Terrorism and the right to life

An examination of Sweden’s obligations to the right to life in counter-terrorism legislation and threat estimation

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ABSTRACT

Terrorism, regardless of motive, is a real threat against democracy and human rights, specifically in terms of this thesis – a threat against the right to life. But not all forms of terrorism are given the status which enables a prioritised and effective preventive strategy, and some domestic legislations show a tilt towards certain forms of terrorism – resulting in the neglect of other forms. This thesis uses a legal method combined with a theory deriving from critical security studies to examine Swedish legislation and official terrorism threat estimations in relation to international human rights law and the right to life. The review of the material reveals a tendency to highlight the threat from violent Islamic extremism and a reluctance to view white-supremacy groups as an equally grave potential threat. The conclusion that can be made from the analysis of the material is that the negligence of the white-supremacy movements does not result in a violation of the right to life. At the same time, the active inclusion of white-supremacy groups in legislation and threat-estimations could by effect result in a more effective protection of the right to life with regards to terror attacks.
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LIST OF ABBREVIATIONS
Committee of the Elimination of all forms of Racial Discrimination (CERD)
European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (ECHR)
European Union (EU)
Human Rights Committee (HRC)
International Covenant on Civil and Political Rights 1966 (ICCPR)
International Convention on the Elimination of all forms of Racial Discrimination (ICERD)
National Centre for Terrorist Threat Assessment (NCT)
National Coordinator to Safeguard Democracy Against Violent Extremism (National Coordinator)
Non-Governmental Organisation (NGO)
Swedish Act on Criminal Responsibility for Terrorist Offences (Terrorist Act)
United Nations (UN)
Universal Declaration on Human Rights 1948 (UDHR)
1. INTRODUCTION

Terrorism appears to be a hot subject in the last few years, with many reports of attacks within Europe – often claimed by terrorist organisations like Daesh (also known as the Islamic State, Islamic state of Iraq and the Levant or Islamic State of Iraq and Syria). As many know and try and remind others, terrorism is not a new phenomenon, and the highest number of casualties are not in Europe.¹

The focus on Islamic motivated violence is undeniable. It is considered by Swedish governmental agencies to be the largest threat towards Sweden out of all extremist movements that are being monitored.² To this day there has been two attacks motivated by violent Islamic extremism in Sweden, one of which took place during the writing of this thesis. The first one was a bombing that took place in central Stockholm in 2010, killing only the perpetrator.³ The other took place the 7th of April 2017 and resulted in the deaths of five people.⁴

This is a master thesis in human rights, continually touching on the field of security. When security is viewed through the eyes of human rights values, it is sometimes with the mind-set of a balance between the two.⁵ This could be problematic for a number of reasons, for example because of its simplistic view of security, human rights and the relationship between the two.⁶ The balance between security and human rights could result in discriminatory practices, namely that values and

⁶ D. Moeckli, 2008, pages 2-3
principles enshrined in human rights documents are put aside for the sake of security and safety of the people. In this thesis, the focus shifts slightly from the resulting discriminatory practices that safety measures could create, to what effect these discriminatory practices could have on security.

1:1 Background

One study, Organized violence 1989-2015, from the Uppsala Conflict Data Programme show an increase in so called ‘transjihadi’ conflicts (armed conflicts including jihadi groups with ambitions that stretch beyond the national border). These sorts of conflicts resulted in more than half of all conflict-related deaths in 2015, the main actors being al-Qaida and Daesh. During this year, the number of armed conflicts also increased from 41 to 50. The increase is believed to be due to Daesh’s creation of new provinces in Afghanistan and Nigeria for example, and the globalisation of existing local conflicts.

This increase is not that remarkable in a historic context, and the actors al-Qaida and Daesh are believed to have gained much of their attention mainly for the attacks on western nations such as the USA and France. Furthermore, the groups are not to be automatically viewed as successful in their mission. In the study referred to above, it is pointed out that there are difficulties in identifying clear goals, and subsequently, victories in these groups. Usually, goals and successes in armed groups are measured in outright victory or the influence on peace-agreements that the group have joined. Al-Qaida and Daesh have goals that differ between the groups and change over time. Some goals have been, for example, the removal of all non-Muslim troops in the Arabian Peninsula, or stretching the Islamic caliphate from Andalusia in Spain to Indonesia. In addition, the goal to reveal the weakness of the USA is a constant. The only goal that so far could be considered fulfilled is the establishment of the Islamic caliphate in parts of Iraq and Syria (the actual success of this could also be discussed).

