

COUNTER-TERRORISM:
WHEN DO STATES ADOPT NEW ANTI-TERROR LEGISLATION?

by

PRINCELEE A. CLESCA

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Thesis Chair: Dr. Thomas Dolan

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ABSTRACT

The intent of this thesis is to research the anti-terror legislation of 15 countries and the history of terrorist incidents within those countries. Both the anti-terror legislation and the history of terrorist incidents will be researched within the time period of 1980 to 2009, a 30 year span. This thesis will seek to establish a relationship between the occurrence of terrorist events and when states change their anti-terror legislation. Legislation enacted can vary greatly. Common changes in legislation seek to undercut the financing of terrorist organizations, criminalize behaviors, or empower state surveillance capabilities. A quantitative analysis will be performed to establish a relationship between terrorist attacks and legislative changes. A qualitative discussion will follow to analyze specific anti-terror legislation passed by states in response to terrorist events.

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INTRODUCTION

Generally, in intelligence agencies and academic research groups alike, the focus of counter terrorism research is centered on identifying effective tactics for combatting terrorist operations. An example of such is Gregory Miller's study which examines the best counter-terrorism strategies a state can take in response to a terrorist group's motivation. In contrast, this study attempts to identify when states enact domestic legal responses after being affected by terrorism. This study will answer the following question: when do states decide to change their anti-terrorism legislation?

Definition of Terrorism

Terrorism will be defined as the RAND terrorism database defines it according to Bruce Hoffman's definition. The RAND terrorism databases uses an excerpt from Hoffman's book *Inside Terrorism* for its definition. The definition follows as: "We may therefore now attempt to define terrorist as the deliberate creation and exploitation of fear through violence or the threat of violence in the pursuit of political change. All terrorist acts involve violence or the threat of violence. Terrorism is specifically designed to have far-reaching psychological effects beyond the immediate victim(s) or object of the terrorist attack. It is meant to instill fear within, and thereby intimidate, a wider "target audience" that might include rival ethnic or religious group, an entire country, a national government or political party, or public opinion in general. Terrorism is designed to create power where there is none or to consolidate power where there is little. Through the publicity generated by their violence, terrorist seek to obtain the leverage, influence and power they otherwise lack to effect political change on either local or international scale." (RAND)

Law Reviews

Law reviews take a different standpoint from academic research. These reviews address issues of legality when discussing anti-terrorism legislation. Studies will discuss the implication of legal changes in a normative sense, answering questions such as ‘what should be done?’ Law reviews also critique the execution of anti-terror legislation, considering constitutionality and civil liberty infringements. An example of both counts is Christopher Raab’s article titled “Fighting Terrorism in an Electronic Age: Does the Patriot Act Unduly Compromise our Civil Liberties.” The article examines the constitutionality of the USA PATRIOT Act (Patriot Act). Raab cites the Electronic Frontier Foundation’s (EFF) claim, a civil liberties proponent, that “the USA PATRIOT Act broadly expands law enforcement’s surveillance and investigative powers and represents one of the most significant threats to civil liberties, privacy and democratic traditions in U.S. history,” (Raab 2) In particular, Raab highlights sections 210 and 505 of the act because of their impact on the surveillance of electronic communications. Criticizing 210, Raab states that the additional powers granted by the section “infringe upon civil liberties by making personal information available to the government with few or no procedural safeguards...their widened scope unnecessarily compromises civil liberties.” (Raab 3) In particular the provision “places payment information [such as bank account and credit card numbers] within the purview of a government subpoena,” whereas before neither administrative nor grand jury subpoenas allowed the procurement of such information prior to the Patriot Act’s passage. (Raab 6) Continuing in his criticism, Raab condemns the provision for its lack of an adequate safeguard and finds the Department of Justice’s claim that “the ability to contest a subpoena in court is an adequate safeguard to abuse” an underwhelming

argument. (7) Furthermore, Raab points out that section 210's utility to fighting terrorism has been limited. In practice the section has proven far more instrumental in prosecuting sexual predators than terrorists. Raab uses The Department of Justice's statistics from its 2004 *Report from the Field* to confirm this claim. (7)

Next, the article moves onto section 505 of the Patriot Act. The main intent of provision 505 was to "[alter] the standard of proof necessary for issuing National Security Letters (NSLs)." (Raab 8) Raab recognizes that while more controversy has occurred over section 215, the "library records" provision of the act, in practice section 505 has been much more useful to the government. The new NSLs have become the "government's tool of choice, issued at a rate of more than 30,000 a year", and at the time of the law review was the most flagrant occurrence of abuse. (Raab 8) The review identifies three major changes to the use of NSLs. First, is that prior to the act NSLs could be approved solely by the FBI director. The act extended the chain of approval to include designees of the director. Second, the act eliminated the constraint that NSLs must only be used against foreign agents. Thirdly, as a counterbalance to the elimination of the foreign agent requirement, the "amendment mandated that no United States person is to be investigated solely on the basis of activities protected by the first amendment." (Raab 10)

Christopher Raab's article reflects analysis which examines the constitutionality of anti-terror legislation and identifies violations of protected civil liberties. This article is representative of a much larger portion of existing legal scholarship which follows similar methods of analyses for critiquing anti-terror legislation. These reviews analyze the implications of changes, skipping over the question of when changes come about.

Across the Atlantic Ocean, Stuart MacDonald criticizes English anti-terror law. MacDonald analyzes the *Terrorism Prevention and Investigation Measures Act of 2011 (TPIMs)*, specifically its provision regarding which state body is empowered to issue TPIMs. MacDonald's article examines the implementation of anti-terror legislation. This piece is reflective of legal scholarship which analyzes how a law should be enforced, and more specifically which branches of government are best equipped to do so.

TPIMs are state imposed restrictions on specific individuals. Similar to control orders, TPIMs can restrict the movement of individuals, who an individual can contact, and the individual's financial affairs. Initially TPIMs were intended as a replacement for control orders but have come to share many similarities with its predecessor. The main differences between control orders and TPIMs are that TPIMs can no longer force an individual to relocate along with "a new two year maximum duration (save in cases where fresh evidence comes to light)." (MacDonald 4) The act also increased the standard of proof from "reasonable suspicion to reasonable belief of involvement in terrorism-related activity" to legitimize the use of a TPIM. (MacDonald 4) MacDonald addresses three main questions in his study. First, "whether to view TPIMs [as an issue] from the perspective of security or the perspective of liberty?" Second, "how [should we] conceive the executive and the courts, the two institutions which could be entrusted with the power to issue TPIMs?" Thirdly, "the empirical question of how the competence is actually exercised by whichever institution is doing so?" (MacDonald 3)

MacDonald proposes that the first two questions "raise a problem [called] normative duality." (MacDonald 3) Simply put MacDonald's term 'normative duality' means that directly opposing answers to the question can each be convincing depending on how the facts are

portrayed; “it is possible to present an entity in contrasting ways, selectively emphasizing or neglecting particular attributes to fit a particular purpose.” (MacDonald 3) In regards to the first question posed of whether TPIMS reflect either a security issue or an infringement of civil liberty, it depends on how the picture is portrayed. TPIMS may be presented as a security measure which has incidental effects on liberty, or as a restriction on liberty which is imposed for the sake of security, i.e. the problem of normative duality. (MacDonald 3) The second question’s answer can be manipulated in a similar way. On one hand the courts can be portrayed as neutral, consistent and partaking in a reasoned elaboration for each determination; on the other hand the courts can be presented as “conservative, arcane, and removed from political accountability.” (MacDonald 3) Addressing his third question, MacDonald recognizes that in the past “the UK courts have traditionally deferred to the executive in matters involving national security...but...the tide is now turning.” (MacDonald 3)

MacDonald examines both the justifications for and against the argument that the Home Secretary should be responsible for issuing TPIMs. At the heart of the debate, MacDonald identifies four sets of issues: expertise, democratic accountability, separation of powers, and adjudicatory fairness. (MacDonald 5) Regarding expertise, MacDonald points out that many civil preventative orders are not executed by the courts but instead by a designated expert decision maker or a designated tribunal. MacDonald references Posner and Vermeule who together argue that in general the executive has the greatest amount of information and expertise to make these choices. While the executive may be the most knowledgeable, the executive also faces pressure to consider political implications that influences their choices that would not otherwise affect the judiciary which enjoys greater isolation. MacDonald presents the counter argument that in recent years the

courts have “developed a particular expertise and body of knowledge in this area of national security, among a small and experienced body of judges who hear these cases.” (MacDonald 6) Meaning that while historically the courts have lagged behind the expertise of the executive this tide has begun to change.

Aviv Dekel examines anti-terrorist legislation comparatively in his article *The Unique Challenge of Dual-Purpose Organizations: Comparative Analysis of U.S. and Israel Approaches to Combating the Finance of Terrorism*. Dekel’s study represents the large body of legal scholarship which takes a comparative approach at analyzing anti-terror law. These studies can provide insight on how different states have reacted to similar situations. While these types of studies do not directly address when changes occur, the comparative analysis can identify different motivations among states behind the enactment of legislation which contributes to the understanding of when anti-terror changes occur. Dekel begins his study by explaining the increased level of sophistication terrorist organizations have taken to finance their operations and the corresponding increased need for innovation by states to counter these methods. Dekel’s comparative approach examines how the United States and Israel have adapted policies to address the financing of these organizations. Dekel defines dual-purposes organizations as “organizations [which] marry together terrorist and non-terrorist activities.” (Dekel 390)

Addressing the United States, Dekel discusses the *Providing Material Support or Resources to Designated Foreign Terrorist Operations Act* (18 U.S.C. § 2339B). This act criminalizes the financing of foreign terrorist organizations. The act makes the criminal activity punishable by fine and/or imprisonment. (Dekel 392) Dekel recognizes existing legal commentary which states the act’s strength is that it allows the US to prevent terrorist acts “ex ante,” meaning before the event,

rather than just an “ex post,” meaning after the event. Dekel also comments that the act is written broadly enough so that in practice it can be used to prosecute an array of multiple forms of terrorist support beyond its direct scope. Dekel summarizes the three necessary elements for an offense: providing material support or resources (*actus reus*) to a terrorist organization, the terrorist organization must be one of the State Department’s 51 designated foreign terrorist organizations, and lastly, a knowledge requirement (*mens rea*). Following the U.S. analysis, Dekel moves onto Israel. The “leading statute in Israel governing the field of financing terrorism” is the *Prohibition on Terrorism Financing Law*, [referred to as “the Law”].” (Dekel 396) The Law begins by defining ‘terrorist organization’, after which Dekel highlights Article 8 of the Law. Article 8 prohibits the “transaction in property for the purposes of terrorism.” (Dekel 397) The penalties stated include imprisonment or a fine.

After the separate discussion of each law, the article proceeds to compare the two laws. Dekel states “compared to § 2339B, Article 8(a) seems to be narrower in scope” but then quickly qualifies his claim by stating in general both definitions are broad. (Dekel 398) § 2339A of the U.S. Code includes additional provisions like terrorist training and safe houses, that the Law does not cover due to its more direct aim at the financing of terrorism. Both laws declare the terrorist organization as the beneficiary, but the Israeli law does not mandate the group must be extraterritorial. The lack of this limitation means the Law could be applied for groups in as well as groups out of national boundaries. Dekel states the “primary difference between the two statutes is the *mens rea* requirement.” (Dekel 398) The Israeli law incorporates a higher standard of knowledge than the American law. The Law states that the “purpose of the defendant’s act... must be an effort to contribute to the terrorist act before its commission or to reward the terrorist act

after its commission.” (Dekel 399) This clause implies the contributor must be knowledgeable of a specific terrorist attack, which is a higher standard than the American law’s definition of “the conduct of knowingly financing a designated FTO” which only implies knowledge of the group’s terrorist nature. (Dekel 399)

Another comparative study is Kim Scheppele’s article “Other People’s PATRIOT Acts: Europe’s Response to September 11.” Scheppele analyzes the legal changes countries undertook following the September 11 attacks in the United States. She addresses the United Nations Security Council Resolution 1373’s impact on the European Union, and the legislative responses of Germany and the United Kingdom.

