



**MSc(Econ) in the Department of International Politics, Aberystwyth  
University**

3 September 2012

Submitted in partial fulfilment of the requirements for the degree of  
MScEcon Terrorism and International Relations

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**The Importance of Language: Critically Assessing Norway's New Law  
on Lone Wolf Terrorism**



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## **Abstract**

September 11 2001 changed the field of terrorism studies, and even though the world has known terrorism for a long time, this event seemed to redefine the term. The event resulted in a massive interest in terrorism and the renewed interest has resulted in a great many studies that have sought to illuminate and explain the terrorist threat, not least how to counter it. Not surprisingly, most Western countries have implemented a series of new laws to deal with terrorists and protect their countries and people after 9/11 and other terrorist attacks. This is the case in Norway at the moment where a new law on solo-terrorism is in the making as a response to the terrorist attacks on 22/7 2011. This thesis uses critical discourse analysis to study the discursive construction of the Norwegian counter-terrorism approach. It does so by analysing the two main counter-terrorism strategies, the legal definition of terrorism and ultimately the new law on solo-terrorism. The analysis identifies several discursive strands that are common counter-terrorism documents from the EU and the USA, but which have not been prevalent up till now in Norwegian counter-terrorism discourse. These include: the fusion of terrorism and crime, and the threat to an open or globalized society. The analysis of the law also reveals an assumption that Norway has to get up to speed with other countries in the counter-terrorism work, and that the need for new laws is eminent. This thesis will also argue that the new law in its current form may pose a threat to civil liberties through extensive legislation and access to widespread monitoring of internet traffic and people.

### **Key words:**

Lone-wolf terrorism, Critical Discourse analysis, Critical Terrorism Studies, Emancipation, Policy Document, Norway

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## **List of abbreviations**

9/11 11 September 2001 terrorist attacks

22/7 22 July 2011 terrorist attacks Norway

CDA Critical Discourse Analysis

CTS Critical Terrorism Studies

EU European Union

PST Politiets Sikkerhetstjeneste (The Norwegian Security Police)

JD Justis og Beredskapsdepartementet (Ministry of Justice and Public Security)

## Introduction

Terrorism is perceived by many as the biggest security threat of today. Even though the world has known terrorism for centuries, the attacks on 9/11 2001 elevated terrorism to the number one spot of security threats. The fact that I can write 9/11 without further explanation, and still be confident that the reader knows what I am talking about, is further testimony to the importance of that event. The first decade of the 2000s saw a number of terrorist attacks that have led to a range of different responses and approaches to terrorism, most notably President Bush's 'war on terrorism', which resulted in military campaigns in Afghanistan and Iraq. European countries have also been victims of terrorist attacks, and some of them also joined the USA in its war against terror. In 2011 Norway experienced its first terrorist attack on domestic soil since the Second World War, and the pictures of dead kids shot by a fake policeman while attending a summer camp made the Norwegians experience a terrorist attack first hand. Yet as shocking, traumatic and hard to believe as this attack was, normality made its appearance shortly after. The trial of Anders Behring Breivik is now completed, in which he in effect received jail for life, and the most profound changes so far seem to be that Norwegians are more proud to be Norwegian and more accepting of non-ethnic Norwegians.<sup>1</sup> The rebuilding and over-hauling process of the destroyed buildings in Oslo, among them the Prime Minister's office, has been the centre of attention for the past year, but the same process has been taking place within the Parliament where the counter terrorism laws have been under scrutiny. A commission was swiftly put in place to evaluate the attacks in order to examine the ability of the authorities and society as a whole to disclose plans of attacks and prevent such attacks from happening, protect against and reduce the consequences of a future attack, and the best ways to handle situations like a

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<sup>1</sup> NRK 2012

terrorist attack<sup>2</sup>. Its main focus is to propose measures to improve preparedness in the future and is thus one aspect of the work that is being done to evaluate the legislation in Norway in the wake of the 22 July attacks. The Ministry of Justice and Public Security (henceforth JD) has simultaneously been working on a report to the Parliament along the same lines as the commission for quite some time. The man responsible for the 22 July attacks was operating alone, a lone wolf, and there were no laws or guidelines in the Norwegian legislation that were designed to deal with this kind of terrorism. A main task for the JD has therefore been to draft a proposal regarding solo-terrorism as a direct response to the attacks last summer. This long-anticipated draft proposal will be the centrepiece of this study. The main question this study is informed by is this: is it possible, through discourse analysis and interviews, to discern certain political discourses, rhetoric, assumptions, and beliefs that can tell us something about what the new law will look like, what the MPs responsible for it think about terrorism, and ultimately how the new law may affect the Norwegian society in the future?

In order to analyze the draft on solo-terrorism, this dissertation will be looking at the foundations for the Norwegian counter-terrorism laws which consist of two main strategies, where one is the Norwegian equivalent to the British (Prevent-pillar). This will allow us to analyze the new draft within its context and existing legislation. The interviews conducted with main politicians within the Committee of Justice will add another level to the analysis in that they are offering their thoughts on a subject that is of great current interest. Moreover this dissertation will draw on Critical Discourse Analysis and ask what assumptions, beliefs and values underlie the language in the texts? What are the histories and embedded meanings of important words in the texts? What knowledge or practices are normalized by

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<sup>2</sup> The 22 July Commission 2012



the language in the text? And finally how does the grammar, syntax and sentence construction reinforce the meanings and effects of the discursive constructions contained in the text? These are some of the questions that Jackson used in his study of the language in the 'war on terrorism' and I find it particularly useful to apply the same questions because they are directed at the documents themselves and at the wider social and cultural context. The remainder of this chapter will outline how this dissertation is methodologically grounded within Critical Discourse Analysis and Critical Terrorism Studies, and how this study contributes to the field of terrorism studies.

### **Theoretical Grounding and Contribution**

#### **Critical Discourse Analysis**

In analyzing the Norwegian counter-terrorism strategy and the new draft, this dissertation will critically assess the language applied in those documents. It will do so by drawing on Critical Discourse Analysis (henceforth CDA) which takes consideration of the context of language use to be crucial.<sup>3</sup> The main reason for scrutinizing the language applied by the Norwegian Government in its counter-terrorism laws is an underlying assumption that words are never neutral. Words do not simply just describe the world, they are also imperative in helping us making sense of the world.<sup>4</sup> It has been argued that humans are discourse dependent, and that we make sense of the world through language which forms the basis for our interaction with each other.<sup>5</sup> Collins and Glover argue that language shapes our understanding of the world, and that while we do not always realize it, language acts as a

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<sup>3</sup> Vodak 2001:1

<sup>4</sup> Jackson 2005:21

<sup>5</sup> Onuf 1989:38

determining factor in the formation of our perceptions of the world.<sup>6</sup> The language applied by President Bush and his administration after 9/11 was particularly important in shaping the response which led to the 'war on terror', in that politicians and media alike responded by labelling the attacks as an act of war and carefully constructed the attackers as diabolic terrorists who wanted only to destroy the good American civilization.<sup>7</sup> Martha Crenshaw notes that, 'What one calls things matters. There are few neutral terms in politics, because political language affects the perceptions of protagonists and audiences, and such effect acquires a greater urgency in the drama of terrorism'.<sup>8</sup> It follows from this that it is not in the words themselves that the importance lies, but rather in the way they are used, by whom, and to what effect.<sup>9</sup> Thus, the language we choose to apply does, as Foucault notes, privilege one viewpoint over others, naturalizing some understandings as rational and others as nonsensical.<sup>10</sup> There should be no doubt therefore about the importance of language.

CDA however is not just an analysis of discourse in itself, but also an analysis of dialectical relations between discourse and other objects, elements or moments.<sup>11</sup> CDA sees discourse as a form of 'social practice' which implies a dialectical relationship between a particular discursive event and the situations, institutions and social structures which frame it.<sup>12</sup> The relationship is dialectical in that discourse is socially constitutive and at the same time constituted by other social practices.<sup>13</sup> This implies, as Fairclough notes, that 'the discourse analyst will focus on discourse but never in isolation, always in its relations with other elements, and always in ways which accord with the formulation of the common object of

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<sup>6</sup> Collins & Glover 2002:4

<sup>7</sup> Jackson 2005

<sup>8</sup> Crenshaw 1995:7

<sup>9</sup> Collins & Glover 2002:8

<sup>10</sup> Foucault. Cited in Jackson 2005:22

<sup>11</sup> Fairclough 2010:4

<sup>12</sup> Fairclough & Vodak 1997:258

<sup>13</sup> Fairclough 1992:4 and Jackson 2005:24

research'.<sup>14</sup> Furthermore CDA takes a particular interest in the relation between language and power.<sup>15</sup> 'Discursive practices may have major ideological effects: that is, they can help produce and reproduce unequal power relations between (for instance) social classes, women and men, and ethnic/cultural majorities and people'<sup>16</sup>. Rhetoric used by the Serb leadership in order to justify racial discrimination in the 1990s is an excellent example of how discourse has been used to construct a certain ideology and policy as common sense. CDA is thus an approach for analyzing specific texts or speech acts, and a way of understanding the relationship between discourse and social and political phenomena.<sup>17</sup> It offers an approach to deal directly with specific texts in order to discover how discursive practices operate linguistically within those texts. Secondly, it has a focus on an interdisciplinary, contextual and social analysis of the texts in order to further illuminate the relationship between discourse and social processes. To sum up in the words of Ronald Crelinsten, 'How we conceive of terrorism determines to a great extent how we go about countering it and what resources – money, manpower, institutional framework, time horizon – we devote to the effort'.<sup>18</sup>

