

Legislative response to international terrorism

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Abstract

This article presents a new dataset dubbed LeRIT which identifies the legislative response to international terrorism in 20 liberal Western democracies, 2001–08. The dataset distinguishes 30 regulations governments may implement with the intention of reducing the risk of terrorist attacks. LeRIT covers legislation dealing with, inter alia, the rights of the executive to intercept, collect and store communications for anti-terrorist purposes, changes in pre-charge detention for terror suspects and modifications of immigration regimes. I aggregate these distinct regulations into three composite indices, distinguishing according to the main target of regulations, citizens, suspects, and immigrants. This dataset contributes to the analysis of the consequences of international terrorism and provides a detailed account of the patterns in the legislative response to international terrorism from 2000 to 2008. I show that while all liberal Western democracies reinforced their counter-terrorist legislation, the scope of countries' regulatory response to terrorism differed largely. Some countries (i.e. the UK and the USA) implemented the full battery of regulatory responses while others (i.e. Scandinavian countries but also Canada and Switzerland) remained reluctant to cut deeply into the net of civil rights for citizens, suspects and immigrants alike. To further demonstrate the potential usefulness of the dataset, the article includes an example of analysis on the legislative response to international terrorism. The reported baseline model suggests that a combination of risk assessment and political factors influence governments' willingness to cut deep into the net of civil rights.

Keywords

counter-terrorism, international terrorism, legislation, reforms

Introduction

The declaration of a 'war on terror' marked the most obvious, but by no means the only response to the rise in international terrorism. Immediately after the attacks of 11 September 2001, governments started to overhaul their countries' systems of anti-terrorist legislation. This article introduces a dataset – dubbed LeRIT for *Legislative Response to International Terrorism* – which allows the study of the regulatory response to international terrorism across 20 Western democracies. Citizens of these countries were the most obvious target of Al-Qaeda terrorism, as documented by Berner's (2007) collection of Al-Qaeda texts and speeches against the Western world.

LeRIT reveals that, on average, Western countries after 11 September reduced civil freedom, limited

procedural rights of terror suspects, and made immigration laws far more restrictive. The shock¹ of the attacks on New York and Washington marked a political watershed triggering legislative reactions even in countries that previously experienced domestic and, at times, international terrorism. Never before had a leader of the industrialized world declared 'war on terrorism' and never had so many people felt threatened by an organization they hardly knew before the attacks.

¹ Lee, Enders & Sandler (2009) use sophisticated time-series methods to demonstrate that with the information available before 11 September 2001, the attacks were not predictable

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The attacks also changed the willingness of political leaders and voters alike to trade civil freedoms for security from terrorism.² In the words of UK Home Secretary Reid, governments and civilians across democracies were to confront 'the most sustained period of severe threat since the end of the Second World War' (Bonner, 2007). And governments reacted accordingly: LeRIT shows that a wave of immediate anti-terrorist security reforms swashed from one country to another, eventually leaving the security laws of no liberal democracy unchanged. Governments adjusted relevant laws for security purposes in an unprecedented fashion in terms of both speed and scope of their legislative action. The number of restrictive counter-terrorist regulations across the countries included in the sample rose from 3.8 before 11 September 2001 to 16.6 in 2008, on average. This is a general trend. For example, in Spain the number of regulations doubled from 12 to 23, in Germany they quadrupled from 4 to 16, in the UK the number of regulations jumped from 3 to 28.

The dataset distinguishes 30 regulations governments may implement with the intention of reducing the risk of terrorist attacks, covering legislation dealing with terrorist suspects, immigrants, and foreigners, and the rights of the executive to survey, collect, and combine information from various sources into a grid search, among others. For expository purposes, I aggregate these distinct regulations in three composite indices distinguishing the main target of regulations, citizens, suspects, and immigrants. I am interested here in describing trends of legislative response across targets of regulations rather than the recurrence of similar regulations across countries.³

LeRIT is to my knowledge the most comprehensive collection of anti-terrorist acts enacted by liberal democratic countries to deal with international terrorism after September 11. This Special Data Feature explains the construction of the dataset, discusses the variation in the legislative response across liberal democracies, and sketches the patterns of legislative responses over time.

² Of course, governments tend to reduce some civil rights during wars and crises, and also during terrorist campaigns. For example, the German government reduced freedom of information after the hijackings of the 'Landshut' (the name of the hijacked Lufthansa plane) and Hans-Martin Schleyer and Italy did so during the 'years of lead' from 1968 to the 1980s. For a broader discussion about limitations of freedoms for national security, see Coliver et al. (1999) and Gleditsch & Høgetveit (1984). See also Enders & Sandler (2006) for a political analysis of the trade-off between security from terrorism and civil liberties.

³ LeRIT provides information on each regulation and therefore is open to different methods of data aggregation.

To demonstrate the usefulness of the dataset, I also analyze a baseline model that sheds light on how governments adjusted to the common shock of international terrorism. Tentative analyses suggest that four factors affect their legislative response: the status and economic power of a country, its involvement in Afghanistan and Iraq, the share of its Muslim population, and political preferences of the government. LeRIT will also prove useful for diverse research agendas. For example, it obviously allows the study of the political and social consequences of the counter-terrorist regulatory reforms and may improve the identification of the effect of immigration laws on immigration flows and stocks.