The article begins first with a discussion of the Security Council’s resolution. Scheppele remarks “Resolution 1373...required all states to take a wide variety of measures to fight terrorism—including, among other things, cutting off financing of terrorist acts... [and] criminalizing participation in terrorist attacks.” (Scheppele 91) Furthermore the Resolution emphasized the need for increased international cooperation and sharing of intelligence. The Resolution was adopted under Chapter VII of the United Nations Charter, meaning the Security Council could direct member states to comply with the Resolution’s measures. Normally resolutions enacted without Chapter VII’s purview are seen as suggestions or recommendations for state action instead of as a mandate for state action. To ensure state compliance, the resolution also instituted the Counter-Terrorism Committee (CTC) which receives reports from member states regarding their compliance with the measures. (Scheppele 91)

Scheppele then proceeds to discuss the European Union’s reaction. The union itself does not have a comprehensive framework for fighting terrorism, but defers that responsibility to be

“primarily regulated through each EU member state’s criminal law framework.” (Schepele 94) One measure taken by the EU was through its General Affairs Council which incorporated an anti-terrorism roadmap. (Schepele 94) The plan included a “proposal for a European arrest warrant and the creation of Eurojust.” (Schepele 95) Eurojust would improve cooperation amongst member states for judicial and prosecution purposes. Interestingly, many of the proposals introduced were conceived prior to the September 11 attacks. Pressure from the United States expedited the realization of these proposals. Thus, this is an example of the relationship between the opportunity and the demand for legislative change, which is discussed later on in this thesis. Schepele states the most significant step taken was the adoption of the Framework Decision on Combating Terrorism in June 2002. The framework decision instituted a common definition of terrorist acts that member states committed to incorporating in their own domestic legal codes.

Next, Schepele moves onto Germany and the United Kingdom. The article remarks “Germany’s approach is highly formalized with many checks...[while] Britain’s approach...is more casual and consensual.” (Schepele 98) Germany has addressed anti-terrorism mainly through criminal law and criminal procedure, rather than special anti-terrorism acts. In response to the 2001 September 11 attacks and Resolution 1373, Germany enacted security packages (similar to Australia) to amend its existing criminal code. Schepele identifies the second security package as being of greater interest. The package’s “provisions were primarily directed at the earlier detection of terrorist threats...[and] was by far the more controversial in Germany.” (Schepele 112) The second package was a comprehensive change which amended “nearly one hundred regulations in seventeen different statutes and five statutory orders.” (Schepele 112) The changes significantly increased the powers of Germany’s security agencies. The BfV, the BND, and the MAD (all German

security agencies) were all empowered to demand financial information about citizens from financial institutions provided they could prove to a court the suspicion of terrorist activity. Additionally, all the German federal agencies responsible for tracking foreigners were authorized to create a central database, accessible by the police and other security agencies, containing personal information on Germany's foreigners, including information such as fingerprints.

Following Germany, Scheppele moves onto the United Kingdom. The discussion focuses primarily on the 2001 *Anti-terrorism, Crime and Security Act*, also including the *Terrorism Act of 2000*. The 2000 act included a "new, broad definition of terrorism" amongst other sections which proscribed organizations, terrorist property, and measures for seizing financial assets. (Scheppele 128) The 2000 act increased police search powers for combatting terrorism. Additionally, through disclosure orders issued by a circuit judge, a police officer can request information from financial institutions regarding accounts relevant to a terrorism investigation. (Scheppele 129) Scheppele states the most controversial provision of the 2000 act was Section 41(1) which allows for the police arrest of a terrorism suspect without first obtaining a warrant. Moreover when apprehended under Section 41 suspects "do not have to be informed of the reasons for the detention, as [they] would be required in a normal arrest." (Scheppele 130) The 2001 Act included additional provisions which allows the police to fingerprint and conduct intimate searches to discover unique bodily markings without needed the consent of the individual being searched to conduct the search. Additionally, the 2001 act stipulated powers which allowed the transport police or Ministry of Defense to designate geographical areas, such as city blocks, where any vehicle or pedestrian could be stopped for a search. These designations can last up to twenty-eight days. Furthermore, the 2001 act empowered the Secretary of State to certify an individual as a suspected international terrorist,

which could allow for the indefinite detention of non-British suspects. Certified suspects were not given a right to trial. The act puts forth low standards to warrant the certification of an individual, which includes appealing through the Special Immigration Appeals Commission. However, in practice this is generally an unsuccessful option. (Scheppelle 134)

While studies like this have discussed the legal ramifications of anti-terror legislation enacted, these studies skip over the question of: when do changes in anti-terror legislation occur?

Existing Academic Research

A significant number of existing studies focus on dissecting counter terrorism strategies. Topics of study include discussions of the efficacy of different counter terrorism tactics, the effects of these tactics on the targeted populations, and the legality of tactics from a legal perspective. Gregory Miller's research, "Confronting Terrorism: Group Motivation and Successful State Policies," examines the success of various counterterrorist policies in relation the terrorist group's motivation. Miller categorizes general terrorist group's motivations in the following four categories: nationalist-separatist, revolution, reaction, or religion.

National-separatist groups seek independence from an existing government. Miller finds the methods used by the Canadians to resolve the Quebec Liberation Front (FLQ) conflict exemplary and the most successful template for dealing with national-separatist groups. (Miller 338) Canada's success was the result of a "willingness to grant concessions, in conjunction with legal reform and restriction" despite Canada's initial harsh response. (Miller 338) In comparison, Turkey's response of violence and restriction against the Kurds has achieved marginal success. Miller concludes that "a

combination of concessions, legal reform, and restriction is most effective against groups with primarily national-separatist motivations.” (Miller 335, 339)

For revolutionary groups, Miller states “a combination of restriction and legal reform” prevails over minor social reform. (Miller 335, 340) Revolutionary (left wing) groups seek to incite societal change through the use of violence. Next, Miller addresses reactionary groups. Reactionary (right wing) groups seek to prevent change through the use of violence, the opposite to revolutionary groups. Legal reform is proposed as the best counter terrorism method applicable. (Miller 340) Miller finds a combination of legal reform and restriction have a detrimental effect, and also concludes that “restriction seems to exacerbate violence...and populations are unlikely to favor concessions.” (341)

Lastly, Miller labels religiously motivated groups as the greatest challenge of the four types. These groups justify the use of violence through extreme versions of mainstream religion. Religiously-motivated groups “seem undeterred by any policy,” but, these groups can be “limited in their ability to carry out attacks when states emphasize restriction.” (Miller 344) These groups are “unlikely to compromise, which [would mean] betraying their faith, and threats of violence or prison are rarely an effective deterrent.” (Miller 341) Miller concludes that while restriction is essential in a state’s response, it does not work by itself.

The study is an example of the existing body of research that focuses on the efficacy of counter-terrorism responses. However, his study is still relatable to the topic discussed in this thesis. The study reinforces that anti-terror legislation changes occur in response to terrorist attacks and analyzes legal reform as a counter-terrorism technique. Miller’s conclusions show when legal form is best utilized using historical examples as evidence. Rather than answering ‘when do changes

in anti-terrorism legislation occur', Miller answers when states *should* change their anti-terrorism legislation in a broader context. This research will seek to address when these changes have historically occurred.

Another study on counter terrorism is Andrew Kydd's and Barbara Walter's study: "The Strategies of Terrorism". The study begins by explaining that terrorism seeks to "[cause] governments and individuals to respond in ways that aid the terrorists' cause." (Kydd and Walter 50) The central argument of the study is "terrorists are too weak to impose their will directly by force of arms" so instead the groups attempt to alter the audience's belief about their "ability to impose costs and their degree of commitment to their cause." (Kydd and Walter 50) The study outlines five forms of signaling: attrition, intimidation, provocation, spoiling, and outbidding. Attrition is when terrorists seek to impose costs which become too great for the state to bear. Intimidation is coercing the terrorist's own population to promote solidarity, or at least the appearance of solidarity, within the group. In provocation the terrorists seek to force the government to act in a disproportionate matter and harm its own population. Disproportional responses can radicalize the government's population and push their support to the terrorists. Spoiling seeks to intentionally prevent peace talks. This method prevents an agreement between moderates and the enemy government, essentially preventing a resolution to the conflict. Consequently, the elimination of competition forces the enemy government to consider the terrorist more seriously. Lastly, outbidding is an attempt to convince the terrorists' own population that the terrorists merit the population's support. Terrorists seek to prove that the terrorists' commitment to defeating the enemy is greater than rival groups. (Kydd and Walter 51)

Additionally, Kydd and Walter also stipulate five general end goals of terrorists: regime change, territorial change, policy change, social control, and status-quo maintenance. (52) Regime change groups attempt to replace the existing government with a more favorable one. Groups fighting for territorial change aim to either take territory away from an existing state or wish to join another state. Policy change includes a broad category of lesser demands. Social control attempts to dictate the behavior of individuals rather than the state at large. Lastly, status quo maintenance aims to preserve an existing system or territory.

Kydd and Walter's study discusses the strategies terrorists employ, the other side of the coin in contrast to Miller's study which discusses state responses to terrorism. The terrorist tactic of provocation is most applicable to this thesis. While this thesis will not delve into reviews of the constitutionality of anti-terrorism legislation passed, the extent of the measures passed by legislation is a consideration when reviewing anti-terrorism legislation.

PURPOSE OF THE RESEARCH

The purpose of this research is to examine the trends of change and the evolution of anti-terror legislation in states with democratic forms of government. This research will identify what prompted the changes in legislation, and establish a pattern of when countries decide to change their laws. This research will look at the different types of changes in the law, as well as the reasons proposed by politicians to justify these changes. There exists a multitude of studies which analyze the effectiveness of anti-terror legislation, and more broadly counter-terrorism strategies. Few studies have focused on identifying when anti-terrorist legislation changes occur. This study aims to contribute to filling the gap in research.

At the time of this research the 2015 Charlie Hebdo terrorist attack in Paris, France is a recent example a terrorist attack which sparked a legislative response. As a result of the attacks the French government is proposing changes which would greatly empower the state's surveillance capabilities. The changes have triggered debates of constitutionality, and discussions among civil liberties groups and citizens alike of a movement to an overbearing surveillance state. These recent events reinforce the relevancy of this research and its applicability to understanding state responses to terrorist attacks.

Problems to be Examined

States often change anti-terror legislation following the aftermath of a terror attack within the state's borders. However, The relationship between terrorist attacks and consequent changes in anti-terror legislation is not always clear or explicit. Not every terrorist attack is followed by an immediate change in legislation,

and sometimes a significant lag occurs between, more than that can be attributed simply to the time the legislative process takes, the attack and the legislative change that follows. Additionally, only a minority of instances actually instigate changes in legislation. For example, it took the US three years to write legislation, the *Antiterrorism and Effective Death Penalty Act of 1996*, in response to the 1993 attack on the World Trade Center. (S.735.ENR) Moreover, the 1995 Oklahoma City bombing was a major catalyst in expediting the creation of the 1996 law. Another point of consideration is sometimes states change anti-terror legislation in response to terrorist attacks which occur outside of their own borders. Take for instance the September 11 attacks in the United States. The events of September 11 prompted legislative changes in the United Kingdom, France, and Germany among other countries. Of course in response to the attacks the United States introduced the US Patriot Act following September 11th 2001. (H.H.3162.ENR).

Another problem to be addressed is whether a relationship exists between certain types of terrorist attacks and certain categories of changes in legislation. Examples of different types of changes in the law are the criminalization of behaviors, increasing state surveillance capabilities, and changes to undercut the financing of terrorist activities. In addition, this research will examine policy diffusion across countries. As previously states, states have chosen to follow the legislative initiatives set by other states.