Of great import is also the critical part of critical discourse analysis, because critique brings a normative element into the analysis. The goal of critical analysis is 'to produce interpretations and explanations of areas of social life which both identify the causes of social wrongs and produce knowledge which could (in the right conditions) contribute to righting or mitigating them.'<sup>19</sup> Critical analysis is furthermore grounded in values, in particular views of the "good" society and of human well-being and flourishing, on the basis

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<sup>14</sup> Fairclough 2010:5

<sup>15</sup> Vodak 2001:2

<sup>16</sup> Fairclough & Vodak 1997:258

<sup>17</sup> Jackson 2005:24

<sup>18</sup> Crelinsten 2009:19

<sup>19</sup> Fairclough 2010: 8

of which it evaluates existing societies and possible ways of changing them. Critique assesses what exists, what might exist and what should exist on the basis of a coherent set of values.<sup>20</sup> Thus, as Fairclough notes, 'A critique of some area of social life must therefore be in part a critique of interpretations and explanations of social life. And since interpretations and explanations are discourse, it must be in part a critique of discourse.'<sup>21</sup>

### **Critical Terrorism Studies**

This study is also grounded within Critical Terrorism Studies (henceforth CTS) and it is worth outlining some key elements of CTS in order to show how this thesis is connected to this approach of studying terrorism. CTS is not one single approach to studying terrorism, rather it can be seen as a broad church made up of different perspectives and disagreements.<sup>22</sup> Nevertheless, CTS scholars agree that instead of looking at terrorism as a free-standing exceptional phenomenon, a brute fact, terrorism should be considered as a social fact.<sup>23</sup> This means that terrorism should be looked at as dependent upon context, circumstance, intention and social, cultural, legal and political processes of interpretation, categorization and labelling.<sup>24</sup> Joseba Zulaika suggests that one should approach political violence by 'situating it in ritualized contexts in which social interaction and textual creation do not rely on simple rational-instrumental links'.<sup>25</sup> This approach recognizes the complexity of terrorism, and the need for a comprehensive understanding of political violence in the context it appears. Drawing on this approach, comparing terrorists and collecting them in

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<sup>20</sup> ibid

<sup>21</sup> ibid

<sup>22</sup> Jackson et al 2011:34, Jackson 2009b:3-9

<sup>23</sup> Zulaika & Douglass 1996:3-30. Burnett & Whyte 2005: 2

<sup>24</sup> Schmid and Jongman, 1988: 101

<sup>25</sup> ibid :291

databases before we fully understand them in their own cultural grammar can obscure our insights and understanding of terrorism as a complex phenomenon<sup>26</sup>. In addition, there is a growing consensus among researchers and scholars that we are not dealing with only one single form of terrorism, rather several different “terrorisms”, so it is reasonable to claim that a number of different causes can be attributed to different types of terrorist acts<sup>27</sup>.

Lone wolf terrorism, or solo-terrorism, which is the term used by the JD, is one of these terrorisms and its threat is perceived by many to be high. Leaders of counterterrorism centres in the USA and the former chairman of the 9/11 commission have publicly said that lone wolf terrorism poses a serious and major threat to national security.<sup>28</sup> The Norwegian government has not specifically defined what lone wolf terrorism is, but from what I gathered in my interviews with the MPs it is reasonable to argue that the government and the MPs would agree with Burton and Stewart that,

‘A lone wolf is a person who acts on his or her own without orders from – or even connections to – an organization. The theory is that this distance will prevent disclosure of attack planning to informants or technical surveillance and therefore provide superior operational security’.<sup>29</sup>

This is most likely what most people would think when asked about lone wolf terrorism, and it can be argued that the distinction between lone wolf terrorism and group terrorism is a binary typology which seeks to highlight the different capabilities, motivations and constraints facing individuals in comparison to groups or states.<sup>30</sup> It is not within the scope of

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<sup>26</sup> Bjørge 2005:1

<sup>27</sup> *ibid*:2

<sup>28</sup> Abrahams 2011

<sup>29</sup> Burton 2008

<sup>30</sup> Jackson et al 2011:153

this dissertation to review or engage with the debate on lone wolf terrorism, but there is no doubt that lone wolf terrorism is perceived as a major threat by key actors such as the EU and the USA, and the attacks in Norway last year and the ongoing process to deal with the attack and this threat is therefore important as a part of the bigger picture of how to respond to one form of terrorism.

Drawing on the CDA approach advocated by Fairclough, a focal point in critical analysis is that it is grounded in values, in particular views of the “good” society and of human well-being and flourishing, on the basis of which it evaluates existing societies and possible ways of changing them. This fits in nicely with a main commitment in CTS, namely the commitment to emancipation. CTS holds that the improvement of the well-being for human beings should be the key yardstick for whether an act is legitimate or not, thus claiming an emancipatory commitment to end avoidable human suffering.<sup>31</sup> Indeed, Ken Booth’s definition of emancipation sums up this belief: ‘Emancipation is the freeing of people (as individuals and groups) from those physical and human constraints which stop them from carrying out what they would freely choose to do’.<sup>32</sup> Toros and Gunning note that emancipation in a critical theory framework is not about utopian goals; rather it must be grounded in feasible alternatives.<sup>33</sup> Such a feasible goal might be a ban and removal of landmines which places human security in the front seat. Landmines pose undoubtedly a great danger to the population living in near proximity and children are very often the victims. By banning and removing landmines, the security of the state would be placed after the notion of human security. It would free the people affected by landmines, due to the fact that the physical constraints that landmines pose would be eradicated. The main point is

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<sup>31</sup> Jackson 2009b: 5

<sup>32</sup> Booth 1991:319

<sup>33</sup> Toros & Gunning 2009: 100

asking whose security is most important. With the priority of the well-being of human beings as the foundation, one can also look at counter-terrorist measures which threaten civil liberties on behalf of state security. Not long after 9/11 the Patriot Act was enforced, an act which has arguably taken a serious toll on civil liberties in the USA. U.S government actors can for instance obtain any records about anyone from any entity that holds them, so long as the government specifies that the records are sought in connection with a terrorism investigation.<sup>34</sup> This means that any personal record might be handed over to government actors. Equally disturbing was the revelation that local councils in Britain had been using anti-terrorism laws to spy on people, noisy children and perpetrators of “bin crimes”.<sup>35</sup> This means that one has to be aware that anti-terrorism laws can easily be misused, and that one needs to make sure that civil liberties are protected. Thus the commitment to emancipation with a focus on human beings as the ultimate referent to be secured should be clear.<sup>36</sup>

## **Contribution**

This study will not be the first one that utilizes critical discourse analysis in terrorism studies. One of the founders of CTS, Richard Jackson, is at the forefront with his book *Writing the War on Terrorism* from 2005 which applies CDA in order to explore how the “war on terrorism” became possible and the ramifications it has had on a global scale. Jackson analyzed the language used by officials in the Bush administration and the way the public language of the ‘war on terrorism’ was used in order to justify and normalize a global campaign of terrorism.<sup>37</sup> But, Jackson notes, ‘this construction was not natural or inevitable;

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<sup>34</sup> Strossen 2005

<sup>35</sup> The Telegraph 2008

<sup>36</sup> Booth 1991:319

<sup>37</sup> Jackson 2005: 1-2

it could have been written differently'.<sup>38</sup> He argues that the attacks could have heralded a new age of global cooperation and multilateralism to fight poverty, crimes against humanity, human rights abuse and so forth. The material point here is that the response to the terrorist attack was not self-evident, and the USA could have chosen another response to the attacks. Moreover, this has great import for the subject matter in this dissertation in that Norway suffered its first terrorist attack last year and has subsequently felt the need to revise and write new laws to deal with the terrorist threat. 'We have been naïve and we need to do something,' as one member of the Committee of Justice told me in an interview.<sup>39</sup> Apart from a few studies (see Collins and Glover 2002, Murphy 2003, Silberstein 2002, Zulaika and Douglass 1996, Jackson 2005 and Baker-Beall 2010, studies on the language of counter-terrorism are rare. This study seeks to contribute to the field of terrorism studies with an analysis of a law draft while it is in making, while it is live, so to speak. It is the particular opinion of the author that terrorism and counter-terrorism need to be studied while they are happening because they are highly relevant to society, and have a great impact on the lives of most people around the world. This comes back to the commitment to emancipation and a belief that by analyzing and maybe challenging the new law, this study will contribute to a constructive process that is in line with the normative commitment of CDA and CTS. As John Stuart Mill noted, 'it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied'.<sup>40</sup>

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<sup>38</sup> *ibid*: 97

<sup>39</sup> Kielland 2012

<sup>40</sup> Mill 2001: 50



## **The Norwegian Approach to Counter-Terrorism**

This chapter will conduct an analysis of the two main documents and the legal definition which formulate Norway's approach to countering terrorism, and thus form the foundation which the new law on solo-terrorism should be based upon. The first document is the Foreign Policy Strategy for Combating International Terrorism (Utenrikspolitisk strategi for bekjempelse av internasjonal terrorisme) from 2006, and the second is the Collective Security – a shared responsibility (Felles trygghet-felles ansvar) document from 2010 which seeks to tackle and prevent radicalization and violent extremism. The last part of this chapter will introduce the legal definition of terrorism which was used to sentence Anders Behring Breivik to a life time in prison.