Data collection

LeRIT codes the national legislative anti-terrorist regulations implemented between 2000 and 2008 in Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom, and the United States. The focus on Western liberal democracies reduces causal heterogeneity in the sample to an extent which cannot easily be accounted for by the inclusion of control variables. Indeed, all countries included in my sample had relatively liberal laws before the September 11 attacks; their governments perceived international terrorism as a threat against their civilians, and the level of democracy in these countries ensured that governments were responsive to popular demands. These conditions have to be satisfied simultaneously. Limiting the data collection to 20 relatively homogeneous Western liberal democracies increases the descriptive and internal validity of causal inferences. The external validity of causal inferences may decline, but it would be difficult to account for the obvious heterogeneity in the functioning of the political system and the threat perception in a broader sample. Yet, these apparent spatial limits of the dataset prevent the generalization of findings to autocratic or authoritarian countries and to non-Western democracies.

The employed case selection rule avoids sampling on the dependent variable (for a discussion of the effects, see King, Keohane & Verba, 1994: 129; Brady & Collier, 2004: 99). By sampling only liberal democracies, I hold the important differences in political decision-making processes between democracies and autocracies constant. These differences cannot be straightforwardly modeled, as they affect the influence of other systemic covariates on the legal response to terrorism. Sampling only liberal democracies improves the identification of the effect of

other explanatory variables. The dataset, thus, explores restrictions of liberties in a subset of liberal democracies and aims at contributing to the tradition of the literature on political reforms in Western democracies (i.e. compare the samples in Iversen & Soskice, 2009; Plümper, Troeger & Winner, 2009; Scruggs, 1999).

*Data sources*⁴

Roughly half of the countries included in LeRIT implemented explicit anti-terrorist laws. In the United States, the Patriot Act amended 12 other acts and regulations ranging from laws on money laundering to telemarketing and consumer fraud acts. Similarly, in 2002 the German government implemented the *Gesetz zur Bekämpfung des internationalen Terrorismus* (Law for fighting international terrorism), which modified various security statutes. In contrast, and despite the train bombings in Madrid, the Spanish government refrained from implementing any legislation that explicitly addressed the threat of international terrorism. This does not mean, however, that Spain did not respond at all to the threat of international terrorism (Beckman, 2007). This country for example, implemented new measures curtailing the legal steps normally required for public trials (the so called ‘fast trials’ law) and increased the maximum punishment for terrorist crimes. Though these laws do not explicitly mention anti-terrorism purposes in their title, their counter-terrorist background becomes clear.

Legislative responses to international terrorism consist of a combination of new laws and amendments to existing laws. Some governments made their commitment against terrorism very explicit and pooled their response by issuing a single and comprehensive ‘anti-terrorism’ law. To cover these variants of implementing counter-terrorist legislation and avoid serious selection bias, I coded not only laws which explicitly mention ‘terrorism’ in their titles. Rather, I identified regulations which governments used to counter terrorism. Focusing on the set of regulatory measures against terrorism rather than on explicit counter-terrorist reforms provides for an unbiased metric of state behavior in the aftermath of the terrorist shocks. Accordingly, the data collection process did not begin with the identification of relevant legal acts such as the US Patriot Act, but by identifying regulations and then coding whether a restrictive law exists in a certain country-year. For example, I coded ‘access of

communication data’ (ACD) as 1 if and only if governments allowed security and intelligence agencies to monitor and retain electronic communication. I reviewed the state of primary legislation⁵ prior to the 11 September 2001 attacks and then tracked all changes in these regulations until 2008.

Coding was also informed by country studies and compendiums on national and international laws against terrorism. While books and articles constitute secondary sources, I acknowledge the contribution of these sources to my coding efforts. In all cases in which I relied on secondary sources, I cross-checked and validated information using primary sources.

I solely collect and code countries’ legislative responses. This has important advantages, but some limitations. Governments may rely upon extrajudicial counter-terrorist measures. The USA’s extraordinary rendition practice and the Guantanamo Bay Detention Camp were never backed by legislative acts of the US government. US courts have to decide whether or not these measures were legal or whether Guantanamo Bay is outside US legislation.

Dimensions of the legislative response to terrorism

The presence of restrictive regulations and the absence of rights of citizens and suspects is coded 1, while the absence of restrictive regulation and the presence of citizen and suspects rights is coded 0. In order to account for the initial regulatory conditions across liberal democracies before the September 11 attacks, the data include the regulations already present in year 2000. Changes from 0 to 1 imply that either some regulations were implemented ex novo to respond to security concerns or that existing regulations were explicitly extended to cover international terrorism issues. For example, in the USA the last changes of anti-terrorist regulations before 2001 occurred in 1996, when the Clinton government introduced the ‘The Antiterrorism and Effective Death Penalty Act’ after the Oklahoma bombing in April 1995. These measures already gave secret services the right to electronically survey suspected terrorists and had a huge impact on the habeas corpus law of the United States. Accordingly, in my dataset two out of nine regulations applying to suspects were present in the USA before the 2001 terrorist attacks and therefore were coded 1 in the year 2000. By the same token, countries confronted with terrorism before 11 September 2001 – such as France, Germany, Italy, Spain and the UK – displayed

⁴ Primary sources of legal materials and secondary sources can be obtained from the online appendix at <http://www.prio.no/jpr/datasets> and on my project website at <http://www.polsci.org/epifanio>

⁵ The term primary legislation denotes the main laws passed by the legislative bodies of a state.

higher levels of initial restrictions already in force in the year 2000.