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9 Ibid, pages 732-733
The threat posed by jihadists is a real one, and according to the authors of the study, it will continue to be a top priority to national governments and international organisations. The violence has mostly affected individuals in the Middle East, Africa and central Asia and have also shown to be able to spread to nations not normally affected by this kind of political violence. Having stated this, the conclusion nevertheless stands that an exaggerated focus on these movements could risk drawing attention from other serious situations of conflict (examples here are conflicts in Burundi, Turkey and Ukraine as well as the peace processes in Colombia, Myanmar and the Philippines).\textsuperscript{10}

Turning to Sweden, and the expressed threat posed by violent Islamic extremism, there are those that oppose this threat estimation. Two representatives from the university Malmö Högskola wrote an article published by the magazine ETC, meaning that the description of the situation does not reflect the reality. In a review of the material from the National Coordinator to Safeguard Democracy Against Violent Extremism, the authors conclude that the numbers presented does not add up, and that the definition of terrorism used by the coordinator results in a distorted description. When they compared the statistics of reports of hate crimes to terrorist offences, the numbers spoke of a clear overrepresentation of hate crimes. They also question a statement made by the coordinator that the extremist right-wing movement has around 100 active individuals in the country – pointing out that over 600 individuals attended a protest arranged by one of the biggest white-supremacy groups in Sweden, Nordiska Motståndsrörelsen.\textsuperscript{11}

The authors’ review of the material also showed a difference in the language explaining the two different movements: the word terrorism is used 83 times in the parts featuring violent Islamic extremism and only 12 times when describing the white-supremacy movement. The gateway to extremism is also described differently depending on what movement is discussed. Islamists are described as disorderly and outgoing in their aggression – their upbringing being problematic and full of crime and substance abuse. The gateway to white supremacy is more often


described as some sort of violation and dissatisfaction, these groups are described in a self-sacrificing and idealistic manner – with camps that help form close friendships and meetings that make young people interested in literature.\footnote{ETC, Högerextremister är ett större hot än islamister i Sverige, \url{http://www.etc.se/debatt/hogerextremister-ar-ett-storre-hot-islamister-i-sverige}, written by Anne-Charlotte Fredriksson & Anders Hermansson, published 2017-03-29, accessed 2017-04-24}

The article does not state exactly what material was reviewed, nor does it present method and other means the authors used to conclude their observations, thus the article does not form a solid scientific source. The expressions of the authors could nevertheless help paint the picture of discussion and critique surrounding counter-terrorism in Sweden.

Another voice worth mentioning in this regard is the chief editor at the magazine Expo\footnote{Expo also produces reports and researches the extreme right wing in Sweden, their material is used in this thesis to help describe the current situation of white supremacy.}, who wrote an article arguing for stronger action against the ‘racist terror’ in Sweden. The article was written after an exposure of a planned bombing campaign\footnote{Tidskriften Expo, Samtliga häktade för bombdåd kopplade till nazistorganisation, \url{http://expo.se/2017/samtliga-haktade-for-bombdad-kopplade-till-nazistorganisation_7241.html}, written by Anders Dalsbro, published 2017-02-03, accessed 2017-04-25} linked to the white-supremacy group Nordiska Motståndsrörelsen. In the article, the author calls for stronger measures and more attention towards the terror from white-supremacy groups. The case in question appears to be textbook terrorism. There are individuals with ties to extremist groups suspected of detonating and planning to detonate bombs placed at temporary refugee homes as well as an attack against a left-oriented foundation and meeting place, and instructions of how to build a bomb as well as the discovery of bomb parts at one of the suspects’ homes. According to the article, the media, law enforcement and politicians tend to exaggerate the psychological aspects of the perpetrator or individual of a crime motivated by far-right extremism – instead of looking at the ideology or social context.\footnote{Tidskriften Expo, Dags att ta den rasistiska terrorn på allvar, \url{http://expo.se/2017/dags-att-ta-den-rasistiska-terrorn-pa-allvar_7243.html}, written by Daniel Poohl, published 2017-02-05, accessed 2017-04-24}

Another example of this view of the extreme far right can be found in the case of Peter Mangs, a serial shooter active in 2009-2010 in the city Malmö. Mangs tar-
targeted individuals that appeared to have foreign background and the shootings resulted in the deaths of two persons. It wasn´t until the historian Mattias Gardell released his book on Mangs that it became clear that this had been a case of ideology-driven racism and terror.¹⁶

Yet another example of an attack motivated by white supremacy is the attack in a school in Trollhättan in 2015 that left three dead, including the perpetrator. The attack was described by a police spokesperson as one of the worst incidents that has even occurred in Sweden.¹⁷ The attacker was later confirmed to have sympathies towards Nazi-Germany and had consumed far-right and racist propaganda.¹⁸

Arguably the worst terror attack in Scandinavia is also one motivated by far-right extremism: the attacks in central Oslo and the island Utøya in Norway in 2011. The attacks left 77 dead, most of them teenagers.¹⁹

The point of presenting these attacks is not to prove one form of terrorism as more of a threat towards Sweden than another. The point is rather to point out the dangers of singling out one form of extremism and naming it the most dangerous, when there is a risk of phasing out other threats that appear not to fit this mould.

