the name of national security, removing them from the protective reach of the courts, denying them habeas corpus, or holding them in prolonged detention without charges or trial. Furthermore, counting security rights violations of the terrorism suspects

allows for the production of a continuous scale capturing the variation in the degree and 'style' of human rights violations in both democratic and non-democratic states.

### **Explaining Security Rights' Violations in the Context of Counterterrorism**

Scholars have been studying human rights in the context of counterterrorism for quite some time, and the recent years have seen an explosion of interest in the topic. The events of September 11 and the subsequent war against terrorism have reignited debates about the precedence of national security interests over the exercise of individuals' freedoms. There exists a plethora of articles, edited volumes, and monographs that survey political fallout of terrorist attacks and the human rights implications of the states' counterterrorism responses.<sup>14</sup>

The scholarship of this type has examined complexities in finding a sensible balance between effective security measures and human rights, and gathered invaluable knowledge about the individual governments' experiences in solving this problem. Regrettably, however, there have been few systematic attempts to explain similarities and differences in the ways states uphold or curtail human rights when they tackle the threat of terrorism. What has inhibited the development of general theoretical accounts of counterterrorism and human rights is the dearth of cross-sectional analyses of a wider range of democratic and non-democratic states and an insulated position of these studies in the broader realms of comparative politics and international relations. This literature has evolved at a distance from the broader scholarship of human rights rarely taking advantage of the wealth of theoretical and empirical knowledge generated by studies on state repression.

This work bridges the scholarship on states' counterterrorism policies with that on human rights. It also develops a theoretical model that integrates hypotheses and the extant empirical findings on the ways states balance demands for security with human rights into a single decision-making conceptual framework.

The two approaches that dominate research on state repression and human rights are the 'cost/benefit' and the 'strength/threat' conceptual models.<sup>15</sup> Both are the variants of the rational actor decision-making framework and share the assumption that the governing elites are interested in maintaining their political control and power. In the first model, political authorities assess socio-political and economic environment through the prism of 'costs' (factors that decrease power and resources) and 'benefits' (factors that increase power and resources) and repression is used when the 'costs' associated with it do not accede the expected 'benefits' from negative sanctions.<sup>16</sup> In the second model, decision-makers assess their political strength vis-à-vis the magnitude of threats to regime. Repression is likely to be employed when the policy-makers believe that regime's strength is less than the threat, or when the strength/threat ratio is decreasing relative to strength.<sup>17</sup> In both models, variables may influence the extent of repression or other policy outputs directly by increasing 'costs' or threats relative to 'benefits' or regime's strength, or indirectly by affecting decision-makers' perceptions of the 'cost/benefits' and 'strength/threat' ratios.

My model of states' human rights practices in the context of counterterrorism builds on the rational actor decision-making theoretical framework, but relaxes the assumption of strict rationality. It draws on the insights from political psychology and augments the model with psychological premises of decision-making. First, I assume that decision-makers' behavior is always purposeful, i.e., it attempts to meet various goals and

needs, and the primary goal of ruling elites is maintaining their political power.<sup>18</sup> Second, instrumental considerations often underlie decision-making by political elites. Therefore, when faced with the earnest threat, political leaders will be inclined to employ coercion for preserving their power. Third, like other individuals, decision-makers exhibit 'bounded rationality'. In their attempts to make sense of the complex reality for the purpose of effective action, they rely on various mental shortcuts for processing information and reaching decisions.<sup>19</sup> Finally, non-instrumental considerations also penetrate decision-making process of the ruling elites. Expressive and normative reasons push decision makers toward policies that can gain them social approval from their peers at home and abroad, and enhance their positive self-image.<sup>20</sup> Using these five assumptions, I will now explain the variation in states' human rights practices in the context of counterterrorism.

Since governments are motivated to stay in power and are inclined to use repression when their regime is facing a serious threat, terrorist attacks should provoke governments' negative responses. Leaders' reactions are typically more pronounced in the nations plagued with the threat of terrorism.<sup>21</sup> Even in the democratic states, violence permeates governments' responses when they are confronted with the gauntlet of terrorism and the necessity to curtail spiraling violence.<sup>22</sup>

Terrorism threatens the strength and longevity of the governing regime in several ways. Terrorist violence challenges the authority of political elites and undermines their monopoly over the legitimate use of force. It diverts their attention from other domestic aims since dealing with terrorist threats requires significant monetary and human resources. Terrorist acts generate fear and distress thus provoking public disappointment with the government incapable of protecting the lives and livelihoods of those under its jurisdiction. To refurbish their legitimacy and public support, governments will use all available means to liquidate terrorist groups and apprehend those suspected in terrorism.<sup>23</sup>

Another reason for curbing freedoms in response to the acts of terrorism is the lower 'costs' associated with negative sanctions employed in the name of counterterrorism. A sense of national insecurity quickly destroys public support for inviolability of human rights and predisposes individuals to the surrender of their rights in exchange for more freedom from fear. As former Chief Justice of the New Mexico Supreme Court, Gene E. Franchini, has written, '[Fear] works like a charm. A fearful people are the easiest to govern. Their freedom and liberty can be taken away, and they can be convinced to believe that it was done for the own good – to give them security'.<sup>24</sup> For many individuals and politicians alike, the gravity of terrorist attacks is a sufficient reason for taking away the legal protections of those suspected in terrorism.<sup>25</sup> In short, governments are expected to use repressive political measure to protect their interests when faced with the threat of terrorism. I hypothesize that *the effect of the magnitude of terrorist attacks on the violations of security rights will be in the positive direction.*

Political conflicts of different magnitude and duration – disputes, mass protests, civil and international strife – can also threaten the governing regime. The literature on state repression and human rights has consistently identified intense domestic opposition as an important determinant of human rights violations.<sup>26</sup> The question then, becomes, how and why various forms of political opposition enter the equation accounting for differences in the extent of security rights violations in the context of counterterrorism.

According to one explanation drawn from the multi-dimensional approaches to threat perception, the presence of political disturbances sensitizes leaders to the threat of terrorism. Terrorist attacks in the states experiencing political turbulence will be perceived as representing a higher level of threat and responded to more intensely.<sup>27</sup> Following another line of reasoning, policy makers, interested in maintaining their strongholds of power, will be inclined to use the tools available for fighting terrorism to cope with other types of political challenges. Russia, for example, has been notoriously known for the government-staged attacks on human rights defenders of the Chechen using the powers afforded by pervasive counter-terrorism and counter-extremism legislation. The Chinese leadership has used the tools acquired through participation in the global counter-terrorism efforts for deepening its crackdown on the ethnic Uighur community seeking independence. Egyptian authorities have a long history of using counterterrorism measures for suppressing peaceful dissent as well as punishing governmental opponents.<sup>28</sup> Many other governments have utilized counterterrorism measures to justify their defiance of human rights.

According to the postulated assumptions, decision-makers seek domestic and international approval and strive to maintain their positive image and self-esteem. Repressive measures against legitimate political opposition and violations of humanitarian law never contribute to the enhanced political standing and rarely strengthen a sense of self-worth. When these same sanctions are framed as security measures applied to the suspects of terrorism, they gain a veneer of international respectability and greater domestic support. Terrorism is a very broad and ill-defined term that can be potentially used to stigmatize and prosecute all forms of opposition. The merit of such a fuzzy definition is that it provides for the equally broad and ill-defined ways to define counterterrorism.<sup>29</sup> Governments experiencing tensions with their political opponents, particularly in situations involving violent separatist or nationalist dissent, will be inclined to repackage these challenges as terrorist threats and use against them tools available for fighting terrorism. Not only can these coercive actions fend off opposition and strengthen the rule of regime, but also provide authorities with a more legitimate mandate to sanction those rendered as suspects of terrorism. My expectation is that *the higher levels of political conflict experienced by states will contribute to greater number of security rights violations in the context of counterterrorism.*

The rational facility of decision makers largely determines their reactions to threats to the governing regime. Yet, these assessments are typically slanted toward different mental shortcuts and cognitive schemes that figure strongly in the decision-making chain. Historical experiences play a dynamic role in the construction of security threats. The past security measures constitute a filter through which governing elites single out modal responses that are most familiar to them.<sup>30</sup> Thus, historical memory predisposes political leaders toward habitual types of responses. I expect that *the extent of violations of individuals' security rights in the past will determine the levels of human rights violations in the present.*

As postulated above, ruling elites are also susceptible to normative impact. A steadily expanding stream of research on international norms offers a host of explanations for why non-instrumental concerns creep into the leaders' rational decision making framework. Governments are deeply interested in the status of their states in international relations. Many seek legitimation or desire to maintain and enhance their reputation as



norm-compliant leaders and states.<sup>31</sup> Psychologists contend that norm conformity is the default option<sup>32</sup> since norm-compliance promotes positive social reinforcement and endows decision-makers with simple organizing and decision rules.