### **The Foreign Policy Strategy for Combating International Terrorism**

Norway did not implement new counter-terrorism laws as fast as the USA or Britain did after the 9/11 attacks in 2001, but the response which came in 2006 did take 9/11 as a starting point for new legislation. Indeed, the first line in the introduction of the Foreign Policy Strategy for Combating International Terrorism states that international terrorism and the proliferation of WMDs have emerged as the greatest threats against international security after 2011. Furthermore, terrorism is considered a global threat that must be combated globally.<sup>41</sup> This echoes the attitude towards terrorism from the UN and the EU, and it is worth noting that Norway's attitude towards combating terrorism is indeed very much based upon what the UN says about terrorism. In the foreword to the Strategy, Foreign Minister Jonas Gahr Støre makes it clear that the UN should be at the forefront of combating terrorism in full accordance with the principles of the rule of law and universal human

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<sup>41</sup> Ministry of Justice and Public Security 2006:5

rights.<sup>42</sup> The Introduction in the Strategy makes it clear that terrorism is a threat that looms over all people and societies and is thus one of the most serious threats against international peace and security.<sup>43</sup> It is thus in line with the EU which also defines terrorism as a universal and omnipresent threat to all States and to all peoples.<sup>44</sup>

Of interest is the fact that the word 'loom', with its connotations about storms looming on the horizon, or something that is hovering threateningly just waiting to happen, is used to describe the threat of terrorism. However, the wording in the Norwegian version of the document is different in that instead of using a word that can be translated with 'looming', the word used is 'concern'. Directly translated from Norwegian, the Introduction states that terrorism is a threat that concerns all people and societies but not that the threat is looming over all people. Dealing with an issue such as terrorism which requires accuracy, the difference between a threat that is 'concerning' people and societies in contrast to 'looming' is significant, especially if one takes into consideration that words are never neutral. It is fair to say that those two words send a different signal about the threat that is being described.

The fourth paragraph in the introduction draws on lessons learned after 2001 pointing out that military force is not necessarily the way to respond in combating international terrorism; rather there is a need for a broader approach applying economic, humanitarian and diplomatic measures. Through a thorough understanding of why terrorist groups act like they do, how they operate and who is supporting them can effective countermeasures be found.<sup>45</sup> It is hard to argue with an approach that goes some distance in recognising that terrorism is a complex phenomenon, and that there is no easy solution or a quick fix when

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<sup>42</sup> *ibid*:4

<sup>43</sup> *ibid*:5

<sup>44</sup> Council of The European Union 2005:6

<sup>45</sup> *ibid*:6

dealing with terrorism. Nonetheless, there are some other key assumptions made in the paragraph that are worth mentioning.

Throughout the introduction it is stated that terrorism is a global threat and that *this* threat is looming over all people. Furthermore, this threat is first and foremost one posed by Islamist groups.<sup>46</sup> Terrorism seems to be defined as a single concept and threat, and that what we are really dealing with are Islamist terrorists connected to or inspired by Al-Qaeda. This is in line with the Norwegian Police Security Service assessment of threats that considers extreme Islamists as the biggest security threat to Norway,<sup>47</sup> a notion that is shared by the MPs that were interviewed for this dissertation.<sup>48</sup> It is thus important to the Norwegian government that the popular support that does exist for terrorist groups is reduced and that particular attention should be paid to measures aimed at countering radicalization and reducing the terrorists' recruitment base.<sup>49</sup> Norway's commitment to the UN, human rights and law is also prevalent in the introduction where it is recognized that conflicts where Muslim minorities are included, for instance, can motivate terrorists groups and nurse radical movements. Thus the Norwegian government highlights that the international community must act in accordance with human rights and law and combat terrorism through the UN so that one can avoid double standards.<sup>50</sup> Another assumption that is made quite consistently is that one needs to encourage and build democracies throughout the world because democracies are stable and thus less prone to allow terrorist activity within their borders. The establishment of democracies is connected with the fight

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<sup>46</sup> Ministry of Justice and Public Security 2006:6

<sup>47</sup> Norwegian Government

<sup>48</sup> Asmyhr, Dahl, Ljungberg, Sandberg, Werp 2012

<sup>49</sup> Ministry of Justice and Public Security 2006:6

<sup>50</sup> *ibid*

against poverty to combat terrorism: 'the link between poverty and terrorism is not evident. Still, some of our efforts in the fight against poverty will also help to prevent terrorism. This applies particularly to efforts to promote democratic development, equitable distribution and good governance'.<sup>51</sup> A link is thus made between poverty, states with poor or autocratic governance, and terrorism.

However, in accordance with Norway's wish for a more holistic approach to terrorism, a few caveats are in order regarding the risk of generalization, especially about the link between terrorism and poverty. Former president of the UN General Assembly Han Seung-Soo called the world's poorest countries the breeding ground for violence and despair<sup>52</sup>, and it has been a prevalent thought that terrorists can operate freely, radicalize young people and train them in terror within these countries. However, a look at the empirical studies conducted on this issue indicates no statistical link between the poverty rate of a country and the level of terrorism<sup>53</sup>. A widely cited article by Alan Krueger and Jitka Malěcková suggests little direct connection between poverty or education in terrorism based on an empirical study on the West bank and Gaza Strip. Indeed, suicide bombers for instance were more likely to come from economically advantaged families and have a relatively high level of education<sup>54</sup>. Research done by James Piazza shows that poor countries measured in terms of GDP per capita and Human Development Index do not suffer more terrorism or deadlier acts of terrorism. In fact, the countries on the top ten list for casualties due to terrorism are all ranked from medium to high according to GDP per capita and Human Development

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<sup>51</sup> ibid

<sup>52</sup> BBC, 2002

<sup>53</sup> Piazza 2007, Krueger & Malěcková:2003, Newman:2006

<sup>54</sup> Krueger & Malěcková 2003: 141

Index.<sup>55</sup> Following the want for a holistic approach, a look at the social, historical and cultural context for instance could be useful in order to understand the conflict and why terrorist attacks happen in Afghanistan. Data collected by Neil Bowie and Alex Schmid shows that the top five countries in terms of terrorist fatalities per million people are all countries where there are ongoing conflicts (Iraq, Lebanon, Israel, West Bank and Columbia)<sup>56</sup>. What this is suggesting is that terrorism is very often part of a complex situation or a conflict in which the actors involved can employ terrorism as a tactic to try and achieve their goals. In other words, terrorism is a means to some kind of political end.<sup>57</sup> Norway's commitment to human rights and law is therefore a good starting point for understanding and solving conflicts and, in time, terrorism.

### **Collective Security – a Shared Responsibility**

The second strategy that forms the foundation for the Norwegian approach to counter-terrorism is the Norwegian equivalent to the Prevent pillar in the United Kingdom's counter-terrorism strategy CONTEST. Its aim is to reduce and prevent radicalization and extremism through democratic institutions. This is based on an assumption that: 'the strength of open democracy is that the majority is always in the majority, that extreme views are in the minority and that even fewer will translate extreme views into actions'.<sup>58</sup> Democratic institutions can reduce the distance between people and groups and fight those who want to achieve political goals through violence. The importance of democracy was also reiterated by several MPs in a Parliamentary hearing on 28<sup>th</sup> of August as one of the key ingredients in combating terrorism. In that respect the strategy highlights the importance of avoiding

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<sup>55</sup> Piazza 2007: 160-161

<sup>56</sup> Bowie & Schmid 2011:310

<sup>57</sup> Jackson et al 2011:35

<sup>58</sup> Ministry of Justice and the Police 2010:5

generalizations and simple answers that can create fear and misunderstandings. If we are allowed to create a simplified image of certain groups of people we are bound to end up with simplified politics that will do more harm than good.<sup>59</sup> The introduction to the strategy also makes a very interesting point regarding the definition of extremism:

‘In this context, the word “extreme” refers to attitudes to use of violence. An extreme person is therefore a person who accepts use of violence to achieve political goals.

*Therefore, “extremism” only reflects choice of means and not political goals (my emphasis).*

“Radicalization” means herein the process whereby a person to an increasing extent accepts the use of violence to achieve political goals. Therefore, radicalization could represent a process that under given circumstances could develop into extremism.’<sup>60</sup>

Per definition, then, it is in the Norwegian approach that extremism is only reflecting choice of means to achieve political goals and not the political goals itself. This definition can have huge implications in that it will be far more difficult to brand a group or organization as terrorists, with its negative connotations, if that group is not pursuing the goals through violent means. If this definition were to be adopted it would mean that if Hamas stopped all violent attacks on Israel, they would per definition not be an extreme group or terrorists. A quick search on the website for the Ministry of Foreign Affairs in Israel reveals that not only is Hamas a terrorist organization, they have also declared war on Israel.<sup>61</sup> Now, the focus of this dissertation is not on the conflict in the Middle East, but imagine if Hamas laid down their weapons and sought to pursue their political goals through non-violent means. Drawing on this definition of extremism would open up new possibilities for negotiations, talks and in time maybe cooperation. Hamas would have to be deemed a legitimate actor and would

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<sup>59</sup> *ibid*:5-6

<sup>60</sup> *ibid*:7

<sup>61</sup> Israel Ministry of Foreign Affairs

thus not automatically qualify as terrorists based on their political aims. The matter would be different of course if Hamas chose to continue the violence, but the fact that this definition opens up the possibility that one can actually talk and negotiate with former or alleged terrorists is of major consequence. Especially with a commitment to emancipation, or the betterment of human lives, is such an approach important. An engaging example of this is of course Nelson Mandela who was branded a terrorist by the government in South Africa, removed from the US terrorism watch list as late as in 2008,<sup>62</sup> but won the first democratic election in South Africa and went on to become a leader, a president, and a man few would regard as a terrorist. This highlights the problems concerning definitions of terrorism and terrorists, and that once a terrorist does not mean always a terrorist. The fact that Norway opens up for this possibility is important and it is the particular view of this study that such an approach is an important tool in conflict resolutions and a step towards ending avoidable human suffering.