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2. PURPOSE AND METHODOLOGY

2:1 Purpose and primary issue
A focus on violent Islamic extremism in legislation combatting terrorism could result in a negligence of other forms of violent extremism – such as white-supremacy – thus resulting in a flawed protection from terrorist attacks. This is true regardless of the ability and intent of the white-supremacy movement to carry out an attack against a state.

This potential national security flaw risks resulting in a failing protection of the right to life, which Sweden is obliged to respect due to their ratification of human rights documents such as the *International Covenant on Civil and Political Rights* 1966 (ICCPR) and the *European Convention for the Protection of Human Rights and Fundamental Freedoms* 1950 (ECHR). The purpose of this thesis is to study the Swedish national legislation focused on combatting terrorism and threat estimations regarding terrorism to examine whether it has focused disproportionately on violent Islamic extremism at the expense of the security of the people within the Swedish territory.

The primary issue can be phrased in two questions – each in two different dimensions. The first one is more practical and could produce a straight answer using the material:

- Do the current legislation and threat estimations to combat terrorism in Sweden result in a failure to ensure everyone within its territory their right to life with respect to a potential terrorist attack?

The ´current legislation and threat estimations to combat terrorism´ refers to those presented in this thesis, that will be reviewed later in this chapter. Other definitions of phrases will be presented later on in the thesis.

Another purpose of this thesis is to show that the concepts of national security and human rights need not be opposing concepts, but are indeed interdependent and can strengthen each other merely by converging. This leads to the second question:

- Could a wider interpretation of the positive obligations of the right to life result in a more effective counter-terrorism legislation in Sweden?
In this question, ‘wider’ means an interpretation that goes beyond the positive obligations of the right to life that is currently found in jurisprudence. In the literature that’s referred to in this thesis, this interpretation is already being discussed – although in a somewhat hypothetical and abstract manner. This question aims at exploring this perspective further, and also with a distinct focus on counter-terrorism. The phrase ‘more effective’ is to be understood as effective with respect to the right to life, that is to say to result in a better protection of the lives within the Swedish territory from the event of a terrorist attack.

The question is not to be interpreted as an empirical question, but rather a hypothetical one. It aims to bridge the space between security and human rights, and explore the potential gains from promoting one to endorse the other. It will need to draw from the theoretical framework, and it will be answered in a theoretical, almost hypothetical, manner.

2:2 Disposition
The introductory chapter of the thesis gave a background to the situation on counter-terrorism and white supremacy in Sweden, to put the purpose and primary issues in a larger context.

Chapter 3 will present the theoretical framework that will help analyse the information submitted in the other chapters. The theory used derives from critical security studies that theorises around the term securitisation and its impacts on national or international policy. It introduces a framework for analysing security using its different political, historical, rhetoric, technical and social contexts. The framework will later be used in the analysis of the material, and it will help bring the analysis one step further in viewing positive obligations of the right to life in relation to counter-terrorism.

Chapter 4 initially gives background and context to the right to life as expressed in international human rights law as well as in European human rights law. To be able to examine Sweden’s international human rights obligations the chapter will present the covenants which include the right to life that Sweden has ratified and the obligations they impose. It also states the position of the right to life in Sweden by citing ratification and reservation status for the relevant documents. When

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20 See chapter 4 for a full discussion of the literature and jurisprudence.
reviewing the right to life, the chapter also evaluates the positive obligations attached to the right, and the meaning of positive obligations in domestic implementation. This is done by reviewing some of the comments and jurisprudence received from the United Nations (UN) committees and the European Court of Human Rights. The chapter aims to make the link between counter-terrorism and the right to life clear to the reader, as well as give insight to the situation in Sweden in the context of both issues.