There are two broad categories of international norms that are pertinent to states' human rights conduct in the context of counterterrorism. Those are international human rights norms and norms prescribing states to undertake certain actions (or avoid taking actions) in different areas of counterterrorism. There is no direct conflict between counterterrorism norms and human rights norms. Human rights law establishes a framework within which terrorism can be dealt without infringing on fundamental freedoms. However, since the onset of the war on terrorism, several rhetorical and theoretical arguments have resurfaced in public and political debates in support of the repressive methods of struggle against terrorism. For instance, former President of Georgia, Eduard Shevardnadze stated in 2002 that 'international human rights commitments might become pale in comparison with the importance of the anti-terrorist campaign'.<sup>33</sup> Some governments share a conviction that certain individuals should be excluded from under the protection of international human rights law. Terrorists are deemed undeserving of any international protection because of the heinous nature of their criminal acts.<sup>34</sup>

Whether a state decides to comply with human rights or counterterrorism norms hinges on the strength of norms, among other factors. Several characteristics of norms, such as norms' commonality and durability, determine their strength and the ensuing impact on governments' actions.<sup>35</sup> The *commonality* of international norms denotes how many actors of the international system share value-based expectations embedded in the norms. The greater the number of states adhering to international normative claims the higher the degree of commonality of international norms will be. Consequently, the impact of these norms on state policies will be greater. *Durability* signifies 'how long the rules have been in effect and how they weather challenges to their prohibitions'.<sup>36</sup> The longer the norm has been in existence, the stronger its impact will be. Consequently, the strength of human rights norms vis-à-vis counterterrorism norms reflected in their relative commonality and durability will affect the extent of security rights violations in the context of counterterrorism. I hypothesize that *the greater commonality and durability of human rights norms compared to counterterrorism norms will be associated with fewer security rights violations in the context of counterterrorism*.

The human rights scholarship has identified a number of other factors affecting leaders' propensity toward repression that I will include as controls in my model of human rights and counterterrorism. First is the type of political regime that has shown consistent and significant effect on the level of state repression. State monopoly on violence is severely constrained in liberal democratic states. The rule of law, the emphasis on bargaining and compromise as principles for handling conflicts, multiple and overlapping power pyramids, and a competitive system of elections of the major power-holders – have been listed in a roster of democratic factors restraining the power of elites.<sup>37</sup> Coercive measures are very 'costly' in liberal democracies as they severely undermine legitimacy of the ruling elites, destabilize political situation, and, ultimately, weaken the rule of the governing regime. Repression is inconsistent with democratic ideas and values, and the employment of negative sanctions will generate not only public

and international condemnation, but also a state of cognitive dissonance in leaders' minds.

Economic development, like democracy, is expected to decrease state repression.<sup>38</sup> Economic scarcity generates social and political tension, thus, destabilizing political systems of economically underprivileged states. Fewer economic resources limit the government's ability to use alternative mechanisms of resolving societal grievance. Therefore, political authorities of the poor states will be more likely to opt for repressive tactics.

Foreign assistance is another variable that can influence human rights landscape in the recipient states. The debate over the consequences of foreign aid on human rights has been a contentious one, and the results of empirical studies have been inconclusive.<sup>39</sup> The sparse analyses of foreign assistance have demonstrated that military aid has negative impact on human rights<sup>40</sup> because it provides additional tools for fending off political threats to the government in power. Furthermore, the provision of foreign to the countries with poor human rights records can exacerbate human rights abuses by reinforcing the government's belief in impunity from foreign sanctions as long as it serves security interests of states supplying aid. Therefore, I expect that foreign assistance will increase security rights violations in the context of counterterrorism.

Many commentators and human rights activists have noted the impact of September 11<sup>th</sup> attack on the change in governments' perspective on civil and political rights. The attack on the US soil and the subsequent worldwide counterterrorism campaign animated by the American leadership and manifested in the position of the UN Security Council, including its powerfully worded Resolution 1373 (28 September 2001) that outlines extensive counterterrorism measures binding on states under Chapter VII of the UN Charter, tipped the rights/security scale to the detriment of human rights.<sup>41</sup> In this new age of the global war on terror, tough measures have been assumed as necessary to protect state security. 'After 9/11', according to State Department counterterrorism coordinator Cofer Black, 'the gloves came off'.<sup>42</sup> I expect to find an increase in the violations of security rights in the post-9/11 environment.

In sum, it is hypothesized that the extent of security rights violations of the suspect of terrorism will be determined by the magnitude of terrorist threat, the degree of political conflict, and past levels of security rights violations in the context of counterterrorism. Democratic mechanisms will be a barrier to negative sanctions; whereas economic scarcity and foreign aid will steer governments toward repression. International norms will serve as referent points guiding leaders' policy choices. The relative commonality and durability of counterterrorism vs. human rights norms will affect the extent of security rights violations in the context of counterterrorism. Finally, the terrorist attacks of 9/11 became a catalyst for perilous changes in human rights practices across nations.

### **Research Design**

In this section, I describe the design of empirical tests of the proposed explanations of differences in security rights violations in the context of counterterrorism. Due to considerable efforts at collecting reliable data on human rights violations of the suspected terrorists, I chose to test my hypotheses on a sub-set of states. The estimation sample covers 15 states, the former Soviet republics of the USSR - Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia,

Tajikistan, Turkmenistan, Ukraine, and Uzbekistan – studied over 13 years (1993 – 2005). The unit of analysis is the country-year.

This sample of states is suitable for the purpose of this research. There are many variables that can potentially influence human rights practices within individual states. Therefore, there is always a danger of excluding an important factor from the model venturing its misspecification. Because of the common political history, the post-Soviet states share certain characteristics, such as recently acquired or re-gained independence, experiences with democratization and authoritarian regimes, and societal attributes, which might influence governments' decision to repress human rights but need not to be included into the model due to the homogeneity of this set of cases. At the same time, the country-years included into the sample are also representative of different types of political regime, levels of economic developments, the scales of political conflict and terrorism, and other background conditions.

Importantly, the sample features variation on the types and scale of security rights violations of the suspects of terrorism that do not correspond to the patterns of general human rights abuses on the post-Soviet space. Belarus, Estonia, and Turkmenistan, for example, had no reported security rights violations of the terrorism suspects throughout much of the examined time-frame. Lithuania, Latvia, Ukraine, and Kyrgyzstan were occasionally noted for unlawful detentions and violations of procedural rights, with Kyrgyzstan, since recently, turning increasingly violent toward the alleged members and supporters of terrorist groups. Georgia, Russia, and Uzbekistan have habitually employed incommunicado detentions and torture against terrorism suspects, suspended habeas corpus, and stripped detainees of their basic procedural rights. These patterns constitute an empirical puzzle inviting a closer scrutiny of security rights violations in the context of counterterrorism in the post-Soviet states.

Since the sample of states is not selected at random, no definite inferences can be made to the full universe of states. It does not mean, however, that findings of this study cannot be used for gaining a better understanding of factors that can influence the degree of governments' compliance with internationally protected human rights in the context of counterterrorism, or for making theoretical inferences. If consistent with findings of the earlier studies, the results of the present analysis will lend credibility to the impact of certain conditions on states' human rights practices within global as well as regional setting. The unconventional findings will generate new hypotheses inviting further examination of the workings of certain exogenous forces in the context of counterterrorism and analysis of regional dynamics.

### ***Dependent Variable***

Security rights violations in the context of counterterrorism is the dependent variable of the study accounted for by the number of extrajudicial killings, instances of torture, unlawful detentions, trials, and disappearances of the suspects of terrorism, their family members and supporters, and other individuals related to or acquainted with presumed terrorists.