Yet, even in these countries most of the regulatory changes occurred after 2001 and their responses to international terrorism were still very different. While France increased regulations even further, Spain was more reluctant to implement new laws. Indeed, the initial level of regulations in the year 2000 totaled 13 restrictions in France, 4 in Germany and Italy, 12 in Spain, and 3 in the UK. In 2008, the total number of restrictions in these countries reached 22 in France, 16 in Germany, 20 in Italy, 23 in Spain, and 28 in the UK.

In cases where governments implemented regulations after 11 September 2001 but before 31 December 2001, I coded the regulatory changes in 2001.⁶ Finally, when a regulation ceased to exist either because it was meant to apply for a limited period of time or because some bodies (such as constitutional courts) vetoed it, this regulation is coded 0 starting from the year it was nullified.

While numerous ways of categorizing counter-terrorist regulations exist, I follow a theoretical logic which classifies legislative responses to terrorism by the target of regulations, that is, whether the regulation affects all individuals, only suspects, or foreigners and immigrants. This categorization follows the legal tradition of distinguishing privacy rights, procedural rights, and immigration laws.

LeRIT covers 30 regulations⁷ which are roughly evenly distributed between the above categories. 13 variables seek to capture the different subfields of privacy, a total of nine regulations deal with procedural rights, and eight regulations address issues related to immigration laws. Yet, the emerging boundaries are not necessarily clearcut. For example, the storage of the results of a biometric test for terrorist suspects on a database affects both privacy and procedural rights. I deal with these aspects by examining these laws methodically and separating them according to their scope. These categories allow a straightforward interpretation, as restrictions on privacy rights affect all individuals within a jurisdiction, immigration laws exclusively concern foreigners, and procedural rights solely impinge on suspects.

Privacy Laws. Privacy laws encompass a set of regulations dealing with *physical*, *informational*, and *spatial privacy* (Grossman, 2007). Physical privacy defines the set of safeguards against any unlawful intervention into a person's body. I focus on biometrics in passports and DNA database profiles enforcement agencies use for identifying suspects of crimes. For example, the 2003 Criminal Justice Act enacted in the UK provides an example for the retention of DNA samples and profiles. In the UK, police forces can now retain DNA data on those arrested even if they are not charged with any crime.

Informational privacy refers to the acquisition of information on communications and movements of people through the tracking and retention of personal records. This dimension codes the existence of compulsory retention of data from airlines, universities, business companies, banks, and financial institutions, the storage of such data, and their transmission to law enforcement and intelligence agencies. It also summarizes any law which introduced systematic screening of personal data through 'grid search' and the interception of communication and data retention from Internet service providers. For example, in France the 2003 *Loi pour la sécurité intérieure* (Law on internal security) required Internet service providers, Internet cafes, hosting providers, and operators to communicate the traffic data, called numbers, and IP addresses to specialized services in case of investigations related to suspect terrorist activities. Likewise, in the USA the MATRIX allowed for data mining through the matching of information retained by the government and commercial databases in order to find patterns of suspicious behavior within the population.⁸

Spatial privacy protects against the interference into personal spaces. Issues of spatial privacy regard the use of surveillance tools such as undercover surveillance, CCTV, and number plate recognition systems. In the UK, the automatic number plate recognition system allows for the storage of car registrations and images of the drivers collected by public cameras.

Procedural Laws. Criminal procedural laws set the protection of physical liberty (in particular freedom from arbitrary arrest or detention) and guarantee basic procedural rights encompassed by the right to a fair trial. These rights protect individuals from the arbitrary curtailment or deprivation of basic rights and freedoms and

⁶ Only the United Kingdom changed the regulation covered by LeRIT between 1 January and 11 September 2001. The British 'Terrorism Act 2000' entered into force on 19 February. To allow easy identification of the regulatory status quo in all covered countries, I include changes of the regulation put into place by this act in the coding for the UK in 2000. In other words, the year 2000 describes the regulatory status quo on the eve of 11 September.

⁷ A detailed discussion of these 30 regulations can be found in the online appendix and the codebook to this dataset.