The last assumption made in the strategy that I will discuss is concerned with subjects of radicalization. The following quote makes an important assumption about potential extremists:

‘Deep down, prevention of radicalization and violent extremism is nothing but general crime prevention. Whether a person ends up with a substance abuse problem, as a criminal or as a violent extremist, usually happens by chance and depends on “who gets to you first”. The common denominator is vulnerability, and therefore good preventive measures will usually be general measures’.<sup>63</sup>

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<sup>62</sup> CNN 2008

<sup>63</sup> Ministry of Justice and the Police 2010:8

It seems that a terrorist or violent extremist is a person who gets drawn in due to his/her vulnerable state of mind by charismatic leaders or recruiters to be trained in the tactics of terror. Drawing on what was said about avoiding generalizations earlier in the strategy, it runs the risk of making that mistake in this case. Jackson et al argues that it is a prevalent myth that psychological deviance causes terrorism, or that terrorism is caused by brainwashing vulnerable people.<sup>64</sup> 'In all cases, the intent, or at least the effect, is to locate the cause of the violence in the perpetrator's mental state or personality, while ignoring the political and social context within which the act is perpetrated'.<sup>65</sup> Moreover, it is argued that those who are engaged in terror tactics are essentially normal individuals.<sup>66</sup> I think it is wise to realize that when one sets out to reduce, prevent or combat radicalization, one has to be aware of the fact that terrorism is a complex phenomenon. It is dangerous to assume that radicalization is something that only happens to vulnerable people and thus reject the notion that there might be political and social matters that play into the picture of why people are subject to radicalization. The case could be made that people in conflict areas, but also around the world, are radicalized by what they perceive as unjust and abominable treatment by a state or states towards a group of people. Israel can for instance build fences and monitor its society to eternity, but as long as the conflict in the Middle East continues, there is an increased chance that people around the world will sympathize with the Palestinians and be subjects of radicalization. It would be a mistake and a dangerous generalization to think that everyone who is engaged with terrorism has been brainwashed and exploited by clever leaders. In some cases it might be true, but one cannot from one or two cases infer that terrorists are vulnerable, unstable people and then rule out the

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<sup>64</sup> Jackson et al 2011:207

<sup>65</sup> ibid

<sup>66</sup> Silke 1998:53



possibility that there are real social and political grievances in place that make some people subjects of radicalization.

Thus far I have picked out the main assumptions from the two strategies that make up Norway's foundation for the response to terrorism, and it has therefore been the intent so far to provide the reader with the foundation which the new law on solo-terrorism will be based on. Hopefully this will contribute to a thorough analysis of the new law.

### **Definition of terrorism**

The main definition of terrorism was added to the legislation in 2003, and it is interesting to note that the definition is almost the same as what the US PATRIOT Act defined as domestic terrorism and it was implemented only two years after 9/11. The PATRIOT Act defines domestic terrorism as activities that involve acts dangerous to human life that, 'are a violation of the criminal laws of the United States or of any state; that appear to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion or to affect the conduct of a government by mass destruction, assassination, or kidnapping'.<sup>67</sup> Change the United States with Norway and that is pretty much § 147 a, b and c which were used to sentence Anders Behring Breivik to a lifetime in prison.<sup>68</sup> Actions like attacking or disrupting the work of the parliament, the government, the legal system, energy supplies or the banking system is also considered terrorism. It is worth noting that every MP I interviewed for this dissertation all subscribed to this definition of terrorism. Especially disrupting or attempts to coerce official authorities and causing

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<sup>67</sup> Financial Crimes Enforcement Network

<sup>68</sup> Almindelig borgerlig Straffelov

sincere fear among the population were aspects they all put first on the list of terrorist activity.<sup>69</sup> In regards to the PATRIOT Act, Jackson noted that the provisions made in the Act would have major implications for national law enforcement, the legal system and civil liberties.<sup>70</sup> The PATRIOT Act has arguably had major implications on the American society, one side being that the term 'domestic terrorism' is defined as a crime. Given this definition and drawing on Crelinsten and his insight that how we conceive of terrorism determines to a great extent how we go about countering it, regarding terrorism as a crime is thus a natural starting point for Norway's response to terrorism, at least its response to lone wolf terrorism.

## **The New Law on Lone Wolf Terrorism**

### **Not the First Time**

Some months after July 22 2011, the Norwegian Policy Security Service (PST) sent a letter to the Department of Justice regarding the lack of adequate legislation to deal with solo-terrorists. In order to better protect the society and people, the security service deems it necessary to revise and create new laws that will give them more tools to combat terrorism. PST argues that recent events and especially the attacks on July 22 made it apparent that new laws are needed. As it stands today, it is not illegal in Norway to plan a criminal act, so one can plan a criminal act and not be arrested before the act is attempted. A burglar is free to plan a break-in and cannot be arrested before he attempts to pick the lock to get in. This is also the case in regards to solo-terrorism. At the moment there is no law in place to deal

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<sup>69</sup> Asmyhr, Dahl, Ljungberg, Sandberg, Werp 2012

<sup>70</sup> Jackson 2005:14

with lone wolves who might commit a terrorist attack. The laws that do exist are dealing with terrorist groups, starting with two members or more. The existing counter-terrorism laws are based on an assumption that most terrorist attacks are planned and executed by two people or more. Given that one cannot know what is going on inside people's heads, the fact that two people or more have agreed to do something indicates that they are planning and willing to execute an attack. The question therefore is whether preparing for something that could be a terrorist attack should be illegal, and what can be done to prevent such an attack.

A general law to criminalize planning or preparation was discussed for the first time in 2003–2004 but was then dismissed by the JD. After receiving feedback the JD felt that the distance to the actual crime in the stages of preparation is longer than in the case of an attempt, and that the will to actually commit the crime is thus not total and complete. The Department thought there would be a fair chance that the potential perpetrator will change his or her mind when faced with reality and not actually commit the crime. The proposal was also rejected because everyone can in theory be preparing a crime or a terrorist attack inside their heads, and we have no way of knowing this for sure. In the case of an attempt, the will to commit the crime has manifested itself in an action.<sup>71</sup> In addition the JD pointed to the fact that most purchases in a hardware store for instance, though possible assets to a terrorist, most likely are legal, innocent and totally normal. Given that the line between preparing for a terrorist attack and normal tasks in daily life largely depends on the individual nature of people, and that normal tasks can be interpreted as preparation for an attack, a general law to criminalize preparation was deemed too broad and potentially

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<sup>71</sup> Ministry of Justice and Public Security 2012: 4

dangerous to the individual's freedom and security.<sup>72</sup> The last point is of great import because the protection of civil liberties and individual freedom is something that is valued very highly among politicians in Norway. The first proposal came just a few years after 9/11 as a part of an overhauling process of the legislation most Western countries went through in order to combat terrorism. Then, as today, the politicians seemed to rate civil liberties as the number one concern. The leader of the Justice Committee in the Norwegian Parliament and one of the most prominent politicians in Norway at the moment stated that we cannot protect ourselves to death and that we have now reached the limit in terms of how much monitoring our society can handle. 'We cannot believe that we can monitor every person in Norway and think that it will reduce or eradicate terrorism'.<sup>73</sup> This line of thought was shared by the other members of the committee that I interviewed, but now, ten years and a terrorist attack later, a new law is drafted that might challenge civil liberties. One MP was afraid that 22 July could force Norway onto an extreme track in response to an extreme action<sup>74</sup>, and it is now time to look at what the Police Security Service suggests as the appropriate response to the threat that solo-terrorists pose.

### **PST's Proposal**

The PST feels that the current legislation is not adequate to deal with solo-terrorists who are planning or preparing an attack, or people who are participating or present in places where terrorists are trained. The PST points to the fact that there have been attacks in Sweden, Denmark and most recently in Norway where the perpetrator was alone. To deal with the threat, the PST suggests that the following should be criminalized:

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<sup>72</sup> *ibid*:5

<sup>73</sup> Sandberg 2012

<sup>74</sup> Werp 2012

- 1.3.1 Planning of terror attacks.
- 1.3.2 Presence at a place where terrorists are trained.
- 1.3.3 Receiving training for the purpose of terrorism.
- 1.3.4 Acquiring items that can be used in terror attacks in the future.
- 1.3.5 Acquiring information that can be used in terror attacks in the future.
- 1.3.6 Acquiring or possessing weaponry or explosives that can be used in terrorist attacks in the future.
- 1.3.7 Illegalizing membership to terrorist organizations.

The number of each proposal is included in every headline so that one can easily refer to the different proposals in the law by its number. Please note that point 1.3.4 and 1.3.5 will be discussed in the same section, and point 1.3.6 will not be discussed because it is more a specification of an existing law and the possible relocation of that law into another section.