Chapter 5 explores and gives insight to the current situation of violent extremism in Sweden, as well as the legislation regarding terrorist offences. It initially refers to domestic legislation focusing on combatting terrorism as well as the preliminary work that forms the background and foundation for the legislation. The chapter explores some of the evaluations and assessments expressed both by government agencies as well as actors from civil society organisations, in order to get both a governmental and non-governmental. Chapter 4 will also review the white-supremacy movement in Sweden specifically using the framework surrounding the *International Convention on the Elimination of all forms of Racial Discrimination* (ICERD) 1969. The chapter aims to put counter-terrorism in a national context, as well as present material that can be analysed together with the material presented in chapter 4.

Finally, chapter 6 will present an analysis and discussion on the relation between human rights and security, legislation and threat estimation as well as the positive obligations of the right to life. As can be understood from the questions posed above, the discussion will be partly concrete in nature and partly abstract and theoretical.

2:3 The sources and method
The thesis uses a legal method\(^\text{21}\), albeit with a rather wide sense of the boundaries for this method. The primary use of the legal method could be described as the reconstruction of a legal rule, or to solve a legal problem by applying a legal rule on it. The starting point of this is to examine the legal sources and its bearing on said

\(^{21}\) Swedish: Rättsdogmatisk
rule. Legal sources are traditionally considered to be legislation, practice, preliminary work and doctrine. In this context, the legal sources will be domestic, regional and international.

The legal method makes it possible to determine the status of the rights expressed, with respect for the relation between human rights law and domestic legislation. The thesis will state the status of the right to life in the international community as well as with respect to Sweden’s international obligations. It will also explore the possible positive obligations of the right to life, and its connection to counter-terrorism measures. The thesis also has one chapter dedicated to the situation of radicalisation and counter-terrorism in Sweden. In this chapter, the domestic legislation concerning counter-terrorism and its preliminary work along with some documents from UN bodies are the only legal sources.

In order to determine the white-supremacy movement’s bearing on Swedish society and the people residing within the territory of Sweden the white-supremacy movement and counter-terrorism measures cannot be studied using only legal documents. Other sources include official threat estimations regarding terrorism and reports from one Swedish non-governmental organisation (NGO). These are necessary to point out connections between threat estimations and legislation with connection to the right to life, in which the theoretical framework (presented in chapter 3) will play a large part.

The domestic legal sources are Swedish counter-terrorism law and its preliminary work. This legislation is originally written in Swedish and have subsequently been translated. An official translation was not available; therefore an unofficial translation has been used instead. Since the translation in question have been published by the Swedish government, the assessment is that it is of sufficient quality to be used in this thesis.

The regional legal sources are conventions from the Council of Europe which express the right to life. Documents relating to domestic counter-terrorism measures for member states have also been analysed.

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The regional sources will be limited to the Council of Europe and the ECHR, since these are the main human rights documents on a European level. The thesis will not explore legislation under the European Union (EU). The Charter of Fundamental Rights of the European Union (2012/C 326/02) expresses fundamental rights protected under the EU. In its preamble, the charter reaffirms the ECHR and other core documents from the Council of Europe, making it clear that the rights expressed in the ECHR are also to be considered protected in the EU. Furthermore, in article 52:3 it is clearly stated that the rights expressed in the charter are to be interpreted in the scope of the rights expressed in the ECHR.

On an international level, conventions, preambles and jurisprudence from UN human rights bodies will be used as well as published guides and other documents which strive to help interpreting the rights expressed. Additionally, reports from the UN and its bodies that have a specific focus on racism and white-supremacy, will be used to study the white-supremacy movement in Sweden.

Other sources that will be used are legal literature. They are necessary for their interpretation of rights as expressed in the legal documents as well as their interpretation of the jurisprudence produced by UN-committees or the European Court of Human Rights. The connection between the right to life and counter-terrorism is clear in one aspect: there is a legal obligation to protect people within its jurisdiction from a terrorist attack that could threaten the right to life. However, this connection is not so easily found in jurisprudence. The literature will assist in the interpretation of the legal documents and help highlight the connection made by experienced researchers.

2:4 Definitions
There are some phrases and words that are used throughout this thesis that need to be operationalised.

Violent Islamic Extremism

Ideally, the phrase would instead be violent religious extremism, so as not to put focus on one religion. Violent extremism occurs in every religion, and the singling out of Islam in particular is problematic on many accounts – one of which is a

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23 This will be discussed more thoroughly in chapter 4, see chapter 4:2 for sources that substantiate this claim.
consistent theme in this thesis. The choice to use ´violent Islamic extremism´ is for clarification purposes; many of the measures discussed in the text have a particular effect on Muslims and those perceived to be Muslims - or have a clear purpose to focus particularly on violent Islamic extremism. It would therefore be both confusing and inaccurate to continually refer to violent religious extremism when discussing these measures.