⁸ The Multistate Anti-Terrorism Regional Information Exchange System (MATRIX) was voided out by a federal court in 2005 (Cole & Dempsey, 2006).

include the prohibition of arbitrary arrest and detention, the right to legal counsel, the prohibition of incommunicado detention, and the right to know the reason for arrest (ICCPR, art. 14). Overall, procedural rights cover the introduction of new criminal offences, exceptional procedural measures for terrorist suspects, pre-charge detention, and restrictions on personal freedoms such as house arrest and restrictions on movement within a country. For example, in the Netherlands the 2004 Crimes of Terrorism Act punishes conspiracy to commit a serious act of terrorism, while in France the 2006 *Loi relative à la lutte contre le terrorisme* increases the maximum period of police custody in terrorism cases. Terrorist suspects can nowadays be kept in custody for a maximum of six days without being put under formal, criminal investigation. The previous duration was four days.

Immigration Laws. Immigration law refers to national policies which control the phenomenon of immigration within a country by establishing the legal status of foreigners in matters such as citizenship, admission and expulsion, visa requirements, and the treatment of asylum-seekers. The inclusion of immigration laws in this dataset reveals the direction of the regulatory responses to terrorism after 11 September 2001. The ‘internationalism’ of Al-Qaeda gave governments an incentive to directly address issues related to immigration. This field encompasses regulations dealing with, inter alia, the withdrawal of entry and stay permits for *danger* to (rather than a serious breach of) public order, the revocation of citizenship from naturalized citizens deemed as a threat to public order, and the immediate deportation of any alien who commits acts that are allegedly anti-Western, unpatriotic, and against democratic rights.

Summary

Anti-terrorist regulation is multifaceted and multidimensional. I distinguished regulations according to their immediate targets. This categorization follows legal traditions, but it also makes sense from a political science perspective: cuts into privacy rights beyond what voters accept should reduce political support for the incumbent; cuts into procedural rights should have little (potentially positive) effect on the incumbent’s political support; cuts into the rights of foreigners and immigrants may have little direct effect, but these regulations are usually politicized and partisan ideologies on immigration policies vary significantly. Since political theories usually assume partisan or opportunistic (or both) parties, we should expect significant differences in the

political response to terrorism along the lines of partisanship (predicted by partisan models) and political responsiveness (predicted by opportunistic models).

Whether researchers prefer to analyze these three categories or the individual regulations clearly depends on the research question. If, for example, researchers are interested in the response to terrorism per se, a comparative study of the 30 distinct regulations may be more informative than an analysis of the aggregates. Yet, for a quick descriptive overview or an in-depth analysis of the degree of discrimination in the responses to terrorism, an analysis of the categories appears to be more appropriate.

Trends

Governments responded to the rise in international terrorism by reviewing all existing regulations that could allegedly reduce the threat of terrorism. In re-regulating important laws, government authorities attained larger autonomy to collect information on citizens and non-citizens and to analyze these data more effectively. They limited the ability of militants to establish organized groups which may serve as nuclei for terror cells and made the infiltration of foreigners into their territory more difficult. The first response category encompasses restrictions to privacy rights. For example, before 11 September 2001 no country obliged companies to report ‘suspect’ information to secret services and police forces; in 2008, all but five countries (Sweden, Switzerland, Greece, Portugal, and Spain) had implemented this regulation. Banks in all but one country, Switzerland, now provide information on international bank transfers to security authorities. In 2000, this regulation existed only in the Netherlands.

Table I displays the overall trend in privacy law regulations by country. Observe, first, that all countries reduced privacy rights. Some countries, especially the UK and the USA, have now implemented the full battery of measures limiting privacy rights. In 2000, both countries guaranteed privacy rights almost completely. Before September 11, only France had implemented far-reaching reductions in privacy rights. Few countries refrained from giving extensive rights to secret services and police forces. The Scandinavian countries and Canada and Switzerland responded less than other Western liberal countries. Sweden restricted privacy rights only when policy domains were covered by the EU Common Position 2001/931/JHA of 27 December 2001 and the Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism. This legislative framework defines a common set of measures

Table I. Level of restrictions on privacy rights

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Australia	1	1	3	3	5	8	8	8	8
Austria	0	1	5	5	7	8	9	9	9
Belgium	2	3	3	9	9	9	9	9	9
Canada	2	5	6	7	7	7	7	7	6
Denmark	0	0	3	3	3	3	5	5	5
Finland	1	1	1	1	2	2	3	3	4
France	6	8	8	9	9	10	10	10	10
Germany	4	4	7	7	6	7	7	7	8
Greece	3	5	5	4	8	8	8	9	9
Ireland	2	3	3	3	3	8	8	9	9
Italy	1	3	3	6	6	6	7	7	8
Netherlands	2	4	5	5	8	9	10	10	10
New Zealand	3	3	5	10	10	10	10	10	10
Norway	1	1	1	3	3	5	5	5	5
Portugal	3	3	3	3	4	7	8	9	10
Spain	2	3	3	6	7	8	9	9	9
Sweden	1	1	1	3	3	5	5	5	5
Switzerland	3	4	4	6	6	6	6	6	6
United Kingdom	2	7	7	7	7	8	11	12	12
United States	2	10	11	11	11	12	12	12	12
country mean	2.05	3.5	4.35	5.55	6.2	7.3	7.85	8.05	8.2

across European Union countries in order to deal with terrorism.

