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Effective Counterterrorism Needs Human Rights: Evidence and Policy Options for Counterterrorism Policy

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Abstract:

Executive summary (English):

This policy brief argues that human rights and the rule of law are not external constraints on counter-terrorism (CT), but core conditions for its long-term effectiveness. It reviews evidence showing that much of the CT field rests on a limited empirical base, with rigorous evaluations remaining scarce. Building on insights from systematic reviews and subsequent scholarship, the paper highlights how rights impacts matter most at the level of strategic “impact”, namely whether measures reduce terrorism over time rather than only producing short-term outputs and outcomes. It synthesises research and policy guidance indicating that human rights violations can undermine CT by fuelling extremist propaganda and radicalisation, eroding community trust and cooperation, weakening democratic legitimacy and institutions, and constraining international police and intelligence cooperation. Drawing on these mechanisms, the paper proposes practical policy options for counterterrorism policies: integrating explicit theories of change and benchmarks into CT strategy design, strengthening independent evaluation and secure data access, prioritising trust-building prevention and non-discriminatory policing, narrowing and clarifying legal frameworks, embedding harm-reduction and due process safeguards in operations, and conditioning international cooperation on minimum human rights standards. The paper concludes that the strategic choice is not between security and rights, but between short-term symbolic expansion of powers and sustainable, evidence-informed CT that strengthens legitimacy and cooperation.

Executive summary (Deutsch)

Der Policy Brief argumentiert, dass Menschenrechte und Rechtsstaatlichkeit keine externen Beschränkungen der Terrorismusbekämpfung (Counterterrorism, CT) sind, sondern zentrale Voraussetzungen ihrer langfristigen Wirksamkeit. Er zeigt anhand der Forschungslage, dass die empirische Evidenz zu vielen CT-Maßnahmen begrenzt ist und robuste Wirkungsanalysen selten vorliegen. Aufbauend auf systematischen Übersichtsarbeiten und nachfolgender Literatur wird hervorgehoben, dass menschenrechtliche Folgen insbesondere auf der Ebene des „Impact“ relevant sind, also dort, wo sich entscheidet, ob Maßnahmen Terrorismus über Zeit tatsächlich reduzieren und nicht nur kurzfristige Outputs oder Outcomes erzeugen. Der Beitrag bündelt Befunde und Policy-Leitlinien dazu, wie Menschenrechtsverletzungen CT unterminieren können: durch die Verstärkung extremistischer Propaganda und Radikalisierungsdynamiken, den Verlust von Vertrauen und Kooperationsbereitschaft in Communities, die Erosion demokratischer Legitimität und institutioneller Leistungsfähigkeit sowie durch rechtliche und politische Hürden für internationale Polizei- und Nachrichtendienstkooperation. Darauf aufbauend werden umsetzbare Optionen für die Antiterrorpolitik skizziert, darunter die Verknüpfung von CT-Strategien mit expliziten Wirkannahmen, Benchmarks und Sunset Clauses, der Ausbau unabhängiger Evaluation und gesicherter Datenzugänge, die Priorisierung vertrauensbasierter Prävention und nicht-diskriminierender Polizeiarbeit, die Präzisierung rechtlicher Grundlagen, harm-reduktion-orientierte Einsatzplanung und die Stärkung von Due-Process-Garantien sowie menschenrechtsbasierte Mindeststandards für internationale Zusammenarbeit. Abschließend wird betont, dass die strategische Alternative nicht „Sicherheit versus Rechte“ lautet, sondern „kurzfristig-symbolische Machtexpansion versus nachhaltige, evidenzbasierte und legitime CT-Politik“.

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1 Introduction

The 9/11 attacks led to an increasing financial and operational effort invested in counterterrorism (CT), accompanied with expanding laws and executive powers. With every new major attack, there is political pressure to “do more”, often in the absence of clear evidence as to what works and what does not. In fact, academic literature reviews consistently criticize the thin empirical basis for the assumed effectiveness of CT actions (Lum et al. 2006). At the same time, the latter often comes in direct conflict with human rights and international law obligations most Western states have committed themselves to. In light of the 7th of October terrorist attacks and the subsequent counter-terrorism campaign waged in Gaza, but also on the background of several decades of Israeli counter-terrorism operations, the issue of human rights appears to be an important factor determining success or indeed a situation of protracted conflict.