It is important to continually use all three words in this phrase, since they together form a widely different meaning than each word used separately or with one of the words absent. The word ´extremism´, according to Oxford Dictionary, is defined as “The holding of extreme political or religious views; fanaticism”\(^{24}\). The phrase ´violent Islamic extremism´ can be defined as an extremist movement that is motivated by the religion Islam and is prepared to use violence to promote their cause.

**White Supremacy**

White supremacy is the belief that human races exist and that the white race is superior to others. The Swedish Security Services use the phrase white power to describe this movement. Furthermore, the Swedish Security Services adds the following to their definition: “Some white power supporters, however, have toned down the term ‘race’ in favour of ‘culture’, but the principle remains the same: culture is seen as something you are born with and, as such, it is unchangeable. Others argue that all human races are equal but that they do not all have the same right to be in Sweden, and in order to maintain their unique characteristics they should be kept apart. Regardless of which perspective they take on this matter, a majority of white power supporters consider ‘the white race’ and ‘Swedish culture’ to be under threat, especially from multiculturalism, for which they blame our country’s politicians.”\(^{25}\)

**Terrorism**


The definition of the word terrorism is a widely-discussed topic. The lack of definition can itself pose a threat towards human rights, as expressed by Amnesty International for example: “(…) imprecise and overly broad definitions of “terrorism” in laws, in violation of the principle of legality and leading to numerous abuses”

The EU created the first framework decision that included an internationally agreed upon definition of terrorism. The definition reads as follows:

Each Member State shall take the necessary measures to ensure that the intentional acts referred to below in points (a) to (i), as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation where committed with the aim of:

— seriously intimidating a population, or
— unduly compelling a Government or international organisation to perform or abstain from performing any act, or
— seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation,

shall be deemed to be terrorist offences:

(a) attacks upon a person’s life which may cause death;
(b) attacks upon the physical integrity of a person;
(c) kidnapping or hostage taking;
(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a

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public place or private property likely to endanger human life or result in major economic loss;

(e) seizure of aircraft, ships or other means of public or goods transport;

(f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;

(g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;

(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;

(i) threatening to commit any of the acts listed in (a) to (h).

This definition was also used when creating the Swedish Act (2003:148) on Criminal Responsibility for Terrorist Offences (Terrorist Act).\(^{27}\)

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\(^{27}\) Lag (2003:148) om straff för terroristbrott
3. THEORETICAL FRAMEWORK

The theoretical framework used in this thesis was created by Jef Huysmans in his book *The politics of insecurity* from 2006. Huysmans introduces a framework for the analysis of security practice, and the idea of security as a political practice and management technique.\(^{28}\) Huysmans presents the framework in three steps: modulating domains of security, security practice as technique of government and insecurity and the political. These steps are Huysmans addition to the social constructivist and post-structural view in security studies and the framing of insecurity.\(^{29}\)

The issue of framing insecurity is the starting point of Huysmans arguments – and with framing insecurity he means the creation of insecurity by defining societal problems for a political agenda instead of as a response to a perceived or real threat. It is also the realisation that problem definition needs to be made with respect to institutional techniques relating to different policy traditions, and not merely by conforming language and rhetoric.\(^{30}\)

In the first step, modulating domains of security, Huysmans initially notes that security is a social construction, defined by the viewing of the ‘other’ in society (Huysmans continually uses migration as an example in his book, and in this the ‘other’ are the migrants) and whether the ‘other’ is perceived as a threat or a positive asset. Having noted this, Huysmans states that the actual question that needs answering is how to conceptualise this political and social construction of insecurity.\(^{31}\) Huysmans means to broaden the concept of insecurity and move further from merely interpreting the notion of insecurity as the identification of threats, but to instead seek a wider frame of insecurity. This is what Huysmans refers to as the domains of insecurity.\(^{32}\)

The domains of insecurity include the identification of threats, but also the political and institutional framing of policy issues.\(^{33}\) For example, one form of concep-

\(^{28}\) J. Huysmans, *The Politics of Insecurity: Fear, migration and asylum in the EU*, Routledge, Oxon 2006, page 1

\(^{29}\) J. Huysmans, page 147

\(^{30}\) Ibid, page 146

\(^{31}\) Ibid, page 2

\(^{32}\) Ibid, page 4

\(^{33}\) Ibid, page 4
tualising insecurity is the identification of threats and deciding the threat’s political hierarchy – here Huysmans draws on an example from human security and national security. At first glance they appear to differ mainly because of their difference in threat definitions (human security defines threats as those posed towards the individual and their quality of life, and national security defines threats as those posed towards the survival of the nation), but when analysing further it is also a question of institutional history, routine and competition between agencies which defines the differences between these two concepts of insecurity. This is important because it makes it possible to insert more commonplace practices in situations that otherwise tend to be extraordinary. When moving further than merely identifying the threat and looking to institutional and political aspects of insecurity, it draws the focus from the threat-subject. As Huysmans puts it himself, the step of modulating domains of insecurity means “moving from a threat-focused analysis to an interpretation of insecurity as a domain of practice that is produced and reproduced through socially and politically investing security rationality in policy areas”.