Research Questions

Presently, research conducted in the realm of counter terrorism focuses on counter terrorism strategies and analyzing the effectiveness of different strategies, such as Gregory Miller's study as discussed earlier. There is an existing body of research which analyzes anti-terror

legislation as a counter-terrorism response; yet, while an array of sources exist to report these changes, often the scope does not include an analysis of how the preceding factors may have influenced that particular type of change. This research hopes to examine the relationship between the terrorist acts which occur and the legal changes which follow them.

Implicit in the study of anti-terror legislation is the assumption that these changes are always for the betterment of society. In reality this assumption is not always the case. There are examples of when a state uses a terrorist attack as an opportunity to enact self-serving legislation which benefits the state over the civil population. The main scope of the research question is aimed at addressing the question of when states change their antiterrorism legislation rather than answering the question of why states change their antiterrorism legislation. In addition to addressing this concern, the implications of changes in anti-terrorism legislation is a further concern.

This study hopes to answer the following research question: When do states change their anti-terrorism legislation?

HYPOTHESIS

The hypothesis is that states enact anti-terror legislation in response to terrorist attacks. The legislation will then be subcategorized into three categories (criminalization, surveillance, and financial legislation) and tested separately. Secondly, is that the number of casualties sustained from attacks, rather than the number of attacks, will be a stronger indicator of when legislative changes will follow.

Within terrorist attacks and legislative changes which follow is another relationship between demand and opportunity. The demand for legislative change, and the opportunity for legislative change. In the aftermath of an attack, there is often the expectation of some legislative change to follow, ie a demand. While the civil population may ask for change, these demands are often broad appeals for action and rarely calls for specific legislative action. The combined expectation of change and broadness of the call of action provides the state a large amount of leeway in determining what actual course of legislative action it takes. A second consideration is that each terrorist attack presents an opportunity for a state to enact new legislation. While still generally restrained by the boundaries of enacting a proportional response, states can seize the opportunity following an attack to discuss and enact legislative ideas which pre-date the attack. The additional layer between demand and opportunity adds further explanation to variation in state behavior. Moreover, this extra consideration clouds the relationship between attacks and legislative changes which follow. While legislators may claim that a law is in response to a preceding terrorist attack, the attack referenced may just be a false cover to mask other ulterior motives.

While conducting preliminary research there were several trends noticed in typical state legislative response to terrorist attacks. The most apparent trend is that the most severe and exceptional terrorist attacks were generally followed by the quickest and most state empowering legal reforms. For example, consider the United Kingdom's *Prevention of Terrorism Act of 2005* following the 2005 London bombings. The 2005 London bombings occurred on July 7th, leading to the moniker 7/7 referring to the attacks. 3 of the 4 attacks occurred around 8:50am in the London subway system, locally referred to as the tube. ("July 7 2005") The last explosion detonated nearly an hour after the first set of three near simultaneous attacks and occurred on a double decker bus instead of the tube. The 7/7 attacks are the first event of suicide terrorism within the United Kingdom, and is the worst terrorist event to occur since the 1988 Lockerbie bombing. The attacks mark a shift in the threat of terrorism to the United Kingdom. Prior to 7/7 the main terrorist threats were the IRA (Irish Republic Army) and the Real IRA, a splinter group of the IRA which resisted the Northern Ireland Peace Process. Following an approximately 4 year hiatus in major terrorist attacks after the 2001 Real IRA car bombing in Birmingham, the 2005 7/7 attacks presents a shift to an Islamic religious extremism threat.

In response to the bombings England enacted the 2005 *Prevention of Terrorism Act*. Within only 18 days after the bill was introduced to the British parliament, the bill was given Royal Assent and transformed into law. The lack of extended discussion prevents debate to fully evaluate and consider the full ramifications of the new proposed state powers, by both the legislators and the civilians who will be affected by the new legislation. Furthermore, civil society tends to be less critical of state empowerment in the aftermath of impactful terrorist attacks. This lack of opposition grants the government greater leeway in bolstering its own powers. However, once tensions calm

down civil society may retaliate and begin to question the infringement on civil liberties. This situation is reflected in American citizen's growing criticism of the U.S. Patriot Act.

The main effect of the 2005 *Prevention of Terrorism Act* was the introduction of control orders which limits an individual's movement, ability to communicate with others, and, more generally, overall liberty. The new brand of terror and different terrorist motivations of the 7/7 attackers was an influence in the United Kingdom's new approach towards combatting terrorism through the use of control orders. In 2004 Spain faced a similar situation. The 2004 Madrid train bombings were executed by Al-Qaeda, an Islamic religious extremist threat. This contrasted Spain's history of terrorist conflict with the ETA, the Basque Euskadi Ta Askatasuna, which is a national-separatist group. The 2004 bombings in Spain is distinct from the 2005 England bombings because no new major legislation was introduced following the 2004 attacks. This lack of legislative change can be partly attributed to Spain's history of heavy criminalization of terrorist behaviors through its criminal penal code. Spain exemplifies a state which has seen a diminishing effect of enacting new anti-terrorist legislation given its already long history counter-terrorism legislation.

Another trend identified is that countries which have experienced a sudden increase in the frequency of attacks, typically zero casualty attacks, react by either imposing legislation to undercut the financing of terrorist groups. This could be because low/zero casualty demonstrations are not enough to justify the empowerment of state police powers, but still merit state action. Targeting the financing of terrorist groups is generally viewed as an effective proportionate response which still targets the terror group but does not infringe too much on civil liberties. Increasing state surveillance powers hits the middle ground between criminalization and financial legislation. Surveillance legislation, on the other hand, is enacted in response to varying levels of low-high

casualty attacks. Laws at increasing state surveillance is another definite trend identified as the world progresses to an increasingly digital age.

Objective

The objective of the research study is determine whether there is a statistically significant relationship between the number of terrorist attacks within a state and changes in a county's anti-terrorist legislation. While there is existing research evaluating anti-terrorist strategies and research discussing specific pieces of anti-terrorist legislation, there is a lack of research investigating the relationship between terrorist attacks and the legislative response states take.

METHODOLOGY

Initially, the criterion used to select countries for study was a distilled list of the top 30 countries sorted by GDP. The initial expectations were that this selection method would provide a diverse group of states to examine, and also include states with varying levels of experience with terrorist attacks. However, several problems were encountered. The top 30 list included wealthy countries such as Lichtenstein, Andorra, and San Marino. The issue being that all these states have population counts of less than 100 thousand. Including these states would prejudice the data set. Another problem encountered was that the list included states whose laws were not accessible for research. Attempting to research the anti-terrorist legislation of China proved largely fruitless. While some headway was made in researching Japan's and South Korea's legal codes, the inability to perform a comprehensive search led to both of their exclusions. Furthermore, the list included countries with no commonality in their systems of governance. Qatar, for example, is an Emirate where family ties are important in determining the political elite. Due to these problems the selection method was changed to include democratic states mostly in the American continent and Europe, along with India in the Asian/Indian sub-continent.

Country Selection

- Australia
- Canada
- Chile
- Columbia
- Denmark
- France
- Germany
- India
- Italy
- Norway
- Spain
- Sweden
- Turkey
- United Kingdom
- United States

Following the selection of countries, the next step was to begin researching the legislation of the countries selected. Legislation included in this research includes legislative acts passed through legislative bodies such as parliament or congress. Also included are decrees laws instituted by executive heads. Official government websites were preferred as the main source of information. Secondary sources such as academic journals, law reviews, and even news articles were also consulted. To perform the searches, the government hosted legislative databases were accessed and the following keywords were used in each country's respective language: "terrorism, terrorist, and terror." Advanced searches were used to search both the title and content of legislation. Additional search parameters included limiting searches between 1980 and 2010. In order to bypass language barriers, Google Translate was utilized to translate text from its native language into English. The keyword "anti-terrorist" was not used

because often time this would pose a barrier when searching in languages other than English. The keywords “terrorism, terrorist, and terror” were enough to capture the legislation needed. Searches would return partial matches which included legislation with the words “anti-terrorism, anti-terrorist, and anti-terror” encompassing all the intended legislation. In some cases search results would return legislation which included one of the search terms above, but the actual content of the legislation did not entail anti-terror legislation. For example, acts dedicating a day of the year to commemorate the lives lost during a tragic terrorist event, or similarly, act referencing the establishment of funds for the victims of terrorist attacks. Each document was verified to represent an actual change in anti-terrorist legislation.

After it was determined the changes represented a substantial change in anti-terrorism law, the legislation was then categorized by the type of legal change. If, for example, an act criminalized multiple behaviors this was quantified as one legislative change since only new legislative act was enacted. The three most common categories used to separate legislation were: changes in the criminal code, changes in surveillance and communication, and changes to undercut the financing of terrorist groups. Examples of other categories observed include changes in police power and changes in border security/immigration. Following categorizing the legislation, a count variable was created for each category separated by year. The years 1980 to 2009 were used, meaning there were 30 observed years for each country. In total there are 15 countries, resulting in 450 total observations.

The RAND Database of Worldwide Terrorism Incidents was used for the independent variable, the number of terrorist attacks. The RAND databases presents terrorist incidents listed

by the exact date of the event and sorted by the country that the attack occurred in. The RAND dataset was reformatted to fit the research's data design. The data was arranged in a panel data format. Panel data is a dataset which contains observations of multiple entities across time.

ANALYSIS

To perform a quantitative analysis of the data initially panel data random effects regression was used. In this case the entities observed are states, and the observations recorded are changes in each state's anti-terrorism law. X1 represents the number of terrorist attacks. Y1 represents all anti-terror legislative changes. Y3 are changes categorized as 'criminalization,' Y4 represents changes categorized as 'surveillance,' and Y5 represents changes categorized as 'financial.' Panel data analysis interprets data which reflects individual heterogeneity. Meaning panel data regression accounts for variables which cannot be observed across different entities. For example, cultural differences or differences in attitude to legislation. Panel data also controls for variables that change through time, but not evenly across all entities. For example, changes in national policies. To perform all tests STATA statistical analysis software was used.

Two possible statistical methods were considered for analyzing the data. A Poisson regression and a zero-inflated binomial regression. Ordinary Least of Squares (OLS), while a common statistical method, is inappropriate because the method assumes the dependent variable is normally distributed, a continuously distributed, and linearly related to the independent variable. With a quick glance it can be determined that the dataset is not normally distributed, but instead is skewed.