I counted the total number of confirmed violations of each type (i.e., the number of individuals whose rights were violated) that occurred in a country during the year and assigned this number a score based on the following rules: the score of 0 if no violations have been recorded; 1 – if violations happened occasionally (the number of violation is more than '0' but less than '50'); and 2 – if violations are practiced frequently (the

number of violations is greater than '50'. The index of security rights violations was formed by adding the scores on each type of human rights violations.

There are numerous problems with the availability and reliability of information that can be used for taking measures on the extent of human rights violations by individual states.<sup>43</sup> Therefore, achieving the level of precision of the human rights data that is necessary for meaningful and compelling cross-sectional and longitudinal analyses would be impossible if one uses raw counts of different types of human rights abuses in the context of terrorism. Following the widely accepted practice,<sup>44</sup> I chose to use ordinal categories based on events data that fit the accuracy of the reported human rights violations and allow for meaningful comparisons among states. Another advantage of using ordinal comparisons is that it increases the reliability of coding into categories.<sup>45</sup>

The summation of scores on five different types of security rights violations returned an index of security rights in the context of terrorism, which values range from '0' (no confirmed violations of different types of security rights) to '10' (frequent violations of all types of security rights). Items combined in an index should be more inter-correlated with each other than with other items, thus demonstrating the uni-dimensionality of a scale, a requirement for any social science concept.<sup>46</sup> Loevinger's H is one of the tests of whether items are sufficiently interrelated to justify their combination in an index.<sup>47</sup> It allows verifying the fit of data on a set of items to the Monotonely Homogenous Mokken Model and validates their use together as a scale of a uni-dimensional latent theoretical construct. The 'H' statistic is a scalability coefficient demonstrating the strength of a particular scale. It is commonly accepted that the values of H exceeding 0.5 indicate a strong scale, values from 0.4 to 0.5 – a moderate one, and values from 0.3 to 0.4 – a weak scale.<sup>48</sup> Loevinger's H acquired from the test of the security rights violations index is  $H=0.624$  demonstrating very strong scalability and providing empirical support for uni-dimensionality of the concept used in this study.

I collected data on various types of security rights violations in the context of counterterrorism in stages using *event data* and content analysis techniques. Any particular instance of human rights violations can be thought of as an event that can be described in a natural language sentence that has an actor or a set of actors as its subject and object, and a set of actions as its verb.<sup>49</sup> The news headings, human rights reports, and other accounts of political activities contain such descriptions of events in the form of 'who' did 'what' to 'whom', 'when', and 'why'. These descriptions can be converted into data sets by recording the dates of events, and coding actors, targets, and types of events. The coding of events described in the sources of data is done through the process of content analysis of sentences or full reports.

The primary source of data that I used for the purpose of identifying and coding events describing security rights violations is the wire reports downloaded using the LexisNexis® Academic newswire service. The LexisNexis® Academic newswire service provides an extensive coverage of daily news. It contains broadcast transcripts and full texts of articles from hundreds of national, regional, and global newspapers and wire services. Today, LexisNexis® is the leading source of news available to academic institutions. While no news source is devoid of coverage biases, the fact that LexisNexis® is a global source that provides access to a comprehensive spectrum of information from thousands of sources from around the world substantially reduces this problem.

States were analyzed in the alphabetical order. I used the same search commands that generated a list of newswire reports describing actions, reactions, and interactions of each state represented by its agencies in the area of counterterrorism. Having downloaded newswire reports for a state, I content-analyzed the headlines singling out those articles containing any of the following verbs or nouns, or their synonyms:

- Shoot (shooting), kill (killing), assassinate (assassination), liquidate (liquidation, mop-up, sweep)
- Capture, abduct (abduction), detain (detention)
- Torture, beat (beating), abuse, assault, threaten (threat), intimidate (intimidation), harass (harassment), force
- Try (trial), prosecute (prosecution).

The identified reports were read in full and content-analyzed using a coding scheme provided in Appendix 1. The reports for 70% of country-years were identified and coded by at least two coders. Coders' inter-reliability coefficient ranged from 0.58 to 0.71 on different samples of data. All cases of low inter-reliability were resolved in coders' meetings through discussion of individual cases.

In addition to LexisNexis® Academic news wires, I identified and examined Amnesty International (AI) and Human Rights Watch (HRW) reports mentioning persecution of individuals for activities related to terrorism. The need for several sources of data on human rights violations in the context of counterterrorism is warranted for the purposes of this study. Some newswire reports may contain insufficient amount of information to make certain judgments about the illegality of trials, arrests, or prosecutions of the suspects of terrorism. Human rights accounts published by AI and HRW allow classifying governments' human rights practices beyond question. Yet, the reports of international human rights organizations often make no references to the types of crimes that abused individuals are allegedly responsible for. The specific information about human rights conditions of the suspects of terrorism is typically lost in the general descriptions of 'widespread' or 'systematic' human rights abuses. The newswire reports, on the other hand, often contain important information about the types of courts in which the subjects of prosecution are tried (i.e., military vs. civilian), the number of defenders, and whether they were granted the basic procedural rights. Therefore, a holistic analysis of reports from three different sources was used to increase precision in classifying security rights violations of terrorist suspects and to separate general human rights abuses from those violations committed under the pretext of fighting with terrorism.

Recognizing, that it is still impossible to acquire precise measures of security rights violations committed in the name counterterrorism (because data sources may differ in their estimates of human rights abuses, and war crimes can be mistaken for human rights violations in the situation of inter- or intrastate wars), I utilized the following approach. I identified the lowest possible and the highest possible estimate of human rights violations in each of the categories of security rights. The lowest possible scores were assigned based on the rule of the 'presumption of innocence' of state authorities, i.e., whenever there was a reasonable doubt as to whether individuals' rights were violated in the context of counterterrorism, or about the scale of abuse, I would give the government the benefit of the doubt interpreting this uncertainty in favor of state. The highest possible scores were assigned based on the 'presumption of guilt', i.e., any evidence of negative sanctions used in the context of counterterrorism would be counted

against state authorities. The sum of the highest estimates and the sum of the lowest estimates form the brackets of minimum and maximum security rights violation scores. These total lows and highs provide a probable range of error for the estimate of security rights violations in the context of counterterrorism. To ensure the robustness of this study's findings, I perform statistical tests on the minimum and maximum scores. Both scores are highly correlated with Pearson  $r=0.92$ .

**Independent Variables**

The *magnitude of terrorism* is measured by the total number of fatalities and injuries from all terrorist attacks that occurred within a state in a given year. Global Terrorism Database<sup>50</sup> is a source of data on terrorist activity within states. All terrorist attacks registered in the database for a sample of country-years correspond to the conceptual definition of terrorism as a threatened or actual use of violence by non-state actors against civilian population carried out with the purpose of attaining broad socio-political goals. Because the extent of security rights violations may affect the magnitude of terrorism the latter is lagged one year behind the dependent variable to control for possible simultaneity bias.

An index of *political conflict* was created to account for the existence of domestic or international conflicts and the degree to which these conflicts are resolved with violent means. To create the index, I adopted the Conflict-Barometer scale and data on violent and non-violent conflict collected by the Heidelberg Institute for International Conflict Research (NIIK)<sup>51</sup> described in Table 1 below. A sum of scores on all conflicts within a state in a given year was used to form the final index of *political conflict*. The advantage of using the Conflict-Barometer scale is that the latter contains information about both latent and manifest conflicts. This information is important because many authors have pointed out that the scale of a state's negative sanctions differs in the context of violent and nonviolent conflict.<sup>52</sup> A one-year lag of the index is used in the tests to avoid simultaneity bias with the dependent variable.

**Table 1. Conflict Scale**

<i>State of Violence</i>	<i>Intensity Group</i>	<i>Level of Intensity</i>	<i>Name of Intensity</i>
Non-Violent	Low	1	Latent Conflict
		2	Manifest Conflict
Violent	Medium	3	Crisis
	High	4	War

The lagged dependent variable is used to measure the extent of past security rights violations, and a 10-point additive democracy index (*DEMOC*) from the Polity IV dataset<sup>53</sup> – as a measure of democracy.