Moving on to the next step, security practice as technique of government, Huysmans begins his argument by stating the starting point: a domain of security (as a socially constructed phenomenon) is created by the institutional and political reactions to a threat. It is the makings of a situation into a cause for insecurity, “insecurity is not a fact of nature but always requires that it is written and talked into existence”.

An example is the ‘war on terror’ that came to existence after the terrorist attack in the United States in September 2001. The rhetoric used, Huysmans argues, resulted in the creation of a domain of insecurity. More specifically, the language and its historical connotations in the specific social context has the power to formulate this insecurity. This is the starting point of Huysmans arguments, and he

34 J. Huysmans, pages 2-6
35 Ibid, page 6
36 Ibid, page 6
37 Ibid, page 7
38 Ibid, page 7
goes further to adding technocratic processes to the analysis – in other words, he adds the professional techniques of institutions to the argument.\textsuperscript{39}

Huysmans defines these techniques as a particular method of doing an activity which usually involves practical skills that are developed through training and practice, a mode of procedure in an activity and the disposition of things according to a regular plan or design.\textsuperscript{40} It can be for instance sorting and categorising, forms, computer bases and professional routines. Huysmans argues that these routines have a role to play in the identification and definition of a threat.\textsuperscript{41} The role that professional techniques play in the framing of insecurity requires it to be included in the analysis of the domains of insecurity.\textsuperscript{42}

This technocratic view of the politics of insecurity relies on a sociological and historical notion that technology and expert knowledge are central parts of the formation of modern society. It does not however completely view this as something positive, but hold a sceptical position of the consequences of these developments.\textsuperscript{43}

Having stated that society is technocratic in the ‘domain of insecurity’ – Huysmans moves on to define insecurity and the political. When doing this, he switches the view of the politics of insecurity as a contest between visions of security and their legitimacy to a view of politics as an influence on political community and social relations.\textsuperscript{44}

Furthermore, he connects politics, and the creation of insecurities, to the “historically inherited concepts of the political organisation of human relations”\textsuperscript{45}. It is not simply a question of how to identify risks and the scope of the ‘domain of insecurity’, the meaning of rhetoric or the impact of techniques – it is also a question of these policies and politics’ influence on the social relations of people.\textsuperscript{46}

Although not being directly connected to policy-making, academic institutions

\begin{itemize}
\item \textsuperscript{39} J. Huysmans, page 8
\item \textsuperscript{40} Ibid, page 8
\item \textsuperscript{41} Ibid, page 8
\item \textsuperscript{42} Ibid, page 9
\item \textsuperscript{43} Ibid, page 9
\item \textsuperscript{44} Ibid, page 10
\item \textsuperscript{45} Ibid, page 13
\item \textsuperscript{46} Ibid, pages 10-13
\end{itemize}
nevertheless seem to reflect the current politics of insecurity, according to Huysmans. This is a part of how the societal and technocratic parts of society influence policy-making and the politics of insecurity.\textsuperscript{47} The importance of adding the technocratic perspective on an analysis of security measures lies in the impact of internal processes in political institutions (as well as the role of security experts) on the definition of threats.\textsuperscript{48}

The whole framework aims to help balance facts and values when analysing security policy. It does this by combining sociology and political theory in different phases.\textsuperscript{49} As noted by Huysmans, this approach is not original, it has been explored by other theorists in the past. The addition Huysmans does is the mixing of sociology and political theory to firstly recognise the difficulty in social sciences to balance facts and values in the analysis, and then to effectively add this balance in the analysis for a more reliable result.\textsuperscript{50}

3:1 The politics of framing insecurity in a Swedish context

As noted above, Huysmans continually uses migration as an example for his framework. He also states in his conclusion that the framework can be applied in policy issues over all. The technocratic character of many governments today is undeniable – not in the least in Sweden - as is the relation between technocratic processes and public policy.\textsuperscript{51}

Furthermore, the processes of framing – the domains of insecurity, can be applied on Swedish counter-terrorism legislation for a deeper analysis of the creation of fear and insecurity and the role of public policy in the creation of the legislation. As can the historical aspects of institutions and the relation between different Swedish institutions.