Table II displays the same information for legislations solely affecting terror suspects. Before the terrorist attacks in New York and Washington, Spain endowed police forces and the judiciary with the most comprehensive rights in dealing with criminal and terror suspects. Resulting from the country's legacy of coping with the Euskadi Ta Askatasuna (ETA), the government had already implemented restrictive laws allowing prosecutors to keep individuals suspected of ETA membership in incommunicado detention for up to 13 days. More importantly, alleged ETA members could be held in pre-trial detention for up to four years.

The US and UK governments responded most radically to the terrorist attacks on their soil. The UK has now the longest period of detention without charge of all countries included in the sample. Pre-charge detention in Britain has increased substantively from 7 days in 2000 to 28 days in 2006.⁹ In comparison, Australia has

the second longest pre-charge detention. Suspects can be held for a maximum of 12 days without charge. All other countries, including the USA, were more reluctant to provide police forces with similar extensive rights. In the USA, the period of pre-charge detention for criminal suspects, including those suspected of terrorist offences, cannot exceed 48 hours. Yet, the US government extended the rights of the FBI, the CIA, and the newly established Department of Homeland Security. New laws introduced exceptional criminal procedures (infiltration and detention, special searches, bugging devices, etc.) and broadened the range of circumstances in which phone tapping and night searches are permissible in cases of terrorism. Table III shows the major changes in the dimension concerning foreigners and immigrants.

Foreign nationals appear to be the main target of legislative counteractions. The USA and the UK implemented the most comprehensive reforms of their immigration and asylum policies. In the aftermath of the New York and Washington terrorist attacks, the US Patriot Act allowed aliens suspected of terrorism to be detained for seven days and for further restrictions on visa, entry, border control, and the right of foreigners to organize themselves. The definition of terrorist activity was extended to possibly include charities and NGOs. Several other anti-terrorist and immigration measures expanded the autonomy of border control agencies to

⁹ The UK Terrorism Act in 2000 extended the length of pre-charge detention to 7 days. This maximum length of detention has been extended to 14 days by the 2003 Criminal Justice Act and then to 28 days by the 2006 Terrorism Act. Finally, the 2008 Counter Terrorism Act has allowed for post-charge questioning of those charged but awaiting trial.

Table II. Level of restrictions on procedural rights

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Australia	1	1	2	2	2	6	6	6	6
Austria	0	0	0	0	1	1	4	4	4
Belgium	0	0	0	1	1	1	1	1	1
Canada	0	6	6	6	6	6	6	6	6
Denmark	1	1	1	1	2	2	3	3	3
Finland	1	1	1	1	1	1	1	1	1
France	4	6	6	6	6	6	6	6	6
Germany	0	0	3	3	3	3	3	3	3
Greece	1	2	2	2	3	3	3	3	3
Ireland	0	0	0	0	0	1	1	1	1
Italy	2	7	7	7	7	7	7	7	7
Netherlands	0	0	0	0	3	3	3	3	3
New Zealand	0	0	2	2	2	2	2	2	2
Norway	0	0	0	0	0	0	0	0	3
Portugal	0	0	0	0	1	2	2	2	2
Spain	8	8	8	8	8	8	8	8	8
Sweden	1	1	1	1	1	1	2	2	2
Switzerland	0	0	0	1	1	1	1	1	1
United Kingdom	1	5	5	6	6	5	8	8	8
United States	1	7	8	8	8	8	8	8	8
country mean	1.05	2.25	2.6	2.75	3.1	3.35	3.75	3.75	3.9

Table III. Level of restrictions on immigration and foreigners laws

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Australia	1	6	6	6	6	6	6	6	6
Austria	0	0	5	5	5	6	6	6	6
Belgium	0	0	0	3	3	3	3	3	3
Canada	0	2	4	5	5	5	5	5	5
Denmark	0	0	3	4	4	4	4	4	4
Finland	0	0	0	0	0	2	2	2	2
France	3	3	3	3	5	6	6	6	6
Germany	0	0	0	0	1	4	5	5	5
Greece	2	2	2	2	3	3	3	3	3
Ireland	1	1	1	1	4	4	5	5	5
Italy	1	2	5	5	5	5	5	5	5
Netherlands	1	2	2	2	6	6	6	6	6
New Zealand	0	0	1	1	1	1	1	1	1
Norway	0	0	2	2	2	2	2	2	2
Portugal	0	2	2	3	3	3	3	3	3
Spain	2	2	2	4	6	6	6	6	6
Sweden	0	0	0	0	0	3	3	3	3
Switzerland	1	1	1	1	1	4	4	4	4
United Kingdom	0	6	6	6	6	6	8	8	8
United States	1	6	6	6	6	7	7	7	7
country mean	0.65	1.75	2.55	2.95	3.6	4.3	4.5	4.5	4.5

expel immigrants suspected of terrorism. Similarly, the immediate reaction of the British government was to give the Secretary of State the right to detain 'suspected international terrorists'. This regulation violated Art. 5 of the European Convention of Human Rights and was

revoked by a Judicial Committee in the House of Lords, on discriminatory and disproportionate grounds. The British government responded to this decision by adopting a similarly restrictive system of derogating and not derogating control orders.