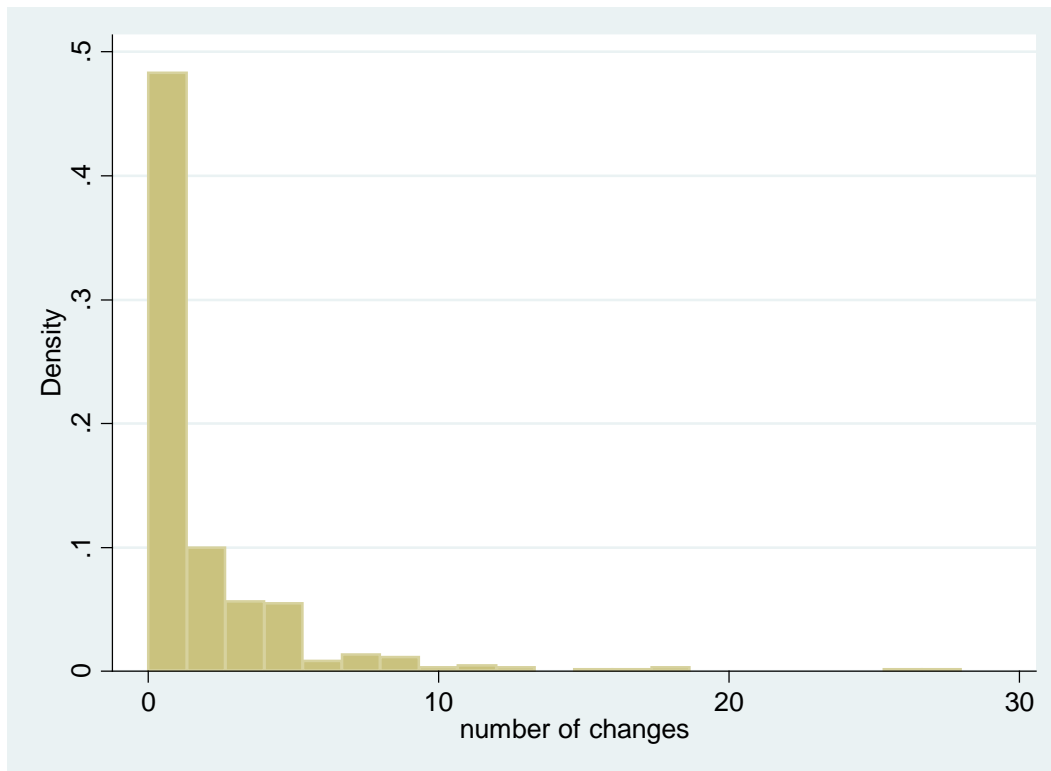


Figure 1 Bar Graph of Number of Attacks (Y) and Number of Legal Changes (X)

The defining characteristic of a Poisson distribution is that the mean must be equal to the variance. The Poisson distribution differs from the Gaussian (Normal) distribution by how much of the data is encompassed in each standard deviation of the data; more data tends to be centered in the tails of the distribution rather than the 13.5% and 2.35% centered at each tail of the second and third deviations of a standard bell curve. Since the variance of the data, 22.59, and the mean, 2.31, are considerably different the distribution is not a Poisson distribution and consequently a Poisson regression is not appropriate for the data. The large value the variance holds in comparison to the mean suggest that there is over-dispersion within the data. Over-

dispersion is defined as the occurrence of greater variability than expected under the given statistical method.

The negative binomial regression is a measure used to model count variables, also used for over-dispersed count outcome variables. In actuality, the Poisson distribution is a specific instance of a negative binomial distribution. The negative binomial distribution is a more generalized process which has an extra parameter that adjusts the variance independently of the mean. The zero-inflated negative binomial regression is a measure used to model count variables with an excessive number of zeros as well as over-dispersed count variables. The regression model is based on a zero-inflated probability distribution which incorporates frequent zero-valued observations. This model also incorporates a dual process to separate observed units that exclusively have zero observations and units which exhibit non-zero observations. The results from the negative binomial regression, and the following regressions referenced, are all displayed in the following table:

Table 1 Probability of Change in Legislation

	Any	Criminalization	Financial	Surveillance
Number of Attacks	Coefficient: 0.0046485* IRR: 1.004659321 ^X Standard Error: 0.000909 P-value: 0.000 Constant: -0.2870346	Coefficient: 0.0043526* IRR: 1.004362 ^X Standard Error: 0.0016858 P-value: 0.010 Constant: -0.5810518	Coefficient: 0.001516* IRR: Standard Error: 0.0028262 P-value: 0.592 Constant: -1.595549	Coefficient: - 0.0271892* IRR: Standard Error: 0.0180391 P-value: 0.132 Constant: 2.680049
Number of Casualties	Coefficient: 0.0001427 Standard Error: 0.0002957 Constant: -0.2908944			
N	450	450	450	450

* Significance set at 0.05 alpha.

These are the results received from the random effects time set negative binomial regression for X1:

Coefficient: 0.0046485
Standard Error: 0.000909
Z score: 5.11
P-value: 0.000
95% Confidence Interval: 0.0028669 to 0.0064301

The results show that the estimated coefficient of change in Y per a change in X is 0.0046485. On average each score deviates 5.11 units from the mean. The results are significant at an alpha level of 0.05. Given that 15 countries were surveyed across a 30 year span totaling to 450 observations, I am confident that the coefficient is significant. The 95% confidence interval shows that the population's coefficient is between the parameters of 0.0028669 and 0.0064301. The Wald Chi-square statistic tests the hypothesis that at least one of the predictor's regression coefficient has a non-zero value. The P-value underneath the test statistic shows that the test is significant. With the alpha level set at 0.05, the null hypothesis may be rejected and conclude that the regression coefficient is statistically different from zero. The likelihood-ratio test vs. pooled statistic shows a high value of 125.49. The p-value for the test shows that it is statistically significant. The high value suggests that the dependent variable is over-dispersed and re-affirms once again that it would not be sufficiently described by a Poisson distribution.

The results matched my prior expectations. Since only democracies were surveyed in the sample, it should be noted that these results pertain to the general population of democracies. From personal experiences, most people can agree that changes in the anti-

terrorist law often occur directly after a terrorist attack. While it may take some time for legislation to be drafted, refined, and finally enacted; the purpose of the legislation is often to address some recent preceding terrorist attack. Moreover, in many cases a state's population will urge its lawmakers to draft new legislation aimed combatting terrorists in the aftermath of a terrorist event. The correlation between terrorist attacks and changes in anti-terrorist legislation seems apparent. The results of this study confirms statistically significant evidence of the effect based on a negative binomial regression. The results estimate that for every 1% increase in the number of attacks leads to a log increase of 0.0046485 in the likelihood changing the state's anti-terrorist legislation. Stated differently, for a one unit increase in log (number of attacks), the estimated count increases by a factor of $e^{0.0046485} = 1.004659321$. Thus the marginal effects for a one unit increase is about 1. Since the relationship is logarithmic, each additional attack is represented by a change in the natural log's exponent. For example, 1 terrorist attack would be represented as $1.004659321^1 = 1.004659321$, and 50 terrorist attacks would be represented as $1.004659321^{50} = 1.261655819$. Performing a time indexed negative binomial regression with incidence rate ratios (IRR) confirms this statistic.

The IRR returned is the same value as the natural log function previously manually performed. The p-value statistic is 0.000, again confirming there is statistical significance. The small coefficient of x1 confirms that changes in anti-terrorist legislation do not occur often. While the occurrence of a single terrorist attack rapidly increases the probability that one change in legislation in occur, changes greater than one in the legislation require a large number of terrorist attacks. This relationship is influenced by that the majority terrorist attacks

are zero casualty attacks, meaning none of the intended population is either killed or injured. These attacks are generally demonstrations that a group commits to show their presence in a community, but at the same time is limited so that the group will not provoke a tough response from the state. Secondly, terrorist attacks vary between whether they are organized by the group itself, estranged lone 'cell' members, or even independently motivated individuals who commit attacks on their own volition. Whether a zero casualty attack or non-zero casualty attack, if an attack is committed by a cell member or independent terrorist then new anti-terrorist legislation may not be deemed as the most appropriate response but rather local policing. This could be because attacks planned and executed by individuals are seen as less of a systematic threat that needs to be addressed by the state, but rather a local problem to be addressed by local authorities.

Additional tests were performed to investigate the relationship that including an extra independent variable, the number of injuries sustained from yearly terrorist attacks, would have on the relationship.

The results show that the inclusion of the extra independent variable changes the coefficient of X1, the number of attacks, from 0.0046485 to 0.0044166 and the newly added independent variable has a coefficient of 0.0001427. However; X2, the number of yearly injuries, returns a p-value of 0.629 deeming it statistically insignificant under a value of 0.05, meaning that the null hypothesis cannot be rejected under an alpha of 0.05. This is due to that the inclusion of number of yearly injuries does not have a substantive effect on predicting the probability of legal changes. Performing a pairwise correlation function confirms this.


```
. pwcorr x1numberofattacks x2numberofinjuries
```

	x1numb~s	x2numb~s
x1numberof~s	1.0000	
x2numberof~s	0.4002	1.0000

Figure 2 Pairwise Correlation X1 (Number of Attacks) and X2 (Number of Injuries)

The returned value is 0.4002. Generally, an independent value will substantively increase the ability to predict Y when a pairwise correlation value of 0.7 or higher is returned. The results for this analysis are surprising. Initially, it was expected that a stronger relationship would exist between the number of changes and the number of injuries caused by terrorist attacks. It was also expected that excluding zero casualty terrorist events would tighten the observed relationship between terrorist events and legal changes.

Tests were also performed to determine the relationship between terrorist attacks and three specific categories of changes: criminalization, surveillance, and financial. As mentioned earlier, these categories were among the three most common changes categorized while conducting research. To perform the tests, the legislative changes of each country were separated into categories for each year observed. This data was then entered into STATA as additional X-variables. A time set negative binomial regression was performed for each of the following three tests.

First, the relationship between criminalization and yearly attacks was examined. These are the results received from the random effects time set negative binomial regression for 'Criminalization':

Coefficient: 0.0043526
Standard Error: 0.0016858
Z score: 2.58
P-value: 0.010
95% Confidence Interval: 0.0010486 to 0.0076566

The results show that the estimated coefficient of change in Y per a change in X is 0.0043526.

On average each score deviates 2.58 units from the mean. While the results are not as strong as the previous test, they are still significant at an alpha level of 0.05. The 95% confidence interval shows that the population's coefficient is between the parameters of 0.0010486 and

0.0076566. The P-value underneath the Wald-Chi test statistic shows that the test is significant.

With the alpha level set at 0.05, the null hypothesis may be rejected and conclude that the regression coefficient is statistically different from zero. The likelihood-ratio test vs. pooled

statistic shows a value of 38.17. The p-value for the test shows that it is statistically significant.

In contrast to the value received from the previous test, this value suggests that the dependent variable is not as over-dispersed as the total cumulative legislative changes. A 'summarize'

command in STATA shows that the mean is 0.3222222 while the variance is 0.9538481. While

the disparity is much less than in the previous X-variable used, the values are still not exact for a

Poisson regression. Ideally, the likelihood-ratio test vs. pooled statistic will return a value of 0

when a Poisson regression is a more appropriate test.

A negative binomial regression incidence rate ratio test returns a value of 1.004362. The value indicates that initial legislative changes aimed at criminalization occur with a low amount of attacks, but multiple criminalization legislative changes are uncommon. The great similarity between both the coefficients and IRR values for the X-variable Criminalization: 0.0043526, 1.004362 and the X-variable Legal Changes: 0.0046485, 1.004659321 suggests that most of the legal changes observed fall within the category of criminalization.

Secondly, the relationship between legislation aimed at undercutting the financing of terrorist organizations and the number of yearly attacks was examined. These are the results received from the random effects time set negative binomial regression for 'Financial':

Coefficient: 0.001516
Standard Error: 0.0028262
Z score: 0.54
P-value: 0.592
95% Confidence Interval: -0.0040233 to 0.0070553

The results show that the estimated coefficient of change in Y per a change in X is 0.001516. On average each score deviates 0.54 units from the mean. The results show that relationship is not statically significant. The 95% confidence interval shows that the population's coefficient is between the parameters of -0.0040233 and 0.0070553. Since the confidence interval crosses zero, this again confirms that the relationship is not statistically significant. The P-value underneath the Wald-Chi test statistic shows that the test is significant, it may be concluded that the regression coefficient is statistically different from zero. The likelihood-ratio test vs. pooled statistic shows a value of 31.42. The p-value for the test shows that it is statistically

significant. Similar to the test on Criminalization, this value suggests that the dependent variable is not as over-dispersed. A 'summarize' command in STATA shows that the mean is 0.3688889 while the variance is 6.32687.

While the relationship is not statistically significant, the smaller coefficient reported does reflect that a smaller percentage of changes observed fall within the category of changes aimed at undercutting the financing of terrorist groups. In reviewing the raw data, it can be observed that legislative changes to undercut financing have occurred mostly in recent times. This type of anti-terrorist legislative change is a more recent development, and is rarely observed prior to the 2000s. The reason for a lack of a history of financial legislative changes is due to the more recent world shift to electronic banking and digital currency. Terrorist organizations have capitalized on this shift to exploit new ways of funding their operations. The consistently large amount of zeroes observed from 1980 to 2009 is likely what is causing the relation to be observed as statistically insignificant.