From a domestic and international legal perspective, CT effectiveness and human rights have been brought together in equations that attempt to determine the extent to which human rights violations are justifiable for the purposes of CT, or in other words: the criteria of necessity and proportionality (for a discussion see Sobol et al. 2023). An example here is the practice of house demolitions, which Israeli Courts allow in principle for the purposes of ‘deterrence’ but require it to be proportional, considering: “the gravity of the terrorist acts committed; the strength of the evidence implicating the perpetrator; the number and identity of innocent persons that might be affected by the demolition; the extent to which the other residents of the home were aware of any terrorism-related activity, and their cooperation with law enforcement; possible damage to surrounding structures; and the availability of alternatives to demolition, such as sealing the part of the home in which the perpetrator resided.” (Chachko 2016) At the same time, critics argue that such practices amount to collective punishment which is prohibited under international law and should not be practiced at all (UN 2023).

Legal arguments aside, the discussion of CT effectiveness and human rights can also be approached from the perspective of the question: what impact might the breach of human rights have on the actual effectiveness of CT measures? The United Nations and regional organisations such as the OSCE and the Council of Europe emphasise that respect for human rights and the rule of law is not an optional constraint but a foundation for effective, sustainable counterterrorism. Violations of these standards can themselves become conditions conducive to the spread of terrorism (OHCHR 2008; Council of Europe Commissioner for Human Rights n.d.; OSCE/ODIHR 2007). The following sections discuss counterterrorism effectiveness in general and the role of human rights in particular, followed by some concrete policy recommendations.

2 What the Evidence Says about Counterterrorism Effectiveness

The evaluation of counterterrorism effectiveness has generally encountered difficulties, in particular due to the scarcity of rigorous evaluation designs (Lum et al. 2006). A subsequent review by van Um and PISOIU found that many claims about effectiveness rest on descriptive correlations, before – after comparisons without proper controls, or expert judgement rather than systematic testing. They characterise this as an ‘illusion of knowledge’ that encourages over-confidence in preferred measures (van Um & PISOIU 2015). At the same time, the article proposes an innovative model to assess CT effectiveness along the criteria of output, outcome and impact, with clear and measurable indicators. Additionally, and more relevant to the scope of this policy paper, the authors review evidence with regard to the impact of counterterrorism effectiveness and conclude that human rights play an important role therein. Different than the immediate measures and their implementation (output and outcome), impact measures the extent to which CT measures in fact can lead to a decrease in terrorism – the ultimate CT goal. While measures such as targeted assassinations or indefinite arrest without trial (see below) might in the short term reduce the number of active terrorists, the trampling of human rights, in particular when they refer to uninvolved individuals can lead to more terrorism, such as through an increased pool of recruits, the inadvertent confirmation of terrorist propaganda or a decrease in perceived legitimacy of government actions.

3 How Human Rights Violations Undermine Counterterrorism

3.1 Fuel for propaganda and radicalization

Research on radicalisation indicates that perceived injustice and humiliation can act as powerful motivators for radicalisation and lower thresholds for supporting violence (Stern 2003). Within the general narrative of perceived injustice and self-defence, human rights abuses and collective stigmatisation are central themes in extremist discourse. CT measures that are experienced as discriminatory or lawless risk strengthening, rather than weakening, the narratives extremists deploy. For example, Freedman and Klor (2022) examine Israel's use of both targeted and broad-based house demolition practices during the Second Intifada. The analysis indicates that punitive demolitions, which constitute a targeted counterterrorism measure, do not elicit a measurable response from the civilian population. By contrast, precautionary demolitions, applied in a non-selective manner, are associated with a higher likelihood of political radicalisation among Palestinians. The findings further demonstrate that this form of radicalisation, triggered by indiscriminate counterterrorism practices, is linked to a subsequent rise in terrorist violence. A second study shows how in this period punitive house demolitions did not produce a deterrent effect. This outcome is plausibly explained by the intensification of grievances arising from perceived excessive state repression, an increased readiness to seek retribution, and the valorisation of self-sacrifice and martyrdom within the context of asymmetric conflict (Fallah 2023). CT measures that breach human rights are therefore strong contributors to radicalisation processes in a dynamic of 'co-radicalisation' (see Pisiu 2025) and to the legitimisation of terrorist discourse.