International norms are value-based expectations of appropriate behavior defined in terms of rights and obligations of actors with a given identity.<sup>54</sup> Norms' recognition by the international community often comes as a result of positive international law, such as in international treaties and conventions. The latter express 'the position of the community of nations as to what conduct is and is not acceptable; they tell the international community what are the norms and code of conduct of civilized nations'.<sup>55</sup> Multilateral treaties are, therefore, especially useful for the identification of international norms.<sup>56</sup> The existence of international norms can also be inferred from consistent and

general usage among states and acknowledgment of norms in international judicial and legal practices.

Today, there are 12 universal conventions pertaining to the suppression, control, or prevention of terrorism that regulate states' counterterrorism responses.<sup>57</sup> Four human rights treaties – ICCPR, Optional Protocol to ICCPR of 1966, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of 1984, and the Rome Statue of the International Criminal Court of 1998 - jointly proscribe the types of human rights violations that can be frequently observed in counterterrorism practices of states.

The counterterrorism conventions are binding on states that signed and ratified them. The existence of obligations arising from these counterterrorism treaties and the importance of compliance with international counterterrorism norms have been repeatedly stressed by the UN Security Council and individual states. Specifically, UN Security Council Resolution 1373 (2001) called on all states to become parties to the listed international conventions and outlined extensive counterterrorism measures binding on states under Chapter VII of the UN Charter. There has been widespread observance of the provisions of counterterrorism treaties evidenced in the reports submitted by the vast majority of states to the Counterterrorism Committee established to monitor states' compliance with international counterterrorism regulations.

ICCPR with its Optional Protocols, CAT, and the Rome Statue are a global expression of the broadest set of rights articulated in a binding treaty form. The high level of formal acceptance of these international agreements suggests substantial progress toward global recognition of human rights norms enumerated in these documents. The UN human rights agencies and international human rights organizations have repeatedly stated that states had an irrevocable obligation to protect human rights, particularly, when struggle against terrorism.

Following the general practice of using treaty ratification as a measure of normative guidelines in the quantitative research,<sup>58</sup> I, too, employ treaty ratifications as an empirical indicator of recognition of the existence of international norms by individual states. Treaty ratification results in incorporation of the treaty norms into domestic law. Governments ratifying a treaty formalize and heighten visibility of their commitment to norms codified in it.<sup>59</sup>

In this study, I use two measures of the strength of international norms, namely, relative commonality and durability of norms. The *relative commonality of norms* is measured as a difference between the average number of ratifications of human rights treaties in a given year and an average number of ratifications of counterterrorism treaties in the same year by all states of the world. The *relative durability of norms* is measured as a difference between the average number of years lapsed since the major human rights treaties went into force and the average number of years lapsed since the major counterterrorism conventions entered into force. I generated the norms variables using data on treaties deposited with the Secretary General of the United Nations or other depositories from the United Nations Treaty Collection.<sup>60</sup>

I use Gross National Income per Capita (*GNI per capita*)<sup>61</sup> as a measure of state economic development. Consistent with earlier studies of state repression, I include *state population* as a control variable measured by total population (both sexes) in thousands of people.<sup>62</sup> The log-transformations of these variables are used in the regression.

The US has been the largest donor of foreign aid to the states selected for this study. I use the dollar value of total US economic and military assistance, in millions, constant 2004\$US.<sup>63</sup> A one-year lag of the variable is used in the regression. In addition to the described variables, I included a 9/11 dummy variable into the right hand-side of the regression. This variable is coded as 0 for all years preceding 9/11 and 1 for 2001 and consequent years.

### ***Methodology of Analysis***

To test the impact of identified factors on the extent of security rights violations in the context of counterterrorism, I used a pooled time-series cross-sectional design. To deal with the problem of heteroskedasticity and serial correlation of errors damaging to the tests of statistical significance, I used Beck and Katz's panel corrected standard error.<sup>64</sup> A variation of White's<sup>65</sup> robust standard errors developed by Beck and Katz for time-series cross-sectional data produce standard errors robust to heteroskedasticity and serial correlation within the cross-sectional units. Random effects model is warranted by the results of the Hausman test, which checks a more efficient (random effects) model against a less efficient (fixed effects) but consistent model to ensure that the more efficient model also gives consistent results.

The distribution of the dependent variable has certain features that can bias the estimates received from ordinary least squares. The Poisson regression models are often applied to variables, which distributions are skewed, non-negative, and have variances that increase as means increase.<sup>66</sup> However, since the data shows a pattern of overdispersion, the Poisson regression that requires an assumption of equality of the conditional mean and the conditional variance will underestimate standard errors. A good alternative to the Poisson is the negative binomial distribution that has a variance which is larger than the mean. To ensure the robustness of findings, I use negative binomial regression with robust standard errors clustered over states to re-estimate the basic model.

### ***Findings and Implications***

Table 2 presents results received from the statistical analysis of security rights violations committed in the name of combating terrorism tested on a sample of post-Soviet states. The first two columns report parameters' estimates of the linear cross-sectional time-series random effects model of security rights violations measured by maximum and minimum scores correspondingly, whereas the last two columns contain results from the negative binomial regression with robust standard errors clustered over states.

As expected, the magnitude of terrorism measured by the total number of deaths and injuries from all terrorist attacks that occurred in a state in a given year has a positive effect on security rights violations. Yet, this impact is neither statistical significant nor substantively large.

As hypothesized, the higher levels of political conflict reveal increase the likelihood of security rights violations in the context of counterterrorism. This impact is statistically significant (at 0.01 and 0.05 levels of significance) in all tests, except the linear cross-sectional time-series regression performed on the minimum scores of security rights violations. The size of the coefficients on the variable of political conflict, ranging from  $\hat{\beta} = 0.286$  to  $\hat{\beta} = 0.348$  depending on the kind of estimation suggests that only violent conflicts – crises and wars – have a manifest effect on the security rights violations in the context of counterterrorism.



The past levels of security rights violations have a positive and highly statistically significant (at 0.01 level) impact on the current levels of human rights violations. The lagged dependent variable is one of the strongest predictors. Substantively, the strong coefficients for the past security rights violations mean that a heavy hand of institutional and behavioral history continues to guide the current policy choices of decision-makers.

**Table 2. Estimates of Security Rights Violations**

Independent Variables	Linear Cross-Sectional Time-Series Model		Negative Binomial Regression	
	Maximum Security Rights Violations	Minimum Security Rights Violations	Maximum Security Rights Violations	Minimum Security Rights Violations
<i>Magnitude of terrorism</i>	0.0008 (0.001)	0.001 (0.0007)	0.0002 (0.0003)	0.00001 0.00033
<i>Political conflict</i>	0.348** (0.171)	0.183 (0.129)	0.313*** (0.0176)	0.286*** (0.103)
<i>Past security rights violations</i>	0.457*** (0.099)	0.489*** (0.090)	0.147*** (0.031)	0.193*** (0.055)
<i>Democracy</i>	-0.042* (0.022)	-0.020 (0.023)	-0.048** (0.021)	-0.435 (0.293)
<i>LnGNI per capita</i>	-0.38*** (0.106)	-0.332*** (0.101)	-0.371*** (0.074)	-0.504*** (0.134)
<i>LnPopulation</i>	0.128 (0.122)	0.061 (0.076)	0.116* (0.06)	0.120 (0.095)
<i>US assistance</i>	-0.0016 (0.0012)	0.001* (0.0008)	-0.0005* (0.00026)	0.00065** (0.00032)
<i>Norms' commonality</i>	-0.017* (0.009)	-0.0032 (0.0075)	-0.008* (0.005)	-0.0041 (0.0059)
<i>Norms' durability</i>	-0.08 (0.06)	-0.106** (0.048)	-0.064* (0.037)	-0.0848** (0.0435)
<i>Pre/post 9/11</i>	-0.223 (0.300)	0.048 (0.245)	-0.132 (0.169)	-0.039 (0.204)
<i>Constant</i>	2.99** (1.39)	2.93*** (1.105)	9.80 (15.06)	17.80 (512.19)
R <sup>2</sup>	0.648	0.639		
N	192	192	192	192
Wald test ( $\chi^2$ )	437.52***	298.25***	217.42***	108.53***
Log-likelihood			-278.92	-238.37

Note: All results were obtained with STATA, release 8.