Thirdly, the relationship between legislation to empower state surveillance of communications and the number of yearly attacks was examined. These are the results received from the random effects time set negative binomial regression for 'Surveillance':

Coefficient: -0.0271892
Standard Error: 0.0180391
Z score: -1.51
P-value: 0.132
95% Confidence Interval: -0.0625452 to 0.0081668

The results show that the estimated coefficient of change in Y per a change in X is -0.0271892. On average each score deviates -1.51 units from the mean. The results show that relationship is not statically significant. The 95% confidence interval shows that the population's coefficient is between the parameters of -0.0625452 and 0.0081668. Since the confidence interval crosses zero, this again confirms that the relationship is not statistically significant. The Wald-Chi test statistic P-value is not statistically significant, which means that the regression coefficient is not statistically different from zero. The likelihood-ratio test vs. pooled statistic shows a value of 3.89. The p-value, albeit higher than the other tests performed, is still statistically significant. This low value suggests that the dependent variable is not as over-dispersed. A 'summarize' command in STATA shows that the mean is 0.0977778 while the variance is 0.1062311. Since this was the lowest likelihood-ratio test vs. pooled statistic observed, and the mean and variance were also relatively close, a time set Poisson regression was performed.

The additional time set Poisson regression returned these results:

Coefficient: -0.0274374
Standard Error: 0.0179956
Z score: -1.52
P-value: 0.127
95% Confidence Interval: -0.0627081 to 0.0078333

The results are insignificant just the same, and statistics reported are mostly the same to the time set negative binomial regression.

The results are consistent with the hypothesis that as more terrorist attacks occur there is a greater likelihood that a state will change its anti-terrorist legislation. However, the magnitude of the coefficient is surprising. The logarithmic nature of the coefficient makes it deceiving to interpret at first. Stata provides a command, `mf`, to estimate the marginal effects that a one unit change in x , the number of attacks, will have on y , the number of legal changes. The `mf` command calculates the marginal effects at the mean of the independent variable, 18.00667. Using the `mf` command Stata returns a result of -0.20332999 as a linear prediction. The results states that an increase in the number of attacks actually leads to a decrease in the number of legal changes. The IRR statistical proves to be a more reliable measure over the `mf`, because a negative coefficient is inconsistent with all the positive values used in the data set. The negative coefficient could be a result of that the `mf` forces a linear prediction of the marginal effects and therefore must account for the negative constant returned during the test trials. As a result, the negative value is returned. Regardless, the IRR statistic leads to the conclusion that changes in the law are incremental and it takes a large number of attacks to propel a multiple changes in the law.

Reviewing the raw data leads to no clear determination whether there is a direct relationship between the number of attacks that occur and the number of legal changes that follow. Legal changes will occur in years where no terrorist attacks have been executed and no

attacks were a committed in the year immediately preceding the change. The opposite is also true, sometimes changes will not occur in years where terrorist attacks are recorded.

The results of both regressions suggest that while a statistically significant relationship exists between the number of attacks and changes in anti-terrorist legislation, there are other factors which account for whether a change in legislation will occur. While the quantitative analysis establishes a relationship between anti-terror legislation and attacks, the results should not be interpreted to wholly explain 'why' the legislation was enacted. Rather, the quantitative analysis primarily answers the question of 'when' changes occur. The true motive behind new legislation may be more complex than initially apparent at face value. Essentially, causality is not as direct as it may seem.

There are other intervening variables and factors undefined and unaccounted. Moreover, even when the explicit stated purpose of legislation is claimed to be in response to a terrorist attack, the claims must be taken with a grain of salt. States may use the aftermath of a terrorist attack as an opportunity to enact new legislation in its favor which would otherwise be opposed in normal circumstances. The legislation may be enacted under the guise of combatting terrorism, when in reality its true purposes are self-serving to other state ambitions. Ernest Rabel's method of functional analysis recognizes this. Rabel claims that laws cannot be evaluated in a vacuum, but rather each country's variations in laws must be taken in account for an effective analysis. (Beckman 7) The economic, cultural, social, and historical contexts unique to each state must be taken into account when examining a state's legislation. (Beckman 8)

The recent events in France and the Charlie Hebdo terrorist attacks exemplify this issue. Albeit outside of the years observed within the quantitative analysis, the events in Charlie Hebdo emphasize the relevancy of this research. The Charlie Hebdo attack occurred in Paris, France when two brothers targeted the French satirical magazine *Charlie Hebdo*. (Botelho) The attacks occurred in response to the magazine's history of multiple satirical jabs at the Muslim faith and depiction of the prophet Muhammad. A branch of Al-Qaeda based in Yemen claimed responsibility for the attack. In regards to this research, the issue at hand is the anti-terror legislation France is proposing to enact as a response. The proposed bill "[allows] intelligence services to tap suspects' phones and emails without a judge's approval, as well as placing hidden cameras in homes and tracers in cars" circumventing current safeguards imposed by the judicial system. (Dearden) However, the bill itself "was drawn up long before the Paris attacks in January." (Dearden) François Hollande, the French president, promised to refer the bill to the constitutional council, the highest authority on the constitution. The council approved the legislation as constitutional aside for a few "minor tweaks" made to the bill. (Willsher) This example demonstrates that states may take the occurrence of a terrorist attack to enact pre-conceived legislation, reinforcing that there may not be a direct causality between terrorist attacks and anti-terror legislation enacted.

Other possible unobserved variables could be media attention on attacks. This would naturally follow the idea that deadlier terrorist attacks are followed by a greater number of changes in the law, because the public would be more likely to demand greater government change following more deadly attacks versus smaller zero casualty attacks. Another unobserved

variable could be the location of the attack. Attacks committed in more rural areas, away from large cities, could generate less legal changes because they are perceived as less of an immediate threat to the state's society as whole.

Fifteen states were surveyed and the changes in their anti-terrorist legislation were compiled in a dataset. This research will now move onto a case by case qualitative analysis of a smaller selection of five countries.

FRANCE

France has 1048 recorded attacks in comparison to the state average of 541, and has 287 legal changes in comparison to the state average of 70. The year with the most changes is 2009, with a large number of legislation enacted to combat the financing of criminal organizations. In 1996 and 1995, two major terrorist attacks occurred that sparked legislative changes. In 1996, a bomb planted on a Paris commuter train in the evening exploded “killing two people and wounding more than 80 others.” (Dahlburg) The perpetrator behind the attack was suspected to be the Groupe Islamique Armé (GIA), the Armed Islamic Group. The explosive device was an empty “cylinder of cooking gas packed with explosives” along with nails for a shrapnel effect was characteristic of the GIA’s previous bombings. (Dahlburg) The Interior Minister at the time, Jean-Louis Debre, surveyed the aftermath himself and “ordered the reactivation of anti-terrorism measures” that was enacted in the prior year as a response to previous bombings as an immediate response to the attack. In the year prior, 1995, the GIA previously executed the same attack on another commuter train. An explosive device was planted on a commuter train during the evening which “killed eight people and wounded about 100 others.” (Dahlburg) The explosives were made of an emptied cylinder of cooking gas packed with explosives. The GIA has been engaged in conflict with Algeria since the 1990s. (Vriens) The GIA was created as a response to a “1992 decision by Algeria’s military government to cancel an election” where it seemed as the Islamic Salvation Front (FIS), a mainstream Muslim party, was leading its opposition. The stated goal of the GIA was to replace the secular

Algerian government with a religious government governed by sharia, i.e. Islamic, law. (Vriens)

An intense civil war followed the conflict over the canceled elections. The Islamic Salvation Army (FIS) was a main combatant; however, tensions subsided after the FIS declared a cease fire in 2002. (Vriens) The GIA continued its civilian violence even after the declared cease fire, but in recent times has subsided in activity. As a result many former active members have diverted to other terrorist groups. Another notable attack by the GIA was the 1994 hijacking of a Parisian airline. The group stated that the hijacking was committed to force France to end its “unconditional political, military and economic aid to the Algerian government.” (Riding) After eventually landing in Marseille, the plane was breached by French special forces and all four of the hijackers were killed, No civilians were killed in the breach; however, the hijackers had already executed three hostages prior to the special forces boarding the plane.

In the context of this succession of terrorist attacks, the French parliament began discussing new legislation to strengthen France’s capabilities in fighting terrorism. The French senate’s discussion on 1996’s Suppression of Terrorism Act 96-647 reflects the sense of urgency sparked by the increase in terrorist attacks. In the senate report, the senators remark “quantitative evolution a resurgence of terrorism” (Masson) (all quotes translated by author unless said otherwise) as reason for the change. In reference to the assassination of Abdelbaki Sahraoui in 1995, the senators discuss an “increase in the attacks committed against persons vested with public authority or in charge of a public service mission.” (Masson) The report also references the “eight bombings in Paris and its provinces between July 25th and October 17th 1995, [and] seven persons killed in a bombing of the station ‘Saint-Michel’ of line B RER and

more than 170 injured.” (Masson) Furthermore, the senators discuss a growing trend in the yearly number of terrorist attacks committed, remarking “the number of attacks perpetrated in France since 1994 has exceeded more than 40% since 1989.” (Masson) The content of the legislation amends the penal code that further criminalizes behaviors when committed “in relation with individual or collective ‘enterprise’ to trouble the public order by intimidation or terror.” Lastly, the bill lengthens and changes the legal consequences to the list of protected positions for which perpetrators are subject to increased penalties for offenses committed against certain persons in charge of a public service mission.

France’s Law 86-1020 ‘Law on the Fight against Terrorism and Attacks on the Security of the State’ in comparison represents a broader, earlier reaction to terrorist attacks. The report references early definitions of terrorism and its evolution to encompass then-current trends in terrorist attacks. The senators reference the ‘Years of Lead’, a period of intense violence and terrorist activity in Italy, the 1972 Munich Olympics incident, and a statistic that since 1975 over 5900 bombings have occurred and 900 victims either hurt or killed. (Masson) The report references this context of terrorism and the impetus behind the new legislation. They remark that the “ultimate trap of terrorism is to drive the democratic state to deny its [own democratic] principles.” (Masson) The legislation itself accomplished four things: 1. the centralization of prosecutions, investigations and trial for terrorist related crimes defined by the offense and its affiliation with a terrorist organization. 2. Changes to the procedure followed for prosecuting terrorist-related crimes. 3. Changes to provisions regarding ‘repented’ terrorists, meaning persons with terrorist affiliations who whistle blow on attacks that are being planned

or in the process of being executed. 4. Ad hoc arrangements: A series of miscellaneous impositions such as the expulsion of foreigners.

CANADA

Among the countries surveyed, Canada is below the average for the cumulative amount of attacks over the span of the 30 years. The average number of attacks per a state within the data set is 541, for Canada only 18 attacks were recorded. The average number of legal changes per a state is 53 over the 30 year span, Canada has 44 changes recorded. While Canada's number of attacks is far below the average, the number of changes is relatively close to the mean. This points to that the number of attacks is not the strongest indicator of when changes in the law will occur.