The main use of Huysmans theory is the balance between values and facts. This thesis has a main purpose to bridge the distance between human rights and security. In many ways, this distance can be described as a competition between ethics

\textsuperscript{47} J. Huysmans, page 11
\textsuperscript{48} Ibid, page 154
\textsuperscript{49} Ibid, page 158
\textsuperscript{50} Ibid, page 158-159
\textsuperscript{51} Ibid, page 155
and the promotion of everyone’s equal value on the one hand and the derogation of rights for the sake of security on the other.

This has previously been approached from a discrimination point of view – many of the reports from civil society organisations and UN bodies referred to in this thesis hold this perspective. One example here is racial profiling as a tool to identify terrorists.\footnote{See for example the critique received from the CERD on the current counter-terrorism legislation and the occurrence of racial profiling in Sweden, chapter 5} It could also be approached from a refugee-rights perspective, as in limitations to the right to seek asylum for the sake of national security. However important these perspectives are for the sake of equal rights and the foundation on international human rights law, they risk putting human rights in the position of a measuring stick for security policies. This is problematic when the time comes to prioritise between human rights and security – there is not much to safeguard the protection of human rights with the principle of national sovereignty’s possible continued stronghold in international relations.

When looking at this competition between values and facts from Huysmans perspective, and with the right to life in mind instead of other rights mentioned above, one could find details that point towards a mutual understanding of security and the safety of persons and counter-terrorism. When analysing the measures taken for counter-terrorism with regards to domains of insecurity, the technocratic nature of institutions and the connection between politics and social relations, one could point to potential flaws in regard to security measures that both threaten the right to life and decrease the effectiveness in counter-terrorism measures.

Finally, when applying the theory on the legal method used in this thesis, it enables the analysis to go deeper than merely determining the legal status of rights or the effectiveness of domestic legislation in relation to international human rights obligations. It makes it possible to also analyse the connection between legislation, implementation, strategy and threat assessment – to not see legislation as merely a way to punish offenders but also as both a point of influence and a result of influence from public opinion, political climate and institutional technologies.
4. THE RIGHT TO LIFE AND COUNTER-TERRORISM – THE INTERNATIONAL AND REGIONAL PERSPECTIVES

This chapter will examine the right to life in relation to counter-terrorism in a Swedish context. It will firstly present the right to life and its meaning in international and regional human rights law. Secondly, the right to life will be put in a counter-terrorism context – highlighting the relationship between the two and summarising comments and recommendations put forward from the international community regarding the impact terrorism has on the right to life, and states obligation to maintain it.

The chapter will then highlight the right to life as expressed in the ICCPR in the Swedish context, using comments and recommendations from the committee attached to the ICCPR and the Human Rights Committee (HRC) to interpret the expression of the right to life and its implementation on Swedish policy on counter-terrorism. Finally, the chapter will put the right to life in a European context, and the Swedish compliance with the ECHR’s protection of the right to life in relation to Swedish counter-terrorism will be examined.

4:1 The Universal Declaration of Human Rights and the ‘Supreme Human Right’

The human right that is the primary focus in this thesis is the right to life, as expressed initially in the Universal Declaration on Human Rights 1948 (UDHR) article 3. Being a declaration, the UDHR is not a legally binding document. However, it is considered by some to be the foundation of international human rights law, and has currently been translated into 502 languages. The UDHR is often described as customary law, which means that even though it is not a legally binding document, the rights expressed in the documents are considered to be universally protected in all states, regardless of ratification status or the technical legal status of the document. The UDHR was adopted by the United Nations General

Assembly on the 10th of December in 1948 and can be described as the first document to express a universal proclamation of human rights. It is, together with the ICCPR and the *International Covenant on Economic, Social and Cultural Rights* 1966 considered to be the foundation of international human rights law, and has made way for the human rights conventions that have since been drafted.

The right to life is expressed in article 3 in the UDHR: “Everyone has the right to life, liberty and security of person.” It is not further defined in the UDHR, but it is the first clearly expressed right in the declaration, and has since been described as the ‘supreme human right’, from which all human rights derive.

### 4:2 Human Rights and Terrorism

Terrorism is primarily a nationally domestic issue, dealt with by national governments. However, because of the often-international aspect of some terrorist offences there is a certain interest by the international community to contain it. Normally, international conventions work with the pretext of a state’s jurisdiction which starts and ends with its territory. The documents regarding counter terrorism go beyond this notion and prescribe states to counter terrorism beyond their territorial jurisdiction.