### **1.3.1 Planning of terror attacks**

The first point that seeks to criminalize the planning of terror attacks is a major one due to the potential ramifications it can have on society. In this proposal the PST looks to the UK, focusing especially on the Terrorism Act from 2000 and 2006 and also the Counter-Terrorism Act from 2008. The PST also refers to situations in Denmark and England where the police successfully intervened and disrupted processes which could have led to a terrorist attack.<sup>75</sup> However, as the Department of Justice points out, PST does not specify the criteria for illegal planning. This of course would leave the police with a very broad definition that could be used for almost anything, but on the other hand it would also be so vague that the usage

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<sup>75</sup> PST 2011:6

would be uncertain.<sup>76</sup> It is interesting that the PST does not spend more time defining the criteria for illegal planning, especially when we know that counter-terrorism laws can be used and misused for other purposes, as mentioned on page 7 earlier in this dissertation. Such a broad definition would definitely give the PST tools in the hunt for solo-terrorists, but it is questionable whether such a broad definition and law is useful. Again, this is not the first time this has been discussed. A rather broad law on this matter was discussed with the support of the Ministry of Foreign Affairs, the Ministry of Defence and several branches within the police, including the PST. However, the Judges Association, the Lawyers Association, Amnesty and The Norwegian Data Protection Authority among others were highly critical and argued that it would be too broad and thus not useful.<sup>77</sup> It is worth noting that organizations concerned with civil liberties and individual freedom stood opposite to the Ministries and the police branches. The proposal to criminalize planning and preparation for a terror attack fell against a concern for civil liberties, and the assumption that terror attacks more often than not are executed by groups and not lone wolves. It was argued that to criminalize everything that could be used in a terror attack would be a step too far. The result was a law that made it illegal for two people or more to come together and plan an attack.

Ten years later, the question is whether the situation has changed, in which case Norway needs new laws to deal with solo-terrorism. The PST thinks it has and as a response the JD has suggested that: anyone who plans or is making preparations for an action that can damage society in a serious way, for instance a terrorist attack, by acquiring items or information which is (especially) suitable for the execution of such an action will be jailed for

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<sup>76</sup> Ministry of Justice and Public Security 2012:8

<sup>77</sup> *ibid*:9

six years.<sup>78</sup> This law will be part of the counter-terrorism legislature, and if passed it will be illegal to plan a terror attack. Most people would agree that if one can openly prove that someone is planning to blow up an aeroplane, it would be a good thing if the police knew about it. The question therefore regarding the law, as it was last time it was discussed, is whether this law is accurate enough. Trying to detect lone wolves who are planning a terrorist attack is very difficult, indeed the former head of the PST said to the media after the 22 July attacks that not even the STASI<sup>79</sup> in former GDR could have stopped Anders Behring Breivik.<sup>80</sup> The PST argues, and the JD argues along the same lines, that it should be easier for the police to monitor people they think can be planning a violent terrorist attack. The discussion last time this law was proposed was concerned with civil liberties and what a general law that would criminalize planning or preparation could do on that area. Those concerns are very much alive today, and the leader of the Committee of Justice was concerned that we could embark on an evil spiral that would damage individual freedom and that if we tighten our laws time and time again, the terrorists would in a way win.<sup>81</sup> David Cole argues in *Debating Terrorism and Counterterrorism* about the importance of securing liberty in the face of terrorism. He argues convincingly that the USA's war on terrorism has 'compromised the nation's spirit, strengthened its enemies, and left the United States simultaneously less free and less safe'.<sup>82</sup> Norway is not trying to combat terrorism along the lines of the USA, but counter-terrorism laws can pressure civil liberties, and it would be interesting to know where the PST wants to draw the line in terms of which items should be classified as terrorist material. The PST has not specified what would be classified as terrorist

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<sup>78</sup> *ibid*:11

<sup>79</sup> Britannica

<sup>80</sup> Dagbladet 2011

<sup>81</sup> Sandberg 2012

<sup>82</sup> Cole 2010:364

material and thus opened up for coercive means, including monitoring movement and communication. The material point is that such a law has to be very specific and accurate in order to avoid unnecessary legislation that does more harm than good. As pointed out earlier, according to Norwegian law, there has to be an attempt at a terrorist attack before the police can apply coercive measures. This means that the police would have to establish through a fair process that a specific wrong has been committed or that there is no doubt whatsoever that an attack will be committed very soon. Cole adds in regards to the USA's war on terrorism that:

'in isolation, neither the goal of preventing future attacks nor the tactic of using coercive measures is particularly novel or troubling(...) The Bush administration's "preventive paradigm", by contrast, employed anticipatory state violence – that is, preventive measures were undertaken before any wrongdoing had actually occurred and often without good evidence for believing that any wrongdoing would in fact occur'.<sup>83</sup>

Concerns for civil liberties are therefore nothing new in the terrorism debate, and even if Norway is very different from the USA this dissertation will warn against a general law that criminalizes planning terrorist attacks. As long as it is not specified what items or information would count as terrorist material, it is extremely hard to see the limits to what the police could use this law for. Would, for instance, downloading the Al-Qaeda manual count as illegal information and thus qualify for monitoring of communication or other coercive means? The case of Rizwaan Sabir, a former master's student at the University of Nottingham, is a case in point. Sabir was researching terrorist tactics for a master's at the University of Nottingham in 2008 when he was detained under the Terrorism Act and

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<sup>83</sup> Cole 2010:355



accused by police of downloading an al-Qaeda training manual for terrorist purposes.

Furthermore he was held for seven days without charge as a suspected terrorist after police fabricated evidence.<sup>84</sup>

All law enforcement seeks to prevent crime and sometimes coercive measures are needed.

There is also, as Cole pointed out, nothing troubling about the goal of preventing future terrorist attacks. However, it is troubling if civil liberties are sacrificed in the hunt for possible terrorists without due cause. This dissertation's caveats regarding a general law on illegal planning of terrorist attacks should thus be clear.

### **1.3.2 Presence in a place used for terrorist training**

At the moment it is not illegal by Norwegian law to be present in a place where terrorists are trained, but the PST suggests a law that criminalizes presence based on the UK's Terrorist Act 2006 no.11 Section 8. Indeed, the proposal is more or less a blueprint of Section 8 of the UK's Terrorist Act of 2006. The new law is proposed to sound like this: a person commits an offence if he is present at a place used for terrorist training, and will be jailed for six years.<sup>85</sup>

This law therefore creates an offence of attending a place where terrorists are trained even if the person is not participating nor has the intention of putting it to terrorist purposes. The logic here is that if a person does not want to put it to terrorist purposes, he should not be there in the first place. There is however a need for some clarification. The first possible problem is how to define a terrorist organization. Given the range of different definitions of terrorism, as there are currently over 200 legal and academic definitions to choose from,<sup>86</sup>

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<sup>84</sup> Guardian 2012

<sup>85</sup> Ministry of Justice and Public Security 2012:14

<sup>86</sup> Jackson et al 2011:100-107

one could see problems in a conflict-resolution process where one party insists that another is a terrorist organization and thus deserves to be treated accordingly. One will be faced with a situation where both parties might think of each other as terrorists. Would it then be illegal to spend time on the Gaza strip for humanitarian purposes when one knows full well that there are several terrorist organizations, at least according to Israel, who operate in that area? The point is that terrorism is very often part of conflicts, a tactic open to all actors, and the situation is thus not always black and white. To discern Hamas from the Palestinian society is difficult given that the organization is an integrated part of the society and provides welfare-state-like services. Haim Malka argues that 'the Islamic movement has become a vital source of support for hundreds of thousands of Palestinians and has filled the void left by a dearth of state-sponsored social services'.<sup>87</sup>

Given that Norway has seen some cases of Somali-Norwegians who have gone back to Somalia and joined Al-Shabaab, it is very likely that this law is designed to deal with cases like these where one sees young men leave Norway in order to join a militia that utilizes terrorist tactics. In which case the PST would like a law that would enable them to monitor the movement of these people and maybe prevent them from executing a terrorist attack in Norway or elsewhere.

The generic nature of the law is problematic, however, and it is of great concern if a trip to Columbia and areas where FARC operates would lead to one being investigated and monitored for a possible terrorist connection. To go to areas where known terrorist organizations or militias operate is maybe not the most normal thing one would do, but given the complex nature of terrorism and how it can intertwine with societies and thus not be easily discerned, it is the particular view of this dissertation that one should be careful

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<sup>87</sup> Malka 2005: 39

when making it an offence to be present at a place where terror is trained without further specifications.