Canada enacted multiple legislative changes in 2001. Legislation passed includes the Canadian Anti-terrorism Act, and the Combating Terrorism Act which amended the criminal code, the Canada Evidence Act and the Security of Information Act. These changes are an example of how a terrorist attack committed in a foreign state can lead to changes a different state's own legal structure. In this case, the airplane hijackings of 9/11 which occurred in the United States having an impact on Canada. In the senate committee's report on Bill C-36, the Anti-terrorism Act, the senators reference "the terrible events of September 11, 2001 [as having] made it clear to all Canadians that securing the freedoms that define [Canada] as a nation must depend upon actively resisting terrorism." (Anti-Terrorism Act) In a second report the liberal majority states "the events of September 11 in New York, Washington, and Pennsylvania have forced Canadians and their federal government to address the threat of terrorism in North America." (Fairbairn) The bill's short title is as stated before the Anti-

terrorism Act, but the act's scope changes the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act, and new measures respecting the registration of charities in order to combat terrorism. As the full title indicates, the act creates of new offenses and devises new procedures related to fighting terrorism. The legislation recognizes a need to establish a list of terrorist entities and authorizes the Governor in Council to do so. The established list will be used as a basis for freezing assets in banks and other financial institutions, along with for new property forfeiture procedures stipulated in the act. The act empowers the state to preventatively detain a person for up to a year, but also outlines an appeals process as a counter-check. The act changes several other acts to empower the Attorney General of Canada to personally issue certificates prohibiting the disclosure of information for national defense/security and international relations purposes. The Official Secrets Act is replaced by the Security of Information Act which allows specified people to be permanently bound to secrecy, with no option to contest or appeal the designation. To expand the state's surveillance capability, the Communications Security Establishment (CSE) intercepts a mandate authorizing the CSE to intercept communications involving Canadians where the target of the intercept is not in Canada. Lastly, the bill takes measures to strip certified charities suspected of supporting terrorist activities of their charitable status.

In 1985 Canada enacted seven legal changes, the most legal changes enacted within a single year. The large number of legal changes is a response to the Air India terrorist attack. On June 23 1985, Air India flight 182 'Kanishka' was flying from Toronto to London and then to Bombay when a midflight explosion occurred which killed all 329 people aboard the flight. Prior

to the midflight explosion, while stopped in Montreal, Canadian airport officials removed three suspicious items from the plane before it flew to Toronto. After the attack all three packages were confirmed to be safe, only an iron, a radio, and a hair dryer were found. (Kilroy)

Investigations uncovered that Indian Sikh extremists residing in Canada orchestrated the attack. Legal prosecution of the terrorists, while one of the most expensive legal investigations in Canadian history, largely proved to be unsuccessful. Two suspects, Talwinder Singh Parmar and Inderjit Singh Teyat, were ultimately arrested five months after the terrorist attack. (Jiwa)

Charges against Parmar were eventually dropped, while in 2003 (18 years after the attack) Teyat pleaded guilty to manslaughter and was given a sentence of five years in prison. Prior to this judgement, Teyat was also sentenced to 10 years in prison for making explosives that killed two Japanese baggage handlers on the same day of the flight 182 bombing in a Japanese airport, Narita Airport. The Air India attack is the most severe terrorist attack in Canadian history.

At the time period of the attack there was a large amount of internal conflict in India. In the northern State of Punjab, extremists were demanding the creation of a separate state of Khalistan. In 1984 civil unrest peaked when outraged Sikhs protested Indian Army soldiers walked into the Golden Temple, the Sikhs' holiest of shrines. (Kilroy) This outrage culminated in the assassination of India's Prime Minister Indira Gandhi by her own Sikh bodyguard. The murder led to even greater civil unrest as Hindus began persecuting Sikhs as retribution. This environment of conflict filtered out to Canada, which hosts one of the largest population of Sikhs residing outside of India, and led to the Air India flight 182 attack.

As a response to the terrorist attack Canada amended its criminal code. The Canadian National Defense Act incorporated the criminal code's new definition of a terrorist offence with a broadened scope, defined terrorist activity and a terrorist group, and also defined terrorist offenses as a designated offense. The National Defense Act also provided additional limitations on when individuals convicted of terrorist offenses under the act may be released on full parole under the Court Martials' discretion. Canada also passed the State Immunity Act which designates situations when a Canadian court has competent jurisdiction over proceedings regarding out of state terrorist activity. The Citizenship Act of 1985 empowered the Minister, as designated by the Queen's Privy Council, to deny citizenship to a terrorist offender. The Royal Canadian Mounted Police Superannuation Act empowered the Minister of Public Safety and Emergency Preparedness, under supervision, to by order designate an area as a special duty area for the purpose of a counter terrorism operation. A special duty area is defined as any area or county where Canada has peacekeeping operations present due to war, civil conflict, or the breakdown of law and order. The Geneva Conventions Act of 1985 for the protection of war victims approved protocols related to the protection of victims of both international and non-international armed conflicts. Canada also ratified an International Convention against the Taking of Hostages in 1985, which it had originally signed in 1980.

1988 is the next year with the greatest number of legal changes passed. According the RAND only one terrorist attack occurred in 1988, where a journalist was shot and paralyzed in relation to the flight 182 bombings. However; later that year the journalist was killed execution style by the group which was behind the flight 182 bombing. Tara Singh Hayer was a journalist

and editor for the Indo-Canadian Times. A Sikh himself, Tara Singh Hayer began to write critical articles of the Sikh separatist movement after the Air India flight 182 bombing. In response to his anti-violence remarks a member of the Babbar Khalsa terrorist group shot Hayer paralyzing him, before eventually executing him in his own garage later on in the year. Hayer was a witness in the legal prosecution and had a submitted a signed affidavit regarding a conversation he overheard between one of the bombers and another newspaper editor. Following his murder, his testimony was deemed inadmissible. The legal changes enacted in 1988 were all international conventions and none directly related to the killing of Hayer.

AUSTRALIA

Australia has 15 recorded attacks in comparison to the state average of 541, and has 41 legal changes in comparison to the state average of 53. The years with the most changes are 2002 and 2003. No attacks within national borders were recorded in either 2002 or 2003, but one attack did occur in 2001. In 2001 Peter James Knight attacked an abortion clinic in East Melbourne which resulted in the death of one security guard before he was subdued by a staff worker and the boyfriend of one of the patient's present. (Anderson) Knight is an independently motivated urban terrorist who was fiercely opposed to abortions. Knight lived in solitude recused from society in an 'off-the-grid' manner. Police initially had difficulty identifying Knight for some time and referred to him as Mister X during the beginning stages of his trial. Knight was motivated by his Christian beliefs that abortion was morally wrong, and sought to kill everyone in the abortion clinic he attack. Armed with a rifle, 16 liters of kerosene, lighters, torches soaked in kerosene, and gags, Knight intended on burning the abortion clinic staff and its patients on the day he attacked. Knight was sentenced to a minimum of 23 years in prison before parole.

Knight's attack on the abortion clinic is the most recent terrorist attack related to legal changes passed in 2002; the next most recent attacks occurred in 1994. None of the legal changes passed in 2002 are related to the 2001 abortion clinic attack. In 2002 Australia passed a series of laws within a 'legislative package' which included:

- The Security Legislation Amendment (Terrorism) Act,
- The Suppression of the Financing of Terrorism Act,

- The Criminal Code Amendment (Suppression of Terrorist Bombings) Act,
- The Border Security Legislation Amendment
- The Criminal Code Amendment (Anti-hoax and Other Measures Act)
- The Australian Security Intelligence Organization Legislation Amendment (Terrorism)
- The Telecommunications Interception Legislation Amendment

The stated context for the passing of Security Legislation Amendment Act begins by addressing the pressure to act. The senate debate digest cites Resolution 1373 of the United Nations Security Council as the chief reason for the change in legislation. Given Australia's comparative lack of terrorist activity, it would seem reasonable to expect most anti-terrorist legislation enacted by Australia is in response to terrorist attacks committed abroad, or laws enacted to remain on par with anti-terrorist legislation developments within other countries. Resolution 1373 requests for "stronger and more cooperative measures among States to counter terrorism." (Hancock) Specifically, the resolution requests all states to combat the financing of terrorist acts and criminalize behaviors associated with the financing of the terrorist organizations. The digest cites the International Monetary Fund's support of Resolution 1373 to address concerns about terrorist organizations using international financial systems to funnel money as a secondary reason. The United Nations (UN) General Assembly, the United Nations Committee against Torture, and the High Commissioner for Human Rights are also cited as motivating factors. The common theme in these factors are that they are all international organizations influencing Australian legislation, rather than any domestic events being the source of change. The senate digest immediately qualifies the previously listed calls to action by stating that Resolution 1373's real impact on Australia is to "ensure that its laws criminalize terrorist activities, that those laws deal with terrorist financing...and that they be applied... [in]

conjunction with other foreign jurisdictions.” (Hancock) The text goes on to state that “anything more...exceeds our obligations;” this emphasis of this statement is that it reflects that countries which suffer through terrorist attacks are more inclined to pass more comprehensive and restrictive measures than countries not impacted by terrorist attacks.

The stated reasoning for the passage of the Criminal Code Amendment (Terrorism) Act is a general discussion of gaps in constitutional power and the need for to address the inconsistencies. The stated purpose is “to remedy any constitutional deficiencies...by re-enacting it in accordance with State references of power under section 51 (xxxvii) of the Commonwealth Constitution.” (Norberry) On the other hand, the stated purpose for the implementation of the Criminal Code Amendment (Suppression of Terrorist Bombings) Act was to “[implement] the International Convention on the Suppression of Terrorist Bombings,” (among other conventions listed), and to “[amend] the Criminal Code so it includes Convention offences.” (Norberry) The International Convention for the Suppression of Terrorist Bombings was called by the United States following the 1996 truck bombing attack on US military stationed in Saudi Arabia. (Norberry) The convention itself addressed bombings, terrorist use of chemical weapons and biological agents, along with radioactive material. The Australian senate recognized that the convention’s main accomplishments were that it created a “multilateral convention dealing with attacks by terrorist in public places,” and avoided defining terrorism but instead defined “particular conduct that, regardless of its motivation, is condemned internationally.” (Norberry) The convention’s listed requirements were to enact legislation specifically criminalizing “the unlawful and intentional...detonation of an explosive...in...a place

of public use,” to legislate for ancillary offenses, and to establish jurisdiction over such offenses. (Norberry) The senate digest then references the September 11 2001 attacks as a secondary reason for the change.

In 2003 the criminal code was amended once again to further criminalize the financing of terrorist organizations. The criminal code was also amended in relation to Hezbollah, Hamas’ Izz-al-Din-Quassam brigades and the Lashkar-e-Tayyiba organization, listing both as terrorist organizations. Neither group executed a terrorist attack on Australian soil, so Australia’s legislation can be interpreted as a condemnation of their attacks abroad as well as a show of support for their victims. From 2001 to 2002, Izz-al-Din-Quassam’s was very active and carried out multiple attacks within a short time frame as part of the Second Intifada, the second wave of Palestinian conflict against Israel. On the other hand, Lashkar-e-Tayyiba massacred 31 and wounded 47 others in the 2002 Kaluchak massacre in the Indian state of Jammu and Kashmir. The organization initially targeted a tourist bus before the violence changed course and an Indian army facility for family members was targeted as well. Additional legislation passed included the Australian Security Intelligence Organization Legislation Amendment (Terrorism) Act of 2003 which enhanced the ASI’s ability to combat terrorism while also granting special procedural powers related to terrorism offenses. The act prevented unauthorized overseas travel if an individual is specified in a warrant, it apportioned a greater amount of time for suspects to be questioned if an interpreter is needed to translate, and also allowed for greater secrecy in relation to warrants and questioning. Furthermore, the Terrorist Insurance Act was

passed to develop and apply a reinsurance scheme to fill the void from the government's previous withdrawal of terrorism cover by insurance companies.

ITALY

Italy has dealt with multiple terrorist threats, ranging from Communist and Fascists political groups such as The Red Brigades and the Avanguardia Nazionale, to organized crime groups collectively referred to as the Italian mafia. The Years of Lead, *Anni di Piombo*, refers to a time period between 1960 and 1980 of intense terrorism within Italy. The moniker is a reference to lead using the manufacture of bullets. Many assassinations and bombings occurred within this time period. In 1978 former Prime Minister Aldo Moro was kidnapped by the Red Brigades, and killed 55 days later by the group. Aldo Moro served twice as the leader of the Christian Democratic Party. Surrounding the time frame of his kidnapping, Moro had agreed with Italy's Communist Party, a rival group of the Red Brigade, to form a coalition government. (Davies) The formation of a coalition government would inhibit the plans of the Red Brigades to spark a violent Marxist revolution. This is regarded as the main reason for his abduction. Many critics claim that tipoffs were "mishandled or ignored" and that better performance by the Italian government could have prevented Moro's assassination. (Davies) In 1979-1980 marked multiple other assassinations as well.