3.2 Erosion of trust and cooperation

As terrorist activity becomes more decentralised and increasingly relies on sympathisers rather than formal members, effective counter-terrorism depends on close cooperation with communities (Arefin and Rahman: 2026). Survey-based and qualitative research indicates that public confidence is shaped by whether counter-terrorism policies are seen as fair, transparent, and respectful of rights (Council of Europe 2017; OHCHR 2008). Where communities fear harassment, collective suspicion, or unlawful surveillance, they are less likely to report concerns or engage in preventive programmes (START 2017). This weakens intelligence-led policing and increases the operational burden and costs for security services.

3.3 Loss of legitimacy and rule-of-law backsliding

Broad counter-terrorism laws and prolonged emergency regimes can make exceptional measures feel routine. When counter-terrorism is used to dilute judicial oversight, constrain civil society, or silence political opposition, it damages democratic legitimacy and the separation of powers (Amnesty International 2017a; Council of Europe Commissioner for Human Rights n.d.). Some examples here are emergency laws and emergency-like measures in several European countries imposing far-reaching restrictions on fundamental and human rights without adequate judicial oversight (Amnesty International 2017b). From a security perspective, weakened institutions are less able to manage complex crises, coordinate effectively across agencies, or identify and correct policy errors (Zheng 2025). If state action is perceived as illegitimate, parts of the population may come to view the state as a source of threat rather than a provider of security.

3.4 Constraints on international cooperation

Human rights violations can create legal and political barriers to international police and intelligence cooperation. States may hesitate to share sensitive information if there is a risk it will contribute to torture, unlawful detention, or unfair trials. Courts and oversight bodies may also limit cooperation when partner practices fall below minimum standards (OSCE/ODIHR 2007; OHCHR 2008). For the purposes of counterterrorism policy, strong domestic rights standards are therefore not only normative commitments, but also practical conditions for effective cross-border counter-terrorism work.

4 Policy Options for Counterterrorism Policy

4.1 Integrate effectiveness and human rights into CT strategy design

- **Require explicit theories of change** for all major CT measures, specifying how the measure is expected to reduce risk, over what time horizon and through which mechanisms, and how rights impacts will be managed.
- **Link intrusive powers to clear benchmarks**, including sunset clauses and periodic independent review of both effectiveness and rights impact.

4.2 Strengthen evaluation and learning

- **Invest in independent evaluation** of key CT programmes, including comparative and quasi-experimental designs where feasible, with attention to both intended and unintended effects.
- **Create secure channels for researcher access to anonymised data**, subject to robust safeguards, to enable evidence-informed policy rather than anecdote-driven decisions.

4.3 Prioritise measures that build trust and cooperation

- **Support community-based prevention and P/CVE programmes** that focus on early intervention, dialogue and addressing local grievances, with clear safeguards against securitising ordinary social work.
- **Train law enforcement and security personnel** on human rights standards, non-discriminatory policing and communication, using OSCE and UN manuals as reference.

4.4 Narrow and clarify legal frameworks

- **Ensure CT legislation uses precise, narrow definitions** of terrorism and related offences, aligned with international human rights law, to avoid criminalising legitimate dissent or broad categories of ideology.
- **Limit the use of emergency powers**, require parliamentary approval and regular review, and prohibit their use for purposes unrelated to genuine terrorist threats.

4.5 Reduce harm and uphold due process

- **Embed harm-reduction principles** into operational planning, including strict rules of engagement, proportionality assessments and after-action reviews that consider civilian impact.
- **Guarantee access to legal remedies** for individuals affected by CT measures, including effective complaint mechanisms and judicial oversight of surveillance, listing and asset-freezing decisions.

4.6 Condition international cooperation

- **Condition intelligence and police cooperation** on minimum human rights standards, and incorporate human-rights risk assessments into information-sharing agreements.
- **Use European and multilateral forums** to promote shared benchmarks for effective and rights-compliant CT, reducing the risk of lowest-common-denominator practices.

5 Conclusion

Research increasingly supports a politically demanding insight: counterterrorism that systematically undermines human rights is unlikely to be effective in the long run. It can generate grievances, damage trust, weaken institutions and complicate international cooperation. For counter-terrorism policy, the strategic choice is therefore not between security and rights, but between short-term symbolic action and long-term, evidence-based policy. Integrating effectiveness and human rights into the core of CT strategy is both a legal obligation and a practical requirement for sustainable security.

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