\* $p < 0.1$  \*\* $p < 0.05$  \*\*\* $p < 0.01$

Democracy, as expected, is negatively related to security rights violations in the context of counterterrorism: the more democratic states have fewer instances of human rights abuses, and this impact is statistically significant at the 0.05 level in the models estimated on the maximum scores of security rights violations. Substantively, however,

the mitigating impact of democracy appears to be trivial, suggesting that both democratic and non-democratic states are prone to circumvent security rights of the suspects of terrorism, everything else being equal.

The impact of *GNI per capita* is in the predicted direction: states with the higher values of GNI per capita have lower scores on security rights violations in the context of counterterrorism. This finding is statistically significant at 0.01 level across all models. Country population, as expected, is positively related to the dependent variable: the most populous states in the sample have higher rates of security rights violations, keeping other factors constant. The parameter coefficients on the population variable are statistically insignificant, however.

The results of the impact of US foreign aid on security rights violations are not consistent across models. In the regression performed on the minimum scores on security rights violations, the impact is in the predicted direction: the higher levels of US foreign aid are associated with higher levels of security rights violations in the context of counterterrorism. In the models, where the dependent variable is measured by the maximum scores, the influence of US foreign assistance is negative, albeit statistically insignificant at 0.05 level. Across all models, the estimated coefficients on the variable of US foreign assistance are very small suggesting that if foreign aid has any influence on the human rights practices within states, it takes hundreds of thousands of US dollars to instigate minor changes in either direction.

Both measures of international norms – relative commonality and relative durability of human rights vs. counterterrorism treaties – show effects in the predicted direction of impact. The commonality of norms is statistically significant at 0.01 levels in the model with maximum scores on security rights violations, whereas the durability of norms reveals statistically significant impact (at 0.05 level) in the models estimated using minimum scores. The higher values on the variable measuring the *commonality of norms* indicate greater commonality of human rights norms compared to counterterrorism norms. Since the variable's *beta* coefficient is negative, the greater commonality of human rights norms compared to counterterrorism norms is associated with fewer security rights violations in the context of counterterrorism. To put it differently, as the number of states ratifying counterterrorism conventions increases relative to the number of states which have ratified human rights conventions, security rights violations committed in the name of counterterrorism can be expected to grow, holding other factors constant. Similar interpretation applies to the *durability of norms* variable, which measures annual differences between the number of years passed since the entry into force major human rights and counterterrorism treaties. The coefficient on norms' durability is also negative. It means that the longer, on average, human rights treaties have been in force, compared to counterterrorism treaties, the lower the rate of security rights violations can be expected to be.

The last variable included into the models is the *pre/post 9/11* measure. Contrary to the expectation, it shows no positive and significant effect on security rights violations in the context of counterterrorism. This finding means that even if there have been changes in the degree and 'style' of security rights violations in the context of counterterrorism on the post-Soviet space, those are not directly associated with the terrorist attacks that took place on the US soil. Attributing changes in the worldwide human rights practices to the 9/11 would be an oversimplification of much deeper and

more intricate processes unfolding on the international stage that created an environment conducive to the rise of international terrorism and permissible of human rights violations in the name of combating it. The dummy *pre/post 9/11* variable is inappropriate for measuring the complex dynamics of global relations and politics that triggered those changes. It is also possible that the effects of the 9/11 and subsequent counterterrorism responses adopted by individual states have been more pronounced on political and civil freedoms, than in the area of security rights examined in this research.

The R-squared of 0.64 yielded by regressions indicates that the theoretical model of security rights violations in the context of counterterrorism has satisfactory explanatory power. Although, specification errors cannot be entirely ruled out, there are legitimate theoretical reasons for confidence in the findings. Many findings remain consistent across different statistical estimations suggesting the overall robustness of statistical results.

### **Discussion of Findings**

The statistical analysis presented in this research examined the impact of terrorist violence, political conflict, past human rights practices, international norms, and a number of other variables on security rights violations of the suspected terrorists in a sample of post-Soviet states. The findings received from statistical tests lent empirical support to some explanations of security rights violations, while challenged other hypotheses inviting further investigation into states' human rights practices in the context of counterterrorism.

A quintessential assumption favored in the academic, political, and media circles is that the magnitude of terrorist violence experienced by a state determines the intensity of its counterterrorism responses. Contrary to this widespread view, I found no empirical support for the impact of terrorist attacks on security rights violations. *Ceteris paribus*, the governments of the post-Communist states do not respond directly to objective levels of terrorist threat, and the magnitude of terrorism, by itself, is a weak determinant of security rights violations in these nations.

This outcome is at odds with this study's predictions. Yet, it concurs with some estimates of the earlier research and conclusions of human rights organizations.<sup>67</sup> It is not that uncommon for a state facing minimal terrorist threat to adopt very radical counterterrorism measures since responses to terrorism are determined not only by statistical risks but also the government's interests and perceptions. That is why the future research should inquire into leaders' perceptions of threats and examine contextual factors that can influence their threat assessment.

In the estimated models, the context of strife appears to shape governments' threat assessment: political conflict turned out to be a stronger predictor of violations of security rights by the post-Communist nations. The relationship between political turbulence and security rights violations in the context of counterterrorism has been premised on the assumption that staying in power and maintaining control is the leaders' primary motivation. When political conflicts pose a challenge to the ruling regime, the latter will be inclined to engage in pretextual use of powers granted for fighting terrorism to crack down on legitimate political opposition.

The alarming tendency of justifying human rights abuses under the guise of combating terrorism has long been condemned by international NGOs and human rights agencies of international organizations. Individual governments, too, should use all

available diplomatic and political means to steer repressive governments away from exploiting the tools of counterterrorism for brutalizing political opponents. The use of extreme measures, such as arbitrary detentions or politically motivated trials, may have a salutary short-term effect on disarming political rivals. In the long run, however, these measures will be counter-productive for national security and governance building. Human rights violations have already been noted as a major contributor to regime's destabilization. Yet, the impact of security rights violations on the levels of terrorism within states calls for additional research.

A growing number of inquiries into the influence of international norms have elevated the prominence of normative guidelines in human rights practices of individual states. A bulk of this research has examined the impact of one category of norms. In the real-life world, however, human rights norms do not stand in isolation; they complement, interpenetrate, and, sometimes, collide with other international norms.<sup>68</sup> There are, for example, two broad categories of normative regulations pertinent to security measures aimed at combating terrorism - international human rights norms and counterterrorism norms, and those norms are amenable to conflicting interpretation. Wide-ranging measures against terrorism codified in the international counterterrorism conventions were declared mandatory on all states by the Security Council of the United Nations. Absent from the Security Council resolutions is any attempt to define terrorism. Absent from the work of the Counterterrorism Committee of the Security Council is any emphasis on human rights. These aspects of the framework for countering global terrorism leave governments with wide latitude for interpretation and action. To limit governments' ability to get away with human rights abuses committed under the guise of combating terrorism, it may be necessary to create a special agency within the framework of UN institutions administering counterterrorism programs that will monitor the impact of counterterrorism measures on human rights. The government should not appeal to the heinous nature of terrorist violence as a basis for sidestepping their international obligations, particularly concerning the safeguards of human rights. As greater numbers of states joins international and regional counterterrorism conventions, governments need to be reminded of the compatibility of counterterrorism provisions with human rights law and instructed to observe human freedoms when carrying out their counterterrorism operations.

This study assumed that the ruling elites are susceptible to the normative impact and attributed their decision to comply with the human rights or counterterrorism norms to the strength of these international norms. Two qualities of the norms that determine their strength vis-à-vis each other are the relative commonality and durability of norms. The outcomes of statistical tests seem to suggest that the greater commonality and durability of human rights norms compared to counterterrorism norms is associated with fewer security rights violations in the context of counterterrorism. A few caveats are, however, in order. Since this impact was not systematically consistent, there is a need for the future empirical work to unravel the influence of counterterrorism vs. human rights norms. Furthermore, any measurement of norms is doomed to be imperfect due to intangible qualities of the international norms. An in-depth analysis of policy making processes in the selected nations may be in order to demonstrate the independent impact of normative guidelines and validate the findings of this statistical analysis.