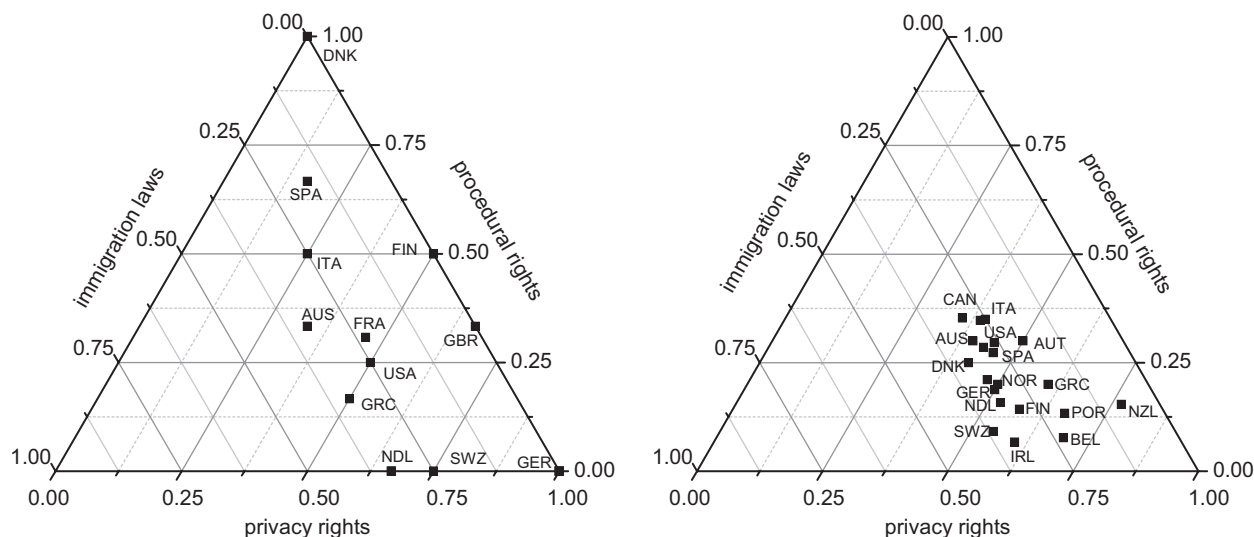


Figure 1. The relative importance of counter-terrorist dimensions in 2000 and 2008

Though the USA and the UK stand out, all governments showed common concerns towards immigrants and urged the passage of new legislation for regulating their status. Today, foreigners can be expelled in all liberal democracies not only for hate speech and support of a terrorist organization, but also for expressing views and beliefs which conflict with the values of the host country. Compulsory biometric documents, expulsion orders, increased length of detention pending deportation, and stricter requirements for obtaining visas and asylum are the main areas of legislative changes. These reforms not only changed the relative weight countries gave to each of the three policy dimensions, they also led to a convergence of anti-terrorist policies in a wider sense within liberal democratic countries, which becomes apparent when we compare the left and right sides of Figure 1. The two ternary diagrams show the relative adoption of the three different regulations (privacy, procedural, and immigration laws) across Western democracies in 2000 and in 2008, respectively. Note that the figures display the ratios of the three variables as positions in an equilateral triangle. The triangles depict all possible combinations of the three legislative dimensions. The position of the countries within the triangles represents the relative importance a country gives to each dimension. For example, in 2000 Denmark placed a relative weight of 1.00 on procedural rights, meaning that the country had no terrorism-related restrictions on privacy rights and immigration law in place. In 2008, the country moved to a more 'balanced' mix of restriction placing a relative weight of approximately 0.42 on privacy rights, 0.25 on procedural rights, and 0.33 on immigration rights.

The weight countries gave to the different legislative dimensions varied largely between 2000 and 2008. Most countries changed their position within the triangle significantly; only the USA, France, Austria, and Australia by-and-large maintained their original location. Perhaps more importantly, while the countries' positions were dispersed along the three dimensions in 2000, most countries had converged to a relatively centrist collocation in 2008, suggesting that no government continued to use just one legislative instrument in fighting terrorism.

Example analysis: Determinants of legislative response to international terrorism

LeRIT can be used to analyze the effects of the 11 September attacks on liberal Western democracies. Political scientists have recently discussed whether a trade-off exists between civil freedoms and security from terrorism. To support their view that the terrorist attacks in the USA and Europe have not led to a reduction of freedoms, Piazza & Walsh (2009) regressed disappearances, killings, torture, freedom of association, freedom of movement, freedom of speech, political participation, and religious freedoms on the number of transnational terrorist attacks and found no significantly positive effect in a sample of 144 countries. LeRIT allows analyzing the potential trade-off between security and civil rights on a lower threshold of restrictions (and in a sample in which systematic effects are more likely). Looking at laws and regulations which may negatively affect individual privacy, the rights of alleged suspects of terror, and the legal safeguards of immigrants, it becomes more likely to observe restrictions of freedoms below the level of torture and disappearances.