### **1.3.3 Receiving training for terror purposes**

If one can prove however that a person has travelled to an area where a terrorist organization is present and then received training, making that an offence would make sense and that is what the next law seeks to do. There is already a law in place that makes it an offence to instruct people in terror tactics, so this law is in many ways a natural continuation of that law. Given that a person has joined a terrorist organization most likely means that he has thought through his actions and knows what he is doing. The will to kill, so to speak, is there, and even if the skills he is acquiring are not dangerous per se, the intent to do something with them makes him potentially very dangerous. The JD suggests that: a person commits an offence if he receives training or otherwise acquires skills that can be used for terror purposes and will be jailed for six years.<sup>88</sup> While it might seem natural that a longer stay with Al-Qaeda or Al-Shabaab would raise suspicion, it is interesting that the JD adds that this law might consider attendance at a lecture as receiving training. This law thus ranges from attending a training camp to attendance at a lecture, which means that the span of this law is huge. It is a difficult task to decide what can or cannot be said in a lecture. If the law is meant to pick up on what might be said in lectures held in public, it would mean that the police would monitor and in many ways decide what can or cannot be said. This of course would clash with the freedom of speech, and the notion brought forward by John Stuart Mill that adverse opinions have to be brought into the public sphere, because, 'only in

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<sup>88</sup> Ministry of Justice and Public Security 2012:16

this way can extreme opinions be detected and curbed'.<sup>89</sup> Again this dissertation would like the law to be more specific so that the police do not find themselves in a position where they can monitor whatever they find suspicious. The document from the JD does not give any hints about where the line is to be drawn of what might be considered a lecture with terrorist purposes. As mentioned earlier in the dissertation, counter-terror legislation can be misused, and without clear guidelines or definitions the fear is that a general law might do great harm to civil liberties and unnecessarily occupy resources.

### **1.3.4 & 5 Possession of items or information for terrorist purposes**

Point 1.3.4 and point 1.3.5 are in many ways overlapping in that both seek to make it an offence to be in possession of items and information that are particularly suitable for terrorist purposes. The items could be normal stuff like different tools or clothing, but the possession of those items will make it an offence if the police have a reasonable belief that a person seeks to use it for terrorist purposes. The same is the case in situations where the police have no doubts that the information is meant for terrorist purposes and the person knows what the information is for. The police do not have to prove the exact target, only that the information or items might be used for terrorist purposes.<sup>90</sup> The JD makes one important consideration regarding this law. That is whether anybody who has made their sentiments clear on the internet, perhaps that one should attack a newspaper, and happens to own rubber gloves, a car and other tools that could be used for terrorist purposes should be arrested for planning a terrorist attack.<sup>91</sup> Even if a person posts threats online and owns an axe and car, it could be argued that arresting him for planning a terrorist attack might be a step too far, at least if one assumes that the distance between saying and doing is

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<sup>89</sup> Mill 2001:41-44

<sup>90</sup> Ministry of Justice and Public Security 2012:17

<sup>91</sup> *ibid*:20

significant, and that to actually execute an attack requires more than posting threats online. To possess or acquire items or information that is particularly suitable for terrorist purposes will, as the other proposals, result in jail for six years. It is reasonable to suggest that these two laws are responses to the 22 July attacks where the terrorist was in possession of modified guns and enough fertilizer to sustain several farms which ultimately was used for terror purposes. He also possessed information about how to build bombs, and the police would therefore like laws that would enable them to pick up on cases that raise suspicion and start an investigation to possibly prevent an attack.

### **1.3.7 Ban of participation in or membership to a terrorist organization**

The proposal to criminalize participation in or membership to a terrorist organization is an interesting one. It is not illegal at the moment to be a member of a terrorist organization in Norway, but the PST suggests that a person commits an offence if he founds or is a member of a terrorist organization.<sup>92</sup> A similar proposal was discussed in 2008 but ultimately dismissed due to concerns regarding civil liberties. Five years on, however, the PST is afraid that the fact that it is not illegal to be a member of a terrorist organization in Norway provides terrorists with a safe haven from where they can spread their propaganda. Indeed, both the PST and the JD are afraid that terrorist organizations will establish themselves in Norway.<sup>93</sup> They picture a situation where leading figures of terrorist organizations will come to Norway and work from there. There is therefore a need to investigate and arrest members who do not participate directly in terror attacks but work in the background.

This proposal raises some important points for discussion. If membership to a terrorist organization is made an offence, one will have to decide which organizations should be

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<sup>92</sup> *ibid*:25

<sup>93</sup> *ibid*:26

illegal. The UN and the EU have lists of organizations they consider terrorists, but major countries like the UK and the USA also operate with their own national lists. There is thus no international consensus or standardized list that everyone subscribes to. This is not surprising given that there is no consensus on a definition of terrorism and that the term in whole is a contested one. Norway does, as we have seen earlier, regard a group or individual as extremist if they accept and use violent means to achieve political goals. The political goal in itself does not decide whether or not one is to be considered extremist. With that in mind one could imagine a difficulty in coming to terms with Israel regarding the status of Hamas, or in other conflicts around the world where one party or parties claim that the other are terrorists. The point here is that compiling such a list might prove difficult as long as there is disagreement about what terrorism is. The JD makes one important remark about such a list, which is that an organization would qualify for the list only if that organization has breached Norwegian laws, i.e. attacked the Norwegian state or Norwegian citizens. This specification would narrow down the list and make it more applicable, and it could also prove more flexible. Given what we know about terrorist organizations, especially that they are very often results of conflicts, a list that does not automatically criminalize members of a group could provide flexibility and opportunities in conflict resolutions. The fact that FARC and the Colombian Government have agreed to hold peace talks in Oslo due to start in October this year adds weight to that argument.<sup>94</sup>

The JD therefore makes an important specification when it adds this to the proposal: a person commits an offence and will be jailed for two years if he founds, helps in any way or

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<sup>94</sup> Forero 2012

is a member of an organization that seeks to commit a terrorist attack, but only when this organization has taken measures to realize the commitment with illegal and violent means.<sup>95</sup>

## Discussion

So far this dissertation has looked at the foundation for the counter-terrorism approach which is compiled in two strategies and the definitions of terrorism which are widely accepted as sufficient and adequate. The assumption has been that the way terrorism is conceived in those documents will influence the process of making a law to combat solo-terrorism. Furthermore, the main points in the new law to combat solo-terrorism have been presented and briefly discussed. The following section will tie some of the assumptions made in the text with the interviews of the MPs responsible for this law, and in time connect this with some major debates within the field of terrorism studies.

## Terrorism and Crime

The document with the proposal for a new law on solo-terrorism consists of two parts where the first is the subject matter in this dissertation. The second part is concerned with a further criminalization of organized crime, and though we do not touch upon that part in this study, the fusion of terrorism with organized crime is interesting. Several of the MPs I interviewed coupled terrorism with organized crime<sup>96</sup>, and the same is the case with the proposal from the PST. In the section regarding illegal possession of information that can be used in a terrorist attack they write that ‘the usage of the information does not have to be unique for

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<sup>95</sup> Ministry of Justice and Public Security 2012: 29

<sup>96</sup> Asmyhr, Dahl, Ljungberg, Sandberg, Werp 2012

the terrorist, it could very well be manuals about explosives which could be of use for a bank robber. The police will have to prove beyond any doubt that the suspect was going to use this information, but they do not have to prove that the suspect was going to use it for a terrorist attack<sup>97</sup>. Point 1.3.5 therefore highlights the fusion of terrorism and organized crime, a connection that is an attractive one if we are to believe Mathieu Deflem. He argues that terrorism and counter-terrorism from a criminological viewpoint can be approached as crime or deviance and social control respectively.<sup>98</sup> Within this framework, terrorism can be conceived of as a form of violence which can be studied at the micro and macro level, where the micro viewpoint focuses on the characteristics of terrorists, who are likely to be radicalized and in turn join a terrorist group. The macro level focuses on the fluctuations of terrorism in function of other societal developments, such as periods with conflicts.<sup>99</sup> Furthermore, counter-terrorism within this framework can be analyzed as a matter of social control where the most formal component is the criminal justice system and its agents, like the police.<sup>100</sup> Of great import is the following quote from Deflem regarding the focus on terrorism as a form of deviance:

‘Deviance theorists will be particularly interested in the motives of terrorist conduct and development of a terrorist identity. Additionally, the societal context in which such acts of deviance are formally labeled or criminalized as terrorism can be studied. This criminalization involves the definition of certain acts as terrorism, typically by means of legislation, and its subsequent enforcement’.<sup>101</sup>

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<sup>97</sup> Ministry of Justice and Public Security 2012:21-22

<sup>98</sup> Deflem 2010:16

<sup>99</sup> *ibid*

<sup>100</sup> *ibid*

<sup>101</sup> *ibid*



This is of great import because it describes the situation in Norway with the trial that was broadcasted throughout July this year, the discussion that has been raging alongside it and consequently the new law that is a response to the attacks. What the new law is all about in many ways is that it will criminalize what is perceived as certain acts of deviance and define it as terrorism. Possession of information or items that could be used in a terrorist attack would be, if the new law is passed, classified as deviant behaviour and thus qualify as a criminal act. Combined with the fact that the police could apply a counter-terrorism law without proving that certain items were meant for a terrorist attack, and that the last part of the document from the JD is a discussion of further criminalization of organized crime, the fusion of terrorism and crime is quite evident. This is not something that is unique for the Norwegian approach to terrorism. The European Union also describes terrorists as criminals, indeed in its counter-terrorism strategy it states that, 'Terrorism is criminal and unjustifiable under any circumstances'.<sup>102</sup>

This fusion of terrorism and crime is however not completely unproblematic because there are certain things that distinguish terrorism from crime. First and foremost, what distinguishes terrorism from other types of crime is the political dimension of terrorism. As Bruce Hoffman argues, 'It is also useful to distinguish terrorists from ordinary criminals. Like terrorists, criminals use violence as a means to attain a specific end. However, while the violent act itself may be similar, the purpose or motivation clearly is different'.<sup>103</sup> He further notes that the primary focus for the criminal is to reap the immediate gains, be it forms of money or some other selfish satisfaction. 'By contrast, the fundamental aim of the terrorist's