A long stream of research examining the relationship between democracy and state repression has consistently demonstrated support to the thesis of 'democracy as method of non-violence'.<sup>69</sup> This study, too, found some impact of democracy on security rights violations in the selected states. This finding is noteworthy taking into consideration characteristics of the sample lacking fully democratic states. The majority of country-years (48%) used in the analysis fall within the lower end of the Polity IV democracy scale (levels 1-4 of *DEMOC*); 36% of cases can be characterized as transitional democracies (levels 5-7 of *DEMOC*); and only 16% are ranked at levels 8 and above of the democracy scale. It has been argued that the impact of the middle levels of democracy on repression is more complex.<sup>70</sup> In the absence of full-fledged institutional constraints characterizing political systems of fully democratic states, governments of transitional nations have more leverage to use repression. Political elites of the 'mid-way' democracies are more vulnerable to political turbulence common to transitional states and, therefore, more inclined to use negative sanctions for maintaining their power. The nascent democratic institutions characterizing one third of the states in the sample showed to be sufficient for generating a mild pacifying impact on governments of those states.

The study found positive relationships between US foreign aid and security rights violations in one model, and negative, yet, statistically insufficient or bordering on statistical significant in another. Taken together, these results suggest that if the US aid might have an effect on human rights practices, this influence is at best only minuscule, and further investigation into the impact of foreign assistance on the intensity of states' counterterrorism responses must take place to validate these claims.

All in all, the results of the present analysis call on us to take seriously the warnings about human rights casualties of the governments' counterterrorism responses. Many fundamental human liberties have been severely cut back in democratic, transitional, and non-democratic states. The introduction of extensive counterterrorism policies in liberal democratic nations sparked heated debates about the proper balance between human rights and security responses. Yet, this debate and concerns over the fallout from curtailment of human rights in the name of security from terrorism have not been limited to established democratic states. The ways in which transitional and young democracies resolve the tension between security and human rights will be consequential for both the spread of democracy and the success of our efforts to combat terrorism worldwide.

## **Appendix. Outline of Coding Rules**

The following coding rules are extracted from the manual prepared for collecting data on security rights violations of the suspects of terrorism.<sup>71</sup> The latter category includes individuals prosecuted for terrorist crimes, their relatives and supporters (e.g., when security forces raid communities that are believed harboring alleged terrorists), and persons acquainted with or related to the presumed terrorist suspects (e.g., human rights defenders of the suspects of terrorism).

These coding rules were applied for the content analysis of reports identified by means of search commands that returned only those news articles containing information on states' human rights practices in the content of counterterrorism.

### ***Extrajudicial execution***

Extrajudicial executions are the killings by the government resulting from the deliberate, illegal, and excessive use of lethal force by police, security forces, or other agents of states (Cingranelli & Richards, 1999). The special cases of extrajudicial executions are:

(a) Executions after unfair trials. When a report cites executions of individuals charged with terrorism-related crimes, and the trials of those individuals are registered as unfair, their death sentences are coded as extrajudicial executions.

(b) Deaths that resulted from torture. If a report mentions a death which occurred while prisoners were in the custody of government as a result of torture, this death should be coded as extrajudicial killing.

(c) Political killings. Assassinations of individuals by state's agents because of their political views or for the purpose of intimidating communities are coded as extrajudicial executions of terrorist suspects if those individuals are publicly referred to as terrorists.

(d) Killings that resulted from indiscriminate fire, use of excessive lethal force during raids on terrorist cells, for dispersing demonstrations, or meetings allegedly posing terrorist threat to national security.

### ***Torture***

Torture refers to the purposeful inflicting of extreme pain, whether mental or physical, by the government's agents or by private individuals at the instigation of government officials (Cingranelli & Richards, 1999).

Any of the following practices are coded as torture: boiling, drowning, prolonged solitary confinement, mock executions, rape, sleep deprivation, whipping. Among other types of cruel, inhuman or degrading treatment or punishment that are typically considered as torture are severe beatings and physical violence, administering shock or electrocution, threats to use force or torture against a targeted individual or his/her relatives.

### ***Unlawful arrests and detentions***

An arrest or detention is coded as unlawful if it comprises any of the following:

(a) Incommunicado detention, i.e., the families of detained individuals are not informed of the arrest and/or not allowed to visit the detainee; the detainee is not allowed to speak or write to anyone, or receive correspondence while in detention;

(b) Refusal of legal aid, i.e., the detainee is not provided with a legal representative to discuss charges, or is prohibited from seeking legal assistance;

(c) Violations of the right to be informed of the reasons for arrests or legal charges;

(d) Lack of judicial control over arrests and detentions, i.e., the legality of arrests and detentions is not checked by courts or supervisory institutions, or the request to hear the case of the legality of arrest is turned down;

(e) Prolonged detention, i.e., the detainee is held in pre-trial custody beyond the terms specified in criminal legislation and/or the prolongation of detention was not decided by an impartial court;

(f) Detention of individuals who do not personally threaten state security but are kept as 'bargaining chips' in order to receive testimonies, confessions, or promote negotiations with other parties; and

(g) When abductions are used to bring an individual under the custody of state.

### ***Unfair trials***

Fair trial is based on the principles of the presumption of innocence, right to a legal council, the right to silence, and the right not to incriminate oneself or other defendants. If a report mentions violations of any of the listed rights, the trial is coded as unfair. Specifically, when:

(a) Accused was not presumed innocent;

(b) Accused was not granted fair and public hearing by an independent and impartial tribunal. This includes hearings closed to public and international observers, lack of legal representation in the court, or when accused and/or his/her representative were not properly informed of the charges. It also includes situations when defendants and lawyers were constrained in the number and length of their meetings, when attorneys were not given proper access to the case before the hearing until it is very late, or, when lawyers were given limited or no opportunity to introduce evidence for the defense.

(c) When torture was used during investigation and the court did not pay due consideration to the fact of torture, particularly when a defendant pleads guilty;

(d) When the defendant is tried on the charges that did not constitute a crime at the time it was committed.

### ***Disappearances***

Disappearances refer to the cases in which people vanished, typically because their views or activities, and have not been found (Cingranelli & Richards, 1999). A special case of the disappearance of terrorist suspects is the so-called 'clandestine detention', i.e., when it is apparent that individuals are held in state's custody but their whereabouts are not known.

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### **Notes**

<sup>1</sup> International Commission of Jurists, 'The Berlin Declaration: the ICJ Declaration on Upholding Human Rights and the Rule of Law in Combating Terrorism', *Terrorism and Human Rights Documents*, Geneva, September 2004.

<sup>2</sup> Alison Brysk, 'Human Rights and National Insecurity', in *National Insecurity and Human Rights: Democracies Debate Counterterrorism*, ed. Alison Brysk and Gershon Shafir (Berkeley, CA: University of California Press, 2007), 1-13; Sabine Von Schorlemer, 'Human Rights: Substantive and Institutional Implications of the War against Terrorism', *European Journal of International Law* 14, no. 2 (2003): 275.

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<sup>3</sup> Defining terrorism is fraught with politics, emotions, and ‘collective definitional angst’ (Paul Pillar, *Terrorism and U.S. Foreign Policy* (Washington, DC: The Brookings Institutional Press, 2001), p. 5). Controversies abound over the details of a definition of terrorism. Beyond these disputes over the definitional nuances, scholars agree on a few basic elements of terrorism. First, terrorism involves the use of force or threat to use violence. Second, the use of violence is premeditated, i.e., planned in advance for changing the existing political and social status quo and accomplishing some broad political or social objectives. Third, the victims of terrorism are mostly civilians that are targeted at random, and this randomness creates fear (Boaz Ganor, *The Counter-Terrorism Puzzle: A Guide for Decision Makers* (New Brunswick, NJ: Transaction, 2005)). Finally, for the purpose of this study, terrorism is limited to those acts carried out by sub-national groups or non-state actors.