There are numerous documents published by international and regional human rights bodies on the relation between terrorism and human rights. In September 2001, the Security Council adopted resolution 1373, stating that acts of terrorism constitutes a threat to international peace and security and are contrary to the pur-
poses and principles of the UN, thereby confirming that terrorism can be considered a threat towards human rights and calling on states to prevent the event of a terrorist attack.\footnote{UN Security Council, Resolution 1373 (2001), S/RES/1373 (2001)}

The Office of the UN’s High Commissioner for Human Rights released a fact sheet on the subject, connecting terrorism and human rights as well as counter-terrorism and human rights. In the fact sheet, it is stated that according to international human rights law, states have a responsibility to protect individuals under their jurisdiction from terrorist attacks. This is primarily in reference to the right to life and the right to security.\footnote{The Office of the UN’s High Commissioner for Human Rights, Fact Sheet no. 32, Peace and Security Section of the Department of Public Information, DPI/2439B/ Rev.2, December 2007, page 8}

This includes taking appropriate measures to safeguard the lives of the people within the state territory, such as criminal justice and law enforcement measures to deter and investigate violations. The fact sheet references several cases\footnote{For example: Human Rights Committee, views on communication N° 195/1985, Delgado Páez v. Colombia, 12 July 1990 (A/45/40 (vol. II), annex IX, sect. D); European Court of Human Rights, Kılıç v. Turkey, N° 22492/93, Judgement of 28 March 2000, para. 62; Inter-American Court of Human Rights, Velásquez Rodríguez v. Honduras, Judgement of 29 July 1988 (para. 174).} and statements which are not necessarily directly linked to counter-terrorism, and states nevertheless that the jurisprudence is clear in the positive obligations of states protection of the right to life and its application on counter-terrorism.\footnote{The Office of the UN’s High Commissioner for Human Rights, Fact Sheet no. 32, Peace and Security Section of the Department of Public Information, DPI/2439B/ Rev.2, December 2007, page 8}

The fact sheet also brings up the difference between state actors and individuals, pointing out that in the international human rights law, states are the main carriers of the responsibility to protect the rights. It also states however, that there are situations where acts committed by individuals can lead to a human rights violation: the state will not be held responsible for the act itself, but for the treatment of the act (deterrence and prosecution for example).\footnote{The Office of the UN’s High Commissioner for Human Rights, Fact Sheet no. 32, Peace and Security Section of the Department of Public Information, DPI/2439B/ Rev.2, December 2007, page 9}
The fact sheet states at multiple times the importance of the protection of human rights both as a preventive measure against terrorism and in the prevention of terrorism. There are several aspects of the relation between terrorism and human rights. The focus in this thesis is the impact terrorism has on the right to life and states’ responsibility regarding this.

The Council of Europe adopted the Convention on the Prevention of Terrorism which was entered into force in June 2007. This convention has the purpose to increase the effectiveness of existing international documents on counter-terrorism. It has two focal areas: the establishing of criminalising acts such as public provocation, recruitment and training that might lead to terrorist offences and to strengthen co-operation nationally and internationally. It also contains a provision on the protection and compensation of victims.66

4:3 The International Covenant on Civil and Political Rights

The ICCPR was opened for signatures in 1966 and entered into force in 1976.67 Sweden ratified the ICCPR and its optional protocol on the individual complaints procedure on the 6th of December in 197168, with three reservations to the convention.69 The reservations refer to articles 10:3 (regarding reformation and social rehabilitation of persons deprived of their liberty as well as the treatment of juvenile offenders), 14:7 (regarding protection for double jeopardy) and 20:1 (regarding war propaganda).70

In the ICCPR, the right to life is expressed in article 6:1: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”71 Article 6 is comprised of six paragraphs, mainly concerning the death penalty and the prohibition on genocide as defined in the

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69 Human Rights Committee, Concluding Observations, CCPR/C/SWE/CO/7, April 2016, para 6
70 Ibid, para 6
71 International Covenant on Civil and Political Rights, article 6:1
The right to life is often linked to the abolition of the death penalty and extrajudicial killings, meaning that states are prohibited of actively depraving people within their jurisdiction of their right to life. In practice, the right to life has also come to regard the maintenance of law and public order.

One could argue that the right to life is at first hand a negative obligation for states, meaning that it strives to protect the people from states actively taking lives (as with the death penalty or extrajudicial killings) but that there are strong reasons to consider the right to also be a positive one. For