Table IV. Determinants of legislative response to terrorism

	<i>Privacy rights restrictiveness</i>	<i>Procedural rights restrictiveness</i>	<i>Immigration law restrictiveness</i>	<i>Total restrictions (sum of m1–m3)</i>
Initial conditions	0.876*** (0.154)	1.223*** (0.214)	0.448* (0.241)	0.296*** (0.066)
Share of Muslim population	0.534** (0.234)	0.576 (0.288)	0.506** (0.245)	0.450* (0.239)
Troops in Afghanistan	0.403*** (0.075)	0.403*** (0.013)	0.186* (0.097)	0.382*** (0.088)
Military expenditure	−0.365 (0.293)	0.101 (0.356)	0.423 (0.325)	−0.108 (0.296)
GDP (log)	0.164 (0.217)	1.158*** (0.296)	0.536** (0.241)	0.889*** (0.254)
Per capita income	−0.078** (0.036)	−0.211*** (0.049)	−0.078** (0.035)	−0.141*** (0.037)
District magnitude	0.006 (0.005)	−0.009 (0.007)	−0.001 (0.006)	−0.001 (0.006)
Veto-players	−0.167 (0.192)	0.200 (0.225)	0.032 (0.189)	−0.097 (0.182)
Right cabinet share	−0.003 (0.007)	−0.020** (0.008)	0.001 (0.007)	−0.006 (0.007)
Left cabinet share	−0.005 (0.006)	−0.019** (0.008)	−0.021*** (0.007)	−0.015*** (0.006)
N x T	140	140	140	140
−ll	231.765	156.214	201.351	309.664
χ^2	201.60	225.50	152.83	234.75
Period dummies	yes	yes	yes	yes
Pseudo-R ²	0.303	0.419	0.275	0.275

Standard errors in parentheses. * significant on the 10% level ** significant on the 5% level *** significant on the 1% level **** significant on 0.1% level.

Table IV provides an example of analysis of the influence of the attacks in New York, Washington, Madrid, and London on liberal Western democracies. The model tests the hypothesis that all liberal Western countries responded to the perceived increase in the threat of international terrorism by changing some security relevant regulations, and it asks one of the standard questions of comparative politics: Why do some governments respond more than others?

I use the three aggregate indices which I introduced above to show that, indeed, the political response to terrorism varied with the factors that influence risk perception – such as degree of military involvement in Iraq and Afghanistan,¹⁰ presence of Muslims,¹¹ country size and wealth (Krueger & Laitin, 2008; Plümper &

Neumayer, 2010), and political and institutional factors (Li, 2005; Lijphart, 1994; Tsebelis, 1995, 1999, 2000). LeRIT covers the years 2000 to 2008, which would allow accounting for nine years. However, owing to limited availability of controls, I lose the last two years. Restrictions result from lack of reliable information on the regressors. Yet, my data suggest that governments' responses mainly took place in 2001–02 and 2004–06. Thus in 2008, most reform projects had already been implemented. This accounts for the missing observations.

I estimate the models using an ordered-logit estimator which allows for a categorical interpretation of the indices. Ordered-probit models give substantively identical results. To account for possible serial correlation of errors and the common trend (which is determined by the shocks), I include a non-linear trend variable and period dummies (period fixed effects). I also run the model with cubic splines (Eubank, 1994; Beck, Katz & Tucker, 1998) and the results remain virtually unchanged. Finally, I control for initial conditions to

¹⁰ Since participation in the second Iraq war correlates with participation in Afghanistan, I do not include the Iraq variable as there is little to learn. Results turn out to be robust, however, if I replace the Afghanistan variable by the Iraq variable.

¹¹ These data are taken from www.qran.org/a/a-world.htm, last visited 25 September 2010.

Table V. Robustness

	<i>Robustness test</i>						
	<i>Privacy rights restrictiveness</i>	<i>Unit dummy USA</i>	<i>Unit dummy Scandinavia</i>	<i>Unit dummy past</i>	<i>Terrorist incidents</i>	<i>Incidents instrumented</i>	<i>Regressors lagged</i>
Initial conditions	0.876*** (0.154)	robust	robust	robust	robust	robust	robust
Share of Muslim population	0.534** (0.234)	robust	robust	robust	robust	robust	robust
Troops in Afghanistan	0.403*** (0.075)	robust	robust	robust	robust	robust	robust
Per capita income	-0.078** (0.036)	robust	changes sign insignificant	robust	robust	robust	robust
	<i>Suspects rights restrictiveness</i>						
Initial conditions	1.223*** (0.214)	robust	robust	robust	robust	robust	robust
Troops in Afghanistan	0.403*** (0.013)	robust	robust	robust	robust	robust	robust
GDP (log)	1.158*** (0.296)	robust	robust	robust	robust	robust	robust
Per capita income	-0.211*** (0.049)	robust	robust	robust	robust	robust	robust
Right cabinet share	-0.020** (0.008)	robust	robust	robust	robust	robust	robust
Left cabinet share	-0.019 (0.008) **	robust	robust	robust robustness test	robust	robust	robust
	<i>Immigration laws</i>						
Initial conditions	0.448 (0.241)*	robust	insignificant	insignificant	robust	insignificant	robust
Share of Muslim population	0.506 (0.245)**	robust	insignificant	robust	robust	robust	robust