<sup>4</sup> Kalliopi K. Koufa, Progress Report on Terrorism and Human Rights. Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights E/CN.4/Sub.2/2001/31, 27 June 2001, in *Terrorism and the International Legal Order with Special Reference to the UN, the EU and Cross-Border Aspects*, ed. P.J. Van Krieken (Hague: TMC Press, 2001), 180-213.

<sup>5</sup> Peter Chalk, ‘EU Counter-Terrorism, the Maastricht Third Pillar and Liberal Democratic Acceptability’, *Terrorism and Political Violence* 6, no. 2 (1994): 103-45; Ronald D. Crelinsten, ‘Terrorism, Counter-Terrorism and Democracy: the Assessment of National Security Threats’, *Terrorism and Political Violence* 1, vol. 2 (1989): 242-70; Amy Pedahzur and Magnus Ranstorp, ‘A Tertiary Model for Countering Terrorism in Liberal Democracies: the Case of Israel’, *Terrorism and Political Violence* 13, no. 2 (2001): 1-27.

<sup>6</sup> Crelinsten, ‘Terrorism, Counter-Terrorism and Democracy’, 245.

<sup>7</sup> Taiji Miyaoka, ‘Terrorist Crisis Management in Japan: Historical Development and Changing Response (1979-1997)’, *Terrorism and Political Violence* 10, no. 2 (1998): 23-53; Paul Wilkinson, ‘Terrorism: International Dimensions’, in *The New Terrorism*, ed. William Gutteridge (London: Mansell, 1986), 29-56.

<sup>8</sup> See, for example, Charles Brockett, ‘A Hierarchy of Human Rights’ (paper presented at the annual meeting of the American Political Science Association, New York, August 31 – September 3, 1978); Teraya Koji, ‘Emerging Hierarchy in International Human Rights and Beyond: From the Perspective of Non-Derogable Rights’, *European Journal of International Law*, 12, no. 5 (2001); Theodore Meron, ‘On a Hierarchy of International Human Rights’, *The American Journal of International Law*, 80, no. 1 (1986).

<sup>9</sup> See Art. 4 of the International Covenant on Civil and Political Rights. United Nations General Assembly Resolution 2200A [XXI]. 16 December 1966.

<sup>10</sup> Koji, ‘Emerging Hierarchy in International Human Rights’, 921.

<sup>11</sup> Brockett, ‘A Hierarchy of Human Rights’; Koji, ‘Emerging Hierarchy in International Human Rights’, 924-925.



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<sup>12</sup> General Comment No. 29 on Article 4, International Covenant on Civil and Political Rights (adopted at the 1950th meeting of the UN Human Rights Committee, 24 July 2001). United Nations Office of the High Commissioner for Human Rights, *Digest of Jurisprudence of the UN and Regional Organizations on the Protection of Human Rights While Countering Terrorism* (2003), <http://www.unhcr.ch/html/menu6/2/digest.doc>.

<sup>13</sup> United Nations Office of the High Commissioner for Human Rights, *Digest of Jurisprudence*.

<sup>14</sup> See, for example, Michael Freeman, *Freedom or Security: the Consequences for Democracies Using Emergency Powers to Fight Terror* (Westport, CT: Praeger, 2003); Jenny Hocking, *Terror Laws: ASIO, Counter-Terrorism and the Threat to Democracy* (Sydney, NSW: University of New South Wales Press, 2004); Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton University Press, 2004); Stephanie Lagoutte, Hans-Otto Sano and Peter Scharff Smith, eds., *Human Rights in Turmoil: Facing Threats, Consolidating Achievements* (Leiden, The Netherlands: Martinus Nijhoff Publishers, 2007); Sanford Levinson, ed., *Torture: a Collection* (Oxford University Press, 2004); Schorlemer, 'Human Rights'; Mark Sidel, *More Secure Less Free? Anti-terrorism Policy and Civil Liberties after September 11* (Ann Arbor, MI: The University of Michigan Press, 2004).

<sup>15</sup> Christian Davenport, 'The Promise of Democratic Pacification: an Empirical Assessment', *International Studies Quarterly* 48, no. 3 (2004): 539-560; Sabine C. Carey and Steven C. Poe., eds., *Understanding Human Rights Violation: New Systematic Studies* (Burlington, VT: Ashgate, 2004).

<sup>16</sup> For further discussion see David Armstrong II and Christian Davenport, 'Peace by Piece: Towards an Understanding of Exactly How Democracy Reduces State Repression' (paper presented at the 61<sup>st</sup> meeting of the Midwest Political Science Conference, 3-6 April, 2003, Chicago, IL); Davenport, 'The Promise of Democratic Pacification', 541.

<sup>17</sup> Benjamin A. Most and Harvey Starr, *Inquiry, Logic and International Politics* (Columbia, SC: University of South Carolina Press, 1989); Harvey Starr, 'Revolution and War: Rethinking the Linkage between Internal and External Conflict', *Political Research Quarterly* 47, no. 31 (1994): 481-507; Steven C. Poe, 'The Decision to Repress: An Integrative Theoretical Approach to the Research on Human Rights and Repression', in *Understanding Human Rights Violations* (see note 11), 17-19.

<sup>18</sup> Christian Davenport, 'Multi-Dimensional Threat Perception and State Repression: an Inquiry into Why States Apply Negative Sanctions', *American Journal of Political Science* 39, no. 3 (1995): 683-713; Andrew Enterline and Kristian Gleditsch, 'Threats, Opportunity and Force: Leaders' Externalization of Domestic Pressure', *International Interactions* 26, no. 1 (2000): 21-53; Scott Gartner and Patrick Regan, 'Threat and Repression: the Non-Linear Relationship between Government and Opposition Violence', *Journal of Peace Research* 33, no. 3 (1996): 273-87.

<sup>19</sup> Deborah Larson, *Origins of Containment: A Psychological Explanation* (Princeton: Princeton University Press, 1985), 36-37; Vaughn Shannon, 'Norms Are What States Make of Them: the Political Psychology of Norm Violation', *International Studies Quarterly* 44, no. 2 (2000): 293-316.

<sup>20</sup> Robert Cialdini and Melanie Trost, 'Social Influence: Social Norms, Conformity and Compliance', in *The Handbook of Social Psychology*, vol. 2, 4th ed., eds., D. Gilbert, S.

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Fiske, and G. Lindzey (New York: McGraw-Hill, 1998), 151-92; Shannon, 'Norms Are What States Make of Them', 298.

<sup>21</sup> Sidel, *More Secure Less Free*, 145.

<sup>22</sup> John F. McEldowney, 'Political Security and Democratic Rights', *Democratization* 12, no. 5 (2005), 780.

<sup>23</sup> See, for example, Andrew Blick, Tufyal Choudhury and Stuart Weir, *Rule of the Game: Terrorism, Community and Human Rights* (Garden House, York: The Joseph Rowntree Reform Trust, 2007); Maggie Beirne and Angela Hegarty, 'A View from the Coal Face: Northern Ireland, Human Rights Activism, and the War on Terror', in *Judges, Transitions, and Human Rights*, eds., John Marison, Keran McEvoy, and Gordon Anthony (New York: Oxford University Press, 2007), 360.

<sup>24</sup> Gene E. Franchini, 'What Fear is Doing to Our Freedoms', *The Albuquerque Tribune*, 26 September 2003.

<sup>25</sup> Jessica Wolfendale, 'Terrorism, Security, and the Threat of Counterterrorism', *Studies in Conflict & Terrorism* 29, no. 7 (2006), 753-4.

<sup>26</sup> Davenport, 'The Promise of Democratic Pacification'; Steven Poe and C. Neal Tate, 'Repression of Human Rights to Personal Integrity in the 1980s: a Global Analysis', *American Political Science Review* 88, no. 4 (1994): 853-872; Steven Poe, C. Neal Tate and Linda Keith, 'Repression of Human Rights to Personal Integrity Revised: a Global Cross-National Study Covering the Years 1976-1993', *International Studies Quarterly* 43, no. 2 (1999): 291-312.

<sup>27</sup> Davenport, 'Multi-Dimensional Threat Perception'.

<sup>28</sup> Human Rights Watch, 'In the Name of Counter-Terrorism: Human Rights Abuses Worldwide', Human Rights Watch briefing paper for the 59<sup>th</sup> Session of the United Nations Commission on Human Rights, March 25, 2003, <http://hrw.org/un/chr59/counter-terrorism-bck.pdf>.