In 1975, the Minister of Justice, Oronzo Reale, heavily advocated his public order Law 152, referred to as the *Legge Reale*. (Clutterbuck 31) The law was drafted "in response to the right-wing bombings in Brescia and of the Italicus train, and the first three Red Bridge murders in 1974." (Clutterbuck 31) However, the law was proposed to "Parliament and to public opinion as a means of combatting fascist subversion" to lessen opposition from Communist groups such

as The Red Brigade. (Ferrari) The law increased police powers, extended the length an individual could be held without charge, and including additional measures to prevent protestors from concealing their identity during public demonstrations. (Cento and Cooke) The law also introduced incentives for terrorists who dissociated with their terrorist organizations and either assisted authorities or took measures to prevent further criminal/terrorist activity. (Cento and Cooke)

In 1980 Italy passed legislation which redefined terrorism, criminalized behaviors, increased police powers, and lessened sentences for terrorists who cooperated with the police. Decree-law no 625 represents the sense of panic and desperate air of the time. While the legislation does not reference a particular terrorist act for its creation, it recognizes a general atmosphere of for the 'need and urgency to take measures for the protection of democracy and public security.' The law authorizes police while in pursuit of a suspect to search houses, buildings, or blocks of buildings when there is reason to believe the fleeing fugitive is in the area, or if relevant evidence is found to promote such a suspicion. Decree-law no 625 also specifies that crimes committed in the context of terrorism or for the general purpose of subverting democracy the terms of preventive detention will be lengthened by a third of the usual term. If an individual is suspected of committing an aggravated offense for which the sentence would be over four years, then the individual must be detained. Furthermore, in 1980 several extensions were passed for a parliamentary commission on the kidnapping of Aldo Moro.

SPAIN

Spain, among the countries surveyed, has one of the lengthiest histories of terrorism activity within the state. Notably, the prevalence of Basque related terrorism in the past, and now the rise of Islamic terrorism in the present. Spain has 1371 recorded attacks in comparison to the state average of 541, and has 61 legal changes in comparison to the state average of 53. The year with the most recorded attacks is 2001 when 236 attacks occurred, a large portion of which stemmed from violence from the ETA. The ETA stands for Euskadi Ta Askatasuna, a Basque separatist terrorist group formed in 1959 which rose from the Basque Nationalist Party founded in 1894. The ETA seeks to create an independent Basque state in Northern Spain and South-Western France. Since 1968 over 800 deaths can be attributed to ETA violence. In 2001 the ETA executed over 50 attacks, and in the previous year committed over an additional 40 attacks. (“What is Eta?”) One of the most severe attacks in 2001 was a car bombing in Madrid which injured 95 people in total. In total, 164 people were injured in 2001 and 16 people killed. Three years after the car bombing, the 2004 Madrid train bombings occurred. The bombings killed 191 people and injured about 1,800. (Hamilos) The terrorists coordinated the explosions of 10 bombs on four commuter trains at three different train stations. Spanish investigations concluded that Al-Qaeda inspired Islamic militants were the perpetrators behind the attack. (Hamilos) The attack showcased a transition from the Basque threat to a new religion-based Islamic terrorist threat.

Spain's unique trait is that it has chosen to rely on its criminal law to prosecute terrorism, rather than creating legislation specifically for anti-terrorist purposes. (Sunderland) As a result, the criminal code is used to prosecute terrorism rather than legislation tailored specifically for anti-terrorist purposes. Alleged terrorists are prosecuted under normal criminal law following normal criminal procedures. One implication in this regard is that there is a lesser focus on proactively preventing terrorism versus addressing terrorist events after the fact. Another ramification is that Spanish authorities are comparatively less empowered than other states to prosecute terrorists.

A major change in Spain's criminal code is the Organic law of 1995. (Criminal Code) The Organic law addresses sentencing guidelines for persons convicted of terrorist charges, probation for former terrorists who cooperate with authorities, and judicial power to seize assets and gains from criminal/terrorist activities. Additionally, the Organic law removed the statute of limitations for prosecuting terrorist crimes which caused an individual's death, and increased punishments for aiding criminals/terrorists. Furthermore, the law criminalizes participation in a terrorist organization and the holding of weapons or explosives that will be used in commission of a future terrorist attack.

Another critical point in Spain's anti-terror legislative history follows the September 11th attacks in the USA. Influenced by the events of 9/11, Spain enacted a reinsurance scheme for air navigation to account for the risks of terrorism. Spain also adopted Resolution 1373 of the United Nations Security Council. Resolution 1373 was previously discussed as influence in Australian legislation as well, and as mentioned in Scheppele's law review the resolution had a

binding impact on all UN member states. Three areas of development the resolution emphasizes are the need for an inter-state criminalization of terrorist behaviors, the need to undercut the financing of terrorist organizations, and thirdly, the importance of inter-state exchange of intelligence pertinent to counter-terrorism.

Interestingly, Spain did not enact any new anti-terrorist legislation in the aftermath of the 2004 Madrid train bombings. This lack of change reflects Spain's confidence in its current criminal-law based approach and that Spain has all the legislative tools it needs to adequately counter terrorism. (Beckman 118) Spain's inaction also suggests the idea of a point of diminishing returns, or in other words, a ceiling effect for new legislation drafted. At a certain point B, further criminalization of terrorist related behaviors fails to yield any significant counter terrorism effect.

Spain is a special case different from the other four countries surveyed. Spain's sole focus on criminalizing behaviors, rather than enacting special anti-terror legislation makes it a relatively passive approach at counter terrorism. Another peculiarity, in comparison to the other four countries, is that many legislative changes were enacted through decree by the President of the Government of Spain — i.e. the Prime Minister — rather than through parliament. The Spanish response to terrorism seems counter-intuitive upon examination. It would seem that a country which has suffered through so much terrorism would enact special provisions directed at specifically combatting terrorism, rather than Spain's current focus on criminal law. Perhaps, the longer history of terrorism and prevalence of zero causality attacks, has made the occurrence of terrorist attacks less uncommon in Spain, and the demand for

special anti-terrorist laws is comparatively less. As Spain developed its body of criminal law throughout time, it seemed natural to address the constant and long-established threat of Basque terrorism through criminal law as well.

CONCLUSION

States enact anti-terror legislation as a tool for countering terrorism. Legislation is aimed at either bolstering the state's capabilities or undermining the terrorist group's ability to operate. This study focused on answering the question of when do these legislative changes occur? Existing academic research tends to focus on analyzing the efficacy and consequences of counter-terrorism strategies. On the other hand, law reviews generally discuss the constitutionality and legal implications of anti-terror legislation. Both academics and legal scholars have skipped over investigating the pattern of when anti-terror legislative changes typically occur. While taking on a historical analysis, this research is still relevant to understanding current state counter terrorism behavior.

In order to answer this question, this research investigated the legislation of 15 countries across a 30 year time span. The RAND terrorism incidents database was used as the source for information on terrorist attacks for all the countries surveyed. The data was analyzed using a negative binomial regression using STATA statistical software. The results returned a significant relationship with a logarithmic incidence rate ratio coefficient of 1.004659321^x . However, the magnitude of the coefficient was surprising. While an initial change in anti-terror legislation following a terrorist attack is very likely to occur, a large number of attacks are required for a probability of multiple changes to occur. A regression analyses of three different categories of law (criminalization, financial, and surveillance), revealed that only criminalization was significant of the three categories. Furthermore, the coefficient of criminalization was very

similar to the coefficient returned for all legal changes. This indicated that most legal changes can be attributed to criminalizing behaviors. An overview of the data confirms this conclusion. Most changes geared at undercutting financing or increasing state surveillance powers have occurred from 2000 and onward. The prior 20 years surveyed contains mostly changes to criminal codes. The shorter history of financial and surveillance legislative changes can also explain why the results were found insignificant. The importance of this research is that it establishes that anti-terror legislation occurs in response to attacks. However, against initial expectations, the results also allude to that terrorist attacks are not the most decisive indicator of whether legislative changes will follow. The small coefficient implies that other unaccounted for factors play a large role in determining whether changes will occur. Identifying other important variables independent variables is a suggestion for future research.

Following the quantitative analysis, a qualitative analysis ensued. Specific acts of anti-terror legislation were analyzed separately for five different countries. Analysis of specific laws supported the assertion that legislation is enacted in response to attacks. The stated purpose/background of a piece of legislation would reference a terrorist attack or events with international implications, such as UN conventions. In some instances, different pieces of legislation across different states would reference similar motivations for the change.

If this research were to be repeated the quantitative analysis would be changed to include a separate independent variable of attacks with 50 or more injuries and/or deaths. This variable would then be used in a regression with legal changes to determine if higher casualty attacks are more likely to spur legal changes. Secondly, another area of investigation is to

determine if a state is more likely to enact new anti-terror legislation in concurrence with other counter-terrorism actions or separately. Thirdly, if repeated this research would have a greater focus on qualitative analysis. All changes in anti-terror legislation within a five or ten year interval would be discussed. This is because while the quantitative analysis solidifies the relationship between attacks and legislation, the qualitative analysis provides much greater context and a deeper understanding of each state's counter-terrorism approach.

BIBLIOGRAPHY

- Acton, James, Brooke Rogers, and Peter Zimmerman. "Beyond the Dirty Bomb: Rethinking Radiological Terror." *Survival: Global Politics and Strategy* 49, no. 3 (2007): 151-68. Accessed September 17, 2014.
<http://www.tandfonline.com/doi/abs/10.1080/00396330701564760#.VHyO48I5VIY>.
- Anderson, Paul. "Deluded Pro-life Crusader Peter James Knight Kills Guard, but Wanted More Dead after He Brought His Gun and Hatred to an Abortion Clinic in Melbourne." *Herald Sun*. 11 Mar. 2014. Web. 20 July 2015.
- "Anti-terrorism Act." *Parliament of Canada*. Web. 20 July 2015.
- Beckman, James. "Spain." *Comparative Legal Approaches to Homeland Security and Anti-terrorism*. Aldershot, England: Ashgate Pub., 2007. Print.
- "Bill Text104th Congress (1995-1996) S.735.ENR." Bill Text. Accessed November 28, 2014.
<http://thomas.loc.gov/cgi-bin/query/z?c104:S.735.ENR:>.
- Botelho, Greg, and Ray Sanchez. "Charlie Hebdo Attack: Three Terrorists Killed in Raids - CNN.com." CNN. Cable News Network, 21 Jan. 2015. Web. 27 July 2015.
- Bryden, John. "First Report - Anti-Terrorism Act." *First Report*. 1 Nov. 2001. Web. 13 July 2015.
- Cento, Anna, and Philip Cooke. "Ending Terrorism in Italy." *Routledge Studies in Extremism and Democracy* 18 (2013). Print.
- Chrisafis, Angelique. "France Passes New Surveillance Law in Wake of Charlie Hebdo Attack." *The Guardian*. The Guardian, 5 May 2015. Web. 27 July 2015.

Clutterbuck, Richard L. *Terrorism, Drugs, and Crime in Europe: After 1992*. London: Routledge, 1990. Print.

Crenshaw, Martha. "Theories of Terrorism: Instrumental and Organizational Approaches."

Journal of Strategic Studies 10, no. 4 (2008): 13-31. Accessed November 1, 2014.

<http://www.tandfonline.com/doi/abs/10.1080/01402398708437313#.VHyIBcl5VIY>.

"Criminal Code." *Translations from Spanish Law* (2011): 1-200. *Normativa*. Ministry of Justice General Technical Secretary. Web. 20 July 2015.