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<sup>102</sup> Council of The European Union 2005:6

<sup>103</sup> Hoffman 2005:36

violence is ultimately to change “the system” – about which the ordinary criminal, of course, couldn’t care less’.<sup>104</sup> In relation to the terrorist attack in Norway, this makes sense. Anders Behring Breivik is no ordinary criminal; his acts transcend that term, and he has claimed that he did what he did in order to change the system.<sup>105</sup> The difference between crime and terrorism is further explained by Alex P. Schmid who argues that, ‘On the whole, it would appear that it is not prudent to lump drug trafficking organized crime groups and terrorist groups together. There are links, yes, but there are also important motivational and operational differences between terrorist groups and organized crime groups’.<sup>106</sup>

In terms of the new law on solo-terrorism, the fusion of terrorism and crime does raise a few points of concern. Earlier in the dissertation I have briefly discussed the possible misuse of counter-terrorism laws to spy on people who commit bin crimes, for instance, and this dissertation will argue along the same lines as Schmid and reiterate that lumping these two together might be imprudent. In arguing the case for new counter-terrorism laws, the PST has repeatedly said that it needs more tools, tougher laws and increased possibility to detect solo-terrorists. This was confirmed by several people within the PST, which, a day before the 22 July Commission presented its report and assessment on the work done by the police before and after the attack, told a newspaper that they were in dire need of more resources and new laws.<sup>107</sup> The concerns arise when the police are given laws to fight terrorism, which are tougher due to the perceived risk of a terrorist attack, and when these laws can be used for organized crime as well. Terrorism has in many ways become a very vague term; no definition is agreed upon and it is hard to really know who or what the terrorist is. Is it

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<sup>104</sup> *ibid*:37

<sup>105</sup> TV2 2012

<sup>106</sup> Schmid 2005

<sup>107</sup> Dagbladet 2012

something a state, a non-state group, lone wolves or criminal groups do? Fusing terrorism with crime might obscure any real understanding of terrorism even more, and based on the difference we have discussed between terrorism and crime, I will warn against fusing these two based on a concern for civil liberties, individual freedom and unnecessary accumulation of resources which could be otherwise better applied. The leader of the Justice Committee Per Sandberg raised the same concerns when I interviewed him, and it was his particular opinion that the necessary laws were already in place and that we have reached the limit for how much surveillance we can accept. At the very least we have to make sure that the police make good use of existing resources and then thoroughly examine whether more resources are needed.<sup>108</sup>

### **The threat to an open society and globalization**

Another interesting point of discussion is a meta-narrative that we recognize from the rhetoric used by the USA and the EU, and which has been examined by, among others, Richard Jackson and Christopher Baker-Beall. That narrative argues how potential or actual terrorists are able to take advantage of the environment provided by a 'globalized' or 'open' society in order to carry out their attacks.<sup>109</sup> In his thesis regarding the EU's counter-terrorism response, Baker-Beall argues at length about how the EU through its discourse has constructed terrorism to be an existential threat to the open society that the EU provides.

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<sup>108</sup> Sandberg 2012.

<sup>109</sup> Baker-Beall 2010: 155, Jackson 2005:53

Indeed, the EU counter-terrorism strategy from 2003 states that terrorism seeks to undermine the openness and tolerance of our societies.<sup>110</sup> To this Baker-Beall adds:

‘As such, it is argued that when the inherent dangerousness of the “new” terrorism is combined with this assumption that actual or potential terrorists are seeking to take advantage of the “openness” of the EU area, the “fight against terrorism” discourse becomes performative. It plays a powerful role in the legitimisation and normalisation of policies designed to restrict that “openness” because it is based on a perception that they are needed to ensure the safety of EU citizens.’<sup>111</sup>

Another element of this is globalization, and what the EU Strategy for Combating Radicalization and Recruitment from 2005 identified as negative effects of an otherwise positive process: ‘ease of travel and communication and easy transfer of money means easier access to radical ideas and training’.<sup>112</sup> It is thus reasonable to argue along with Baker-Beall that the danger of terrorists exploiting a globalized or open society by terrorists has become a dominant discourse within the EU.

It should not come as a big surprise that the same discourse is prevalent in Norway; after all, some of the new proposals are there to get up to speed with EU legislation, and the Norwegian government is clear that it wants a common response to terrorism with the UN and the EU. We find elements of this discourse in the new law, especially in point 1.3.7 about making it an offence to be a member of a terrorist organization. A main reason for this proposal is that the PST does not want Norway to be a safe haven for terrorists who are looking for a place to establish themselves, from where they can spread their message and

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<sup>110</sup> European Council 2003:1

<sup>111</sup> Baker-Beall 2010:161

<sup>112</sup> Council of the European Union 2005:3

recruit new members. Indeed, the PST is afraid that Norway will actually be a hub for central members in known terrorist organizations if the gaps in the legislation are not filled.<sup>113</sup> The PST is thus afraid that central members of Al-Qaeda or Al-Shabaab, for instance, will come to Norway and run their organizations from there. This proposal is, in other words, an attempt to deal with what is perceived as a weakness in Norwegian society, namely to fill the void in the legislation so that potential terrorists will not be able to exploit the openness to commit new attacks.

The openness and liberal nature of the Norwegian society are recurrent themes in Norway, but there are some important and interesting differences to the EU's response. In the strategies that make up the foundation for the Norwegian counter-terrorism response, there is no similar discourse to the one applied by the EU regarding potential terrorists taking advantage of our "open" society. This means that the official documents regarding the Norwegian counter-terrorism response have a very different rhetoric to the one we find in documents from the EU for instance.

Among politicians and in the media, however, the story is different. The 22 July committee which published its report on the 13<sup>th</sup> of August 2012 asked how 22 July became possible and assessed among other things the performance of the police. The report resulted in an uproar in Norway with newspapers and politicians crying for heads to roll. On the day the report was released, it was striking to see that every politician who was interviewed by NRK, the national broadcaster, made a point of highlighting the openness and liberal nature of Norwegian society, and that it had been exploited by an evil man. The Prime Minister described how the open and in part innocent Norwegian society had been exploited, and a

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<sup>113</sup> Ministry of Justice and Public Security 2012:26

member from FrP, a populist party, reiterated how naïve Norwegians have been.<sup>114</sup> One MP that I interviewed said that the risk of a terrorist attack has increased due to globalization and thus we need to act accordingly.<sup>115</sup>

The difference between the official discourse, at least before 22 July 2012, in the strategy documents and what politicians say, especially when they are on TV, is worth noting. It is equally interesting to see whether the official discourse will change in the future and maybe get closer to what we have seen from the EU. Bear in mind that the subject matter of this dissertation, the new law on solo-terrorism, is still in the process of being made. The JD has published a draft and requested feedback from various actors within Norway. Given the atmosphere and the words used by central politicians when the 22 July Report was released, it will surely be interesting to see if the feedback will be coloured by the findings of the report. That is unfortunately out of range for this dissertation, but the interviews conducted with the main politicians within the Justice Committee who are responsible for the law can at least provide some information about what they think is imperative when making a new law on terrorism.

Andre Dahl, an MP from the biggest opposition party and a man who is educated in law, felt that any new law on terrorism would touch many important juridical borders and that one would have to be extremely accurate in the law-making process in order to ensure the protection of civil liberties.<sup>116</sup> The concern for civil liberties was shared by the other MPs as well, but the leader of the Justice Committee Per Sandberg was most vocal and thought we

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<sup>114</sup> NRK 2012b

<sup>115</sup> Dahl 2012

<sup>116</sup> *ibid*

had already reached the limit of what laws could do.<sup>117</sup> One MP talked about the concerns for civil liberties, and how we cannot live in a surveillance-based society. At the same time though, he identified more capacity to monitor internet traffic by the police as one important counter-terrorism measure. He highlighted the importance of implementing DIRECTIVE 2006/24/EC 'on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC' which was passed by the EU in 2006.<sup>118</sup> However, along with a few other European countries, Norway has so far found this directive problematic, and even though it was passed in the Parliament in April of 2011, the enforcement of the law has been postponed due to concerns for civil liberties. The new security situation has convinced this member that measures like the directive are necessary if we are to combat terrorism. The leader of the committee, however, wanted to dismiss the directive.<sup>119</sup> A member of the biggest political party and a member of the justice committee told me that there is no trade-off between security and freedom. Security, she argued, provides us with freedom.<sup>120</sup> The big question, however, which is a centrepiece of this dissertation, is whose security are we talking about? The question takes us back to the emancipatory commitment which was outlined earlier in the dissertation.