<sup>29</sup> McEldowney, 'Political Security', 780.

<sup>30</sup> John King, 'Repression, Domestic Threat, and Interaction in Argentina and China', *Journal of Political and Military Sociology* 26, no. 2 (1998): 194.

<sup>31</sup> Henning Boekle, Volker Rittberger and Wolfgang Wagner, 'Constructivist Foreign Policy Theory', in *German Foreign Policy since Unification*, ed., Volker Rittberger (Manchester/New York: Manchester University Press, 2001), 105-37.

<sup>32</sup> Eliot Smith and Diane Mackie, *Social psychology*. 2<sup>nd</sup> ed. (New York: Psychology Press, Taylor & Francis Group, 2000), 375.

<sup>33</sup> Human Rights Watch, 'In the Name of Counter-Terrorism'.

<sup>34</sup> Peter Van Krieken, ed., *Terrorism and the International Legal Order with Special Reference to the UN, the EU and Cross-Border Aspects* (The Hague: TMC Asser Press, 2002), 9; Wolfendale, 'Terrorism, Security', 762.

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<sup>36</sup> Legro, 'Which Norms Matter', 34.

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<sup>37</sup> Armstrong and Davenport, 'Peace by Piece'; Christian Davenport and David Armstrong II, 'Democracy and the Violation of Human Rights: a Statistical Analysis from 1976-1996', *American Political Science Review* 48, no. 3 (2004): 538-554; Poe et al., 'Repression of Human Rights'; Rudolph Rummel, *Power Kills* (New Brunswick: Transaction Publishers, 1997).

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<sup>39</sup> Poe, 'The Decision to Repress', 29.

<sup>40</sup> Shannon Blanton, 1999, 'Instruments of Security or Tools of Repression? Arms Imports and Human Rights Conditions in Developing Countries', *Journal of Peace Research* 36, no. 2 (1999): 233-244; William H. Meyer, *Human Rights and International Political Economy in Third World Nations: Multinational Corporations, Foreign Aid, and Repression* (Westport, Conn.: Praeger, 1998).

<sup>41</sup> Bertil Dunér, 'Disregard for Security: The Human Rights Movement and 9/11', *Terrorism and Political Violence* 17, no. 1 (2005): 89.

<sup>42</sup> As cited in J. Barry, M. Hirsh and M. Isikoff, 'The Roots of Torture', *Newsweek*, May 24, 2004.

<sup>43</sup> David Cingranelli and David Richards, 'Respect for Human Rights after the End of the Cold War', *Journal of Peace Research* 36, no. 5 (1999): 519.

<sup>44</sup> See, for example, Cingranelli and Richards, 'Respect for Human Rights'; Mark Gibney, 'Political Terror Scale 1980-2004', <http://www.unca.edu/politicalscience/images/Colloquium/faculty-staff/gibney.html>.

<sup>45</sup> Cingranelli and Richards, 'Respect for Human Rights', 519.

<sup>46</sup> David Cingranelli and David Richards, 'Measuring the Level, Pattern, and Sequence of Government Respect for Physical Integrity Rights', *International Studies Quarterly* 43, no. 2 (1999): 407-417.

<sup>47</sup> J. Loevinger, 'The Technic of Homogeneous Tests Compared with Some Aspects of Scale Analysis and Factor Analysis', *Psychological Bulletin* 45 (1948): 507-29.

<sup>48</sup> David G. Garson, 'Scales and Standard Measures', <http://www2.chass.ncsu.edu/garson/PA765/standard.htm>.

<sup>49</sup> Philip Schrodtt and Deborah J. Gerner, *Analyzing International Event Data: A Handbook of Computer-Based Techniques*. Unpublished Manuscript (2000), <http://web.ku.edu/keds/papers.dir/automated.html>

<sup>50</sup> Global Terrorism Database, START/CETIS, <http://www.start.umd.edu/data/gtd/>.

<sup>51</sup> The Heidelberg Institute for International Conflict Research, Conflict Barometer, <http://www.hiik.de/en/konfliktbarometer/index.html>.

<sup>52</sup> Davenport, 'Multi-Dimensional Threat Perception', 687.

<sup>53</sup> Monty Marshall and Keith Jagers, 'Polity IV Project: Political Regime Characteristics and Transitions, 1800-1999' (2001), <http://www.cidcm.umd.edu/inscr/polity/polreg.htm>.

<sup>54</sup> Peter J. Katzenstein, 'Introduction: Alternative Perspectives on National Security', in *The Culture of National Security*, ed., Peter J. Katzenstein (New York: Columbia University Press, 1996), 5.

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<sup>55</sup> O.A. Hathaway, 'Do Human Rights Treaties Make a Difference?' *The Yale Law Journal*, 111 (2002): 1964.

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<sup>57</sup> The list of international counterterrorism conventions that are currently in force can be found at Security Council Counterterrorism Committee, 'International Law and Terrorism', <http://www.un.org/sc/ctc/law.shtml>.

<sup>58</sup> See, for example, Hathaway 'Do Human Rights Treaties Make a Difference?'

<sup>59</sup> Linda C. Keith, 'The United Nations International Covenant on Civil and Political Rights: Does It Make a Difference in Human Rights Behavior?' *Journal of Peace Research* 36, no. 1 (1999): 100.

<sup>60</sup> UN Treaty Collection, <http://untreaty.un.org?English/treaty.asp>.

<sup>61</sup> The data on states' *GNI per capita* is taken from the National Accounts Statistics database maintained by the United Nations Statistics Division, National Accounts Main Aggregates Database, <http://unstats.un.org/unsd/snaama/dnllist.asp>.

<sup>62</sup> The population records are taken from the World Population Prospects Dataset maintained by the UN Department of Economic and Social Affairs, Population Division, *World Population Prospects: The 2004 Revision*. CD-ROM Edition – Comprehensive Dataset. New York: United Nations Publications. Sales No. E.05.XIII.11 (2005), <http://www.un.org/esa/population/publications/WPP2004/wpp2004.htm>.

<sup>63</sup> U.S. Agency for International Development. *U.S. Overseas Loans and grants, Obligations and Loan Authorizations (The Greenbook)*, <http://qesdb.usaid.gov/gbk/index.html>.

<sup>64</sup> Nathaniel Beck and Jonathan Katz, 'What to Do (and Not to Do) with Time-Series Cross-Section Data', *American Political Science Review* 89, no. 3 (1995): 634-47.

<sup>65</sup> Halbert White, 'A Heteroskedasticity-Consistent Covariance Matrix Estimator and a Direct Test for Heteroskedasticity', *Econometrica* 48, no. 4 (1980): 817-38.

<sup>66</sup> W. Gardner, E. Mulvey and E. Shaw, 'Regression Analyses of Counts and Rates: Poisson, Overdispersed Poisson, and Negative Binomial Models', *Psychological Bulletin* 118, no. 3 (1995): 392-404.

<sup>67</sup> Researchers found that the objective likelihood of terrorist attacks in some countries that have enacted radical counterterrorism measures is very small (see, for example, Wolfendale, 'Terrorism, Security', 755-6).

<sup>68</sup> Raymond 1997, 'Problems and Prospects in the Study of International Norms', 235.

<sup>69</sup> Rummel, *Power Kills*.

<sup>70</sup> See, for example, Helen Fein, 'More Murder in the Middle: Life-Integrity Violations and Democracy in the World', *Human Rights Quarterly* 17, no. 1 (1995): 170-191; Patrick Regan and Errol Henderson, 'Democracy, Threats, and Political Repression in Developing Countries: Are Democracies Internally Less Violent?' *Third World Quarterly* 23, no. 1 (2002): 119-36.

<sup>71</sup> In preparing the manual, I borrowed the guidelines for coding government respect for human rights developed for the CIRI Human Rights project (David Cingranelli and David Richards, The Cingranelli-Richards (CIRI) Human Rights Dataset (2005), <http://www.humanrightsdata.org>) and review of states' human rights practices in the context of their struggle against terrorism (United Nations Office of the High Commissioner for Human Rights, *Digest of Jurisprudence*).