(continued)

Table V (continued)

	Robustness test						
	Immigration laws	Unit dummy USA	Unit dummy Scandinavia	Unit dummy colonial past	Terrorist incidents	Incidents instrumented	Regressors lagged
Troops in Afghanistan	0.186(0.097)*	robust	insignificant	robust	robust	robust	robust
GDP (log)	0.536(0.241)**	robust	insignificant	insignificant	robust	robust	robust
Per capita income	−0.078(0.035)**	robust	insignificant	robust	robust	robust	robust
Left cabinet share	−0.021(0.007)****	robust	robust	robust	robust	robust	robust
Initial conditions	<i>Total restrictions</i> 0.296(0.066)****	robust	robust	robust	robust	robust	robust
Share of Muslim population	0.450(0.239)*	robust	insignificant	robust	robust	robust	robust
Troops in Afghanistan	0.382(0.088)****	robust	robust	robust	robust	robust	robust
GDP (log)	0.889(0.254)****	robust	robust	robust	robust	robust	robust
Per capita income	−0.141(0.037)****	robust	insignificant	robust	robust	robust	robust
Left cabinet share	−0.015(0.006)***	robust	robust	robust	robust	robust	robust

Models include insignificant variables from Model 1; robustness not reported here since insignificant variables cannot be robust. Point estimates are defined as robust if and only if the coefficient in the robustness check does not change significantly and if the coefficient remains significant.

account for the regulations that some countries had implemented before 11 September 2001 to cope with different levels of previous domestic and international terrorism.

Table IV supports the view that governments' legislative response to international terrorism is contingent on countries' propensity of becoming the target of terrorist attacks and on the political preferences of the incumbents. The coefficients for initial conditions are smaller than 1 which, in conjunction with the strong upward trend in the data, underlines their rather limited influence on counter-terrorist regulations implemented after 11 September 2001.

The share of Muslim population, country wealth, and military presence in Afghanistan increase the restrictiveness of all dependent variables, that is, of privacy rights, procedural rights, and immigration laws. Bigger but less affluent countries, those displaying higher shares of Muslim immigrants, and countries which deployed larger military units in Afghanistan were more likely to restrict the rights of citizens. Apparently, governments in powerful and relatively less affluent countries seek to gain control over larger sections of the population by reducing the privacy rights of everybody within a constituency. More affluent countries would implement less far-reaching regulation, possibly because they can invest in alternative measures against terrorism (i.e. secret services, police and civic services to patrol their territory, border control, and immigration agencies).

Involvement in Afghanistan, GDP, and GDP per capita affect the restriction of procedural rights. Countries deploying troops in Afghanistan and the powerful but less affluent countries tend to reduce the level of procedural safeguards for potential suspects of terror. Both left-wing and right-wing governments are reluctant to reduce the system of legal guarantees for terror suspects.

Country size, partisan preferences and, to a lower extent, the share of Muslim population catch most of the cross-country variation in immigration laws. Left-wing governments were less willing to alter the legal status of immigrants than right-wing and centrist counterparts.

These results are robust to various model specifications. I conducted the following robustness tests: case-wise jackknife test, control for USA and Scandinavian countries, past colonialism, the number of terrorist incidents 2000–05, the predicted number of killings (a control variable I instrumentalized for obvious endogeneity concerns, Plümper & Neumayer (2010)), and lagged time-varying regressors. With very few exceptions, the estimates reported here are robust to all these

robustness checks. The most important exception is the effect of per capita income on privacy rights. This is the only instance where an estimated effect changes its sign and becomes significant. Results can be obtained from the online appendix, and estimates are included in the replication files.

Conclusion

Al-Qaeda's terrorist attacks cast doubt on the effectiveness of counter-terrorist policies and regulations in all liberal Western democracies and therefore provide an illustrative test case for political theories of reforms. This article introduces a new dataset on anti-terrorist legislation and shows that, as could have been expected, all liberal Western democracies reinforced their counter-terrorist legislation. Yet, the dataset also reveals large variations across countries. Legislative responses differed not only in respect to their scope but also in respect to the prime target of countries' counter-terrorist policies.

The empirical analyses of the legislative response to terrorism relate the differences in countries' legislative reforms to differences in their threat exposure to international terrorism and to partisan preferences of the incumbent. Large countries, countries that participate in the wars in Afghanistan and Iraq, and those that host a larger share of Muslim population reacted more to the threat of international terrorism. Perhaps more surprisingly, countries' legislative response differed according to parties' political preferences – with left-wing governments less willing to cut deeply into the procedural safeguards of terror suspects and the immigration regimes of foreigners and immigrants.

Replication data

The dataset, codebook and do-file can be found at <http://www.prio.no/jpr/datasets>.

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