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<sup>117</sup> Sandberg 2012

<sup>118</sup> Official Journal of the European Union 2006

<sup>119</sup> Sandberg 2012

<sup>120</sup> Ljungberg 2012

## **Whose Security?**

In the face of terrorism, a potentially devastating threat but one that is arguably perceived to be bigger than it really is<sup>121</sup>, what does it mean to be secure and whose security are we talking about? The MPs I talked with highlighted the concern for civil liberties, yet some would go on and talk about how the police need more resources to monitor internet traffic, and the PST who wants tighter laws so that they can start surveillance of anyone who owns a balaclava, an axe and who behaves in a suspicious manner. Security provides freedom, one MP said, but does that mean that whatever the state and the politicians define as security is good, and will it necessarily result in more freedom? Defining security or embarking on a lengthy debate on the issue is not the aim of this essay, but I will stress the following: it is important that one does not forget the protection and value of civil liberties and individual freedom in the quest for effective counter-terrorism measures. I have pointed out a few contradictions in some of the interviews I conducted, and it is of the utmost importance that what is being said about protecting civil liberties are not just empty words. It has become something of a cliché, almost, where every time commentators or politicians write or speak about the aftermath of the attacks they stress that the attacks cannot drive us into a society based on surveillance and fear. Yet, gradually new laws are being implemented and politicians and media alike are joining the PST in their request for more money. The Prime Minister Jens Stoltenberg said after the attacks last year that Norway should face the actions with more democracy and openness. It is important that increased openness does not mean the police can monitor internet traffic and people they feel act suspiciously. It was therefore promising when, at a conference on the 15<sup>th</sup> of August this year, the Justice Minister said that despite considerable pressure on her from politicians, the media and the PST about

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<sup>121</sup> Lustick 2012:72



more resources and the implementation of the new law which has been discussed here, she would wait for feedback on the new law before she would give her recommendation to the Parliament.<sup>122</sup> She thus went a long way in saying that even if the PST, media and other politicians want a new law, that move might not necessarily be the right one, and it is reassuring to see a Minister who does not automatically seek to implement whatever is thought needed by others in order to respond to the attacks last year.

Just to make it clear, it is not the opinion of the author that nothing should be done in order to prevent terrorist attacks, or that the terrorist threat should somehow be deconstructed to mean nothing. Terrorism can be devastating, as Norway experienced in the worst possible way last year, and it is clear that something had to be done. More resources have been allocated to the police in terms of having helicopters that are available every hour every day the whole year, and other routines to improve the response to critical events. The other side of the aftermath of 22/7, namely the new legislation, has been the subject matter for this dissertation, and there is no doubt that the PST for instance should have the possibility with the law in hand to check out people who buy certain chemicals in large quantities that can be used for bombs. Normal people also do not usually have the need for several tons of fertilizer or semi-automatic machine guns. Faced with this reality, it is crucial that the Justice Minister follows up on her own words and dedicates herself to producing a balanced response to the terrorist-attack, and makes sure that all that is being said about protecting civil liberties are not just empty words. It is thus important that the response to 22/7, even as horrible as those actions were, is a sober and reasoned response.

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<sup>122</sup> NRK 2012

At the outset of this dissertation I outlined CDA and the importance of language encapsulated by Roland Crelinsten: ‘how we conceive of terrorism determines to a great extent how we go about countering it and what resources – money, manpower, institutional framework, time horizon – we devote to the effort’.<sup>123</sup> There should be no doubt that the attacks last year caused Norway and the authorities to take a look at what went wrong; indeed, that was the mandate for the official 22 July Commission who presented their findings on the 13th of August. The commission handed the authorities a crushing verdict, stating that the attacks could have been stopped if the government and the police had done their jobs. The biggest tabloid newspaper in Norway even said that the Prime Minister should retire, and it was a clear consensus that every stone had to be turned to make sure that this would never happen again. It is reasonable to argue that in a time like this, faced with terrorism, the biggest threat to security but one which Norwegians up till then had only seen on TV, how one chooses to conceive of terrorism is of the utmost importance. Especially if one accepts Jackson’s reasoning in his analysis of the language of counter-terrorism that new laws are written based on parameters and assumptions set out by leading figures within an administration. ‘Put another way, the words of figures like President Bush or Secretary of State Colin Powell – and the assumptions, beliefs and knowledge contained in that language – find their way into all documents produced by the next level of officials.’<sup>124</sup> There is reason to believe that the same is the case in Norway, and that it matters what the Justice Minister thinks about terrorism when it comes to the final draft of the law, and if the Minister is true to her words, she will remain focused on writing a balanced law that takes into consideration the protection of civil liberties.

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<sup>123</sup> Crelinsten 2009:19

<sup>124</sup> Jackson 2005:17

## Conclusion

This study set out to analyze the new law by asking if it is possible, through discourse analysis and interviews, to discern certain political discourses, rhetoric, assumptions, and beliefs that can tell us something about what the new law will look like, what the MPs responsible for it think about terrorism, and ultimately how the new law may affect the Norwegian society in the future.

Through a critical discourse analysis we have discovered a change in rhetoric from the strategies that were written prior to 22/7 2011 and what we see in the proposal for the new law. The fusion of terrorism and crime, and the notion that Norway's open society can be exploited by terrorists, have become more prevalent in the discourse, and present thus a closer alignment to EU counter-terrorist discourse. Norway's position and approach to terrorism, which have been notably different from the EU's in many ways, especially in terms of Norway's definition of extremism and willingness to talk with alleged terrorist organizations, now seem to be weakened by an assumption that it needs to work more closely with the EU in countering terrorism. Indeed, both the PST and the JD argue that the new law will fulfil some of the directives from the EU which Norway so far has postponed, but which they now seek to implement.

The fusion of terrorism and crime is a narrative we know from documents on terrorism from the EU, and some of the proposals in the new law are meant to be used for both terrorism and organized crime. It was also evident from the interviews I conducted that the MPs in the Justice Committee thought there was a connection between terrorism and crime, that they were two sides of the same story. Indeed, in the trial against Anders Behring Breivik, the judge stated that terrorism is a serious criminal act. The policing of terrorism in Norway can thus seem very natural when the police have the responsibility to counter terrorism and MPs

connect terrorism and crime. As such, one might find it more surprising that the fusion between terrorism and crime has not been more prevalent in official documents. This fusion however is not unproblematic, and it is the particular view of this essay that separating crime and terrorism might be helpful if one is to treat terrorism as a complex phenomenon and something different than ordinary crime.

The new law also connects an elevated risk for a terrorist attack with an increasingly open society or globalized world. Even though the rhetoric is different from what we know from the EU for instance, the assumption that an open society provides space which terrorists can exploit is becoming more prevalent in Norway and is shared by most MPs. In the draft it is noteworthy that the PST connects this assumption with a fear that terrorist leaders will establish themselves and run their organizations from Norway, their new safe haven, if the necessary legislation is not written. It is questionable how well founded that argument is.

In order to respond to the threat of lone wolf terrorism, the PST wants more resources and legislation that will enable them to monitor more people and consequently start investigating earlier if they suspect a potential terrorist. The obvious problem here of course is that one sacrifices civil liberties in the quest to prevent an already minute threat because the effects of the attack last year are still felt, and there is a sense of obligation that something has to be done. One has to remember that lone wolf terrorism is a difficult concept and detecting lone wolves is very often an impossible task. Anyone might plan an attack in his or her head and we would have no clue about what was going on before it would happen. Of course, one might pick up on something suspicious every now and then, but the danger is that one implements the means to monitor the whole population in search

for a threat that is minute and close to impossible to detect. John Muller notes for instance that the risk for an American to perish at the hands of an international terrorist over an eighty-year period is about one in 75,000, while the chances for the same American to die in a car accident is about one in eighty.<sup>125</sup> A country only has so many resources it can use in the hunt for terrorists, and the cost of monitoring a society in case of a low-probability attack will be extremely high. This study has raised caveats of what the new law might do to civil liberties and resources, and in the quest for preventing a new lone wolf attack it will argue along the same lines as Jackson et al that, 'In any case, in assessing unknown risks that have no evidentiary basis, there is no way of making objective assessments; it is simply a matter of individual imagination, which is, in turn, shaped by people's subjectivity, interests and their cultural-political context'.<sup>126</sup>

The new law comes as a direct response to the 22/7 attacks and it can thus be argued that it is very much based around a precautionary principle which means that one seeks to prevent any attack in the future by implementing new legislation. This principle implies that one implements a range of measures even if the threat is minimal. The measures however do not come without a cost, and a concern for resource allocation and limitation of civil liberties follow naturally.

Even though it is not completely comparable in scale or impact, Norway had to respond to the attacks, just like the USA had to respond to 9/11. As a part of this process, after feeling the horrors of a terrorist attack first hand, a law against solo-terrorism will be an important part of the process. The USA's response to the 9/11 attacks resulted in two wars and it has been scrutinized by several academics. Among them Richard Jackson conducted a critical

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<sup>125</sup> Mueller 2010:375

<sup>126</sup> Jackson et al 2011:129

discourse analysis of the language used by American officials after 9/11, showing how language was used to promote one response over others, and how language in large part can determine how we make sense of the world, and thus respond to an act of terrorism. This study has sought to engage with an ongoing sense-making process that will form Norway's response to its most devastating attack since World War Two. The final result of the law which will be clear in a year's time and although the attacks last year have caused a change in counter-terrorism rhetoric compared to earlier documents, it is worth noting that the attacks have not caused the government or the JD to conceive of terrorism in a radically different way. After 9/11 the US administration connected terrorism and terrorists with a series of negative words and narratives that shaped how they went about countering terrorism. This trend has not been prevalent in Norway, and the JD has in its proposal for the new law not found the need to introduce a series of new words or narratives in order to describe the terrorist threat in general. It is thus reasonable to argue that the 22/7 attacks have not caused the Norwegian government or the JD to conceive of terrorism in a radically different way, and that the ongoing process of receiving feedback before finalizing the law, adds weight to the argument that the response to the attacks on the whole seems to be a sober and sensible one.

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## **Interviews**

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- Ljungberg, Anna
- Sandberg, Per
- Werp, Anders

Conducted by Sondre Lindahl (for the purpose of this dissertation), Oslo, 6–7 June 2012.