<<http://www.mjusticia.gob.es/cs/Satellite/Portal/en/actividad-legislativa/normativa>>.

Dahlburg, John-Thor. "Bomb Planted on Paris Train Kills 2, Hurts 85." *Los Angeles Times*. Los Angeles Times, 4 Dec. 1996. Web. 13 July 2015.

Davies, Lizzie. "Aldo Moro Mystery: Italian Prosecutors Revisit Former PM's 1978 Murder." *The Guardian*. The Guardian, 17 July 2013. Web. 29 July 2015.

Dearden, Lizzie. "French Parliament Approves 'intrusive' Surveillance Laws after Charlie Hebdo Attack." *The Independent*. Independent Digital News and Media, 6 May 2015. Web. 27 July 2015.

Dekel, Aviv (Cohen)¹. "The Unique Challenge Of Dual-Purpose Organizations: Comparative Analysis Of U.S. And Israel Approaches To Combating The Finance Of Terrorism." *Loyola Of Los Angeles International & Comparative Law Review* 35.3 (2013): 389-407. Index to Legal Periodicals & Books Full Text (H.W. Wilson). Web. 28 July 2015.

Fairbairn, Joyce. "Second Report." *Second Report*. 10 Dec. 2001. Web. 13 July 2015.

Ferrari, Vincenzo. "The Policy Of Law And Order In Italy: The Voice Of The Power And Its

Impact." *International Journal Of The Sociology Of Law* 9.1 (1981): 23. Supplemental Index. Web. 28 July 2015.

"Glossary." U.S. Department of State. Accessed November 28, 2014.

<http://www.state.gov/j/ct/info/c16718.htm>.

Hamilos, Paul. "The Worst Islamist Attack in European History." *The Guardian*. The Guardian, 31 Oct. 2007. Web. 20 July 2015.

Hancock, Nathan. "Security Legislation Amendment (Terrorism) Bill 2002 [No. 2]." *Parliament of Australia*. Department of the Parliamentary Library, 30 Apr. 2002. Web. 13 July 2015.

Horowitz, Michael. "Non-State Actors and the Diffusion of Innovations: The Case of Suicide Terrorism." *International Organization* 64, no. 1 (2010): 33-64. Accessed October 1, 2014.

<http://journals.cambridge.org/action/displayFulltext?type=1&fid=7093188&jid=INO&volumeId=64&issueId=01&aid=7093180>.

Huddy, Leonie, Stanley Feldman, Charles Taber, and Gallya Lahav. "Threat, Anxiety, and Support of Antiterrorism Policies." *American Journal of Political Science* 49, no. 3 (2005): 593-608. Accessed September 9, 2014.

<http://www.uvm.edu/~dguber/POLS234/articles/huddy.pdf>.

Jiwa, Salim. "Suspects in the Air India Bombing." *ABC News*. ABC News Network. Web. 20 July 2015.

"July 7 2005 London Bombings Fast Facts." CNN. Cable News Network, 13 July 2015. Web. 28 July 2015.

Kilroy, Christopher. "AirDisaster.Com: Special Report: Air India Flight 182." *AirDisaster.Com: Special Report: Air India Flight 182*. Web. 20 July 2015.

Kydd, Andrew, and Barbara Walter. "The Strategies of Terrorism." *International Security*, 2008, 49-80.

MacDonald, Stuart K. The Role of the Courts in Imposing Terrorism Prevention and Investigation Measures: Normative Duality and Legal Realism. 1 May 2013. *Criminal Law and Philosophy* 2013. Web. 13 July 2015

Masson, Paul. "Terrorisme Et Atteintes à La Sûreté De L'Etat." *Senat.fr*. 30 June 1986. Web. 13 July 2015.

Miller, Gregory. "Confronting Terrorisms: Group Motivation and Successful State Policies." *Terrorism and Political Violence* 19, no. 3 (2007). Accessed September 1, 2014.
<http://www.tandfonline.com/>.

Norberry, Jennifer. "Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002." *Information and Research Services* 120 (2002). *Parliament of Australia*. Department of the Parliamentary Library. Web. 14 July 2015.
<<http://www.aph.gov.au/binaries/library/pubs/bd/2001-02/02bd120.pdf>>.

Norberry, Jennifer. "Criminal Code Amendment (Terrorism) Bill 2002." *Parliament of Australia*. Department of the Parliamentary Library, 21 Jan. 2003. Web. 13 July 2015.

Pluta, Anna, and Peter Zimmerman. "Nuclear Terrorism: A Disheartening Dissent." *Survival: Global Politics and Strategy* 48, no. 2 (2006): 55-69. Accessed October 1, 2014.
<http://www.tandfonline.com/doi/abs/10.1080/00396330600765583#.VHyP6MI5VIY>.

Richards, A. "Terrorist Groups and Political Fronts: The IRA, Sinn Fein, the Peace Process and Democracy." *Terrorism and Political Violence* 13, no. 4 (2010): 72-89. Accessed September 15, 2014.

<http://www.tandfonline.com/doi/pdf/10.1080/09546550109609700>.

Riding, Alan. "The Militant Group Behind the Hijacking." *The New York Times*. The New York Times, 26 Dec. 1994. Web. 13 July 2015.

Scheppele, Kim Lane, Other People's PATRIOT Acts: Europe's Response to September 11. *Loyola Law Review New Orleans*, Vol. 50, pp. 89-148, 2004. Available at SSRN:

<http://ssrn.com/abstract=747728>

Sunderland, Judith. "Human Rights Watch." *Setting an Example? Counter-Terrorism Measures in Spain* 17.1 (2005): 1-65. *Human Rights Watch*. Human Rights Watch. Web. 20 July 2015. <<http://www.hrw.org/reports/2005/spain0105/spain0105.pdf>>.

U.S. House. 104th Congress, 1st Session. *Antiterrorism and Effective Death Penalty Act of 1996* ONLINE. Thomas. Available: <http://thomas.loc.gov/cgi-bin/query/z?c104:S.735.ENR>: [28 November 2014]

U.S. House. 107th Congress, 1st Session. *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) ACT of 2001* ONLINE. Thomas. Available: <http://thomas.loc.gov/cgi-bin/query/z?c107:H.R.3162.ENR>:

Vriens, Lauren. "Armed Islamic Group (Algeria, Islamists)." *Council on Foreign Relations*. Council on Foreign Relations, 27 May 2009. Web. 13 July 2015.

"What Is Eta? - BBC News." BBC News. British Broadcasting Company, 20 Oct. 2011. Web. 28 July 2015.

Willsher, Kim. "France Approves 'Big Brother' Surveillance Powers despite UN Concern." The Guardian. The Guardian, 24 July 2015. Web. 27 July 2015.

Legislative Databases Searched

"Agencia Estatal Boletín Oficial Del Estado." *BOE.es*. Ministry of the President. Web. 20 July 2015.

BMJV. Federal Justice and Consumer Affairs Ministry. Web. 20 July 2015.

"BOE / Legislation (IberLex)." *BOE / Legislation (IberLex)*. The EU Publications Office. Web. 20 July 2015.

"CanLII - Canadian Legal Information Institute." *CanLII - Canadian Legal Information Institute*. Federation of Law Societies of Canada. Web. 20 July 2015.

"ComLaw Home." *ComLaw Home*. Australian Government. Web. 20 July 2015.

"Das Rechtsportal." *Juris*. Web. 20 July 2015.

"Fight against Terrorism." *Farnesina*. Ministry of Foreign Affairs. Web. 20 July 2015.

"Forsiden." *Lovdata*. Norwegian Law Gazette. Web. 20 July 2015.

"Germany - Counter-Terrorism." *Legislationline*. OSCE Office for Democratic Institutions and Human Rights. Web. 20 July 2015.

"Government.se." *Regeringskansliet*. Swedish Government. Web. 20 July 2015.

"Indian Legislation by Manupatra." *Indian Legislation by Manupatra*. Manupatra. Web. 20 July

2015.

"Justice Laws Website." *Department of Justice*. Department of Justice. Web. 20 July 2015.

Lal, Vinay. "Manas: History and Politics, Anti Terrorism Legislation." *Manas: History and Politics, Anti Terrorism Legislation*. University of California: Los Angeles. Web. 20 July 2015.

"Laws to Combat Terrorism." *Australian National Security*. Australian Government. Web. 20 July 2015.

"Le Service Public De L'accès Au Droit." *Legifrance*. General Secretariat of the Government. Web. 20 July 2015.

"Legislation Turkey." *Legislation Turkey*. Lexadin, 9 Mar. 2010. Web. 20 July 2015.

"Legislation.gov.uk." *Legislation.gov.uk*. The National Archives. Web. 20 July 2015.

"Legislative Search." *Cámara De Representantes*. Cámara De Representantes. Web. 20 July 2015.

Lepsius, Oliver. "Liberty, Security, and Terrorism: The Legal Position in Germany." *German Law Journal* 05.05 (2004): 435-60. *German Law Journal*. German Law Journal. Web. 20 July 2015. <https://www.germanlawjournal.com/pdfs/Vol05No05/PDF_Vol_05_No_05_435-460_special_issue_Lepsius.pdf>.

"Ley Chile - Búsqueda Simple." *Ley Chile - Búsqueda Simple*. Library of Congress. Web. 20 July 2015.

Lindkilde, Lasse, and Mark Sedgwick. "Impact of Counter-Terrorism on Communities: Denmark Background Report." *Institute for Strategic Dialogue: Country Background Report: 1-73*. *Strategic Dialogue*. Strategic Dialogue. Web. 20 July 2015.

<http://www.strategicdialogue.org/Country_report_Denmark_AD_FW.pdf>.

Malik, Siddharth. "Anti-terrorism Laws in India and the Need of POTA." *Anti-terrorism Laws in India and The Need of POTA*. Legal Service India. Web. 20 July 2015.

"MASAK- Mali Suçları Araştırma Kurulu." *MASAK- Mali Suçları Araştırma Kurulu*. Ministry of Finance. Web. 20 July 2015.

"Parl.gc.ca." *Parliament of Canada*. Parliament of Canada. Web. 20 July 2015.

"Profiles on Counter-Terrorism Capacity: Sweden." *Committee on Experts on Terrorism (Codexter) (2014): 1-13*. Council of Europe. Council of Europe. Web. 20 July 2015.
<http://www.coe.int/t/dlapil/codexter/Country_Profiles/Profiles-2014-Sweden_EN.pdf>.

Ramalingam, Vidhya. "Impact of Counter-Terrorism on Communities: Sweden Background Report." *Institute for Strategic Dialogue: 1-53*. Institute for Strategic Dialogue. Institute for Strategic Dialogue. Web. 20 July 2015.

<http://www.strategicdialogue.org/Sweden_paper_SF_FINAL.docx.pdf>.

RAND Database of Worldwide Terrorism Incidents. RAND National Defense Research Institute Project, 23 October 2014. Web. 20 July 2015. <http://smapp.rand.org/rwtid>.

"Retsinformation.dk." *Forside*. Civil Affairs. Web. 20 July 2015.

Tarapues, Diego. *An Overview of the Terrorism in Colombia: Context, National Legislation and Anti-terrorism Measures*. 4th ed. Vol. 1. Georg-August-Universität, Göttingen, 2012. 29-37. Print.

"The Italian Legal Database." *N-Lex*. Publications Office of the European Union. Web. 20 July 2015.

"THOMAS." *THOMAS (Library of Congress)*. Library of Congress. Web. 20 July 2015.

"Translated Norwegian Legislation." *Translated Norwegian Legislation*. University of Oslo. Web. 20 July 2015.

"Turkey." *IBA Anti-Money Laundering Forum*. Anti-Money Laundering Legislation Implementation Working Group, 4 Mar. 2014. Web. 20 July 2015.

"Velkommen Til Politiets Efterretningstjenestes Hjemmeside." *Forside*. PET: Legal Department. Web. 20 July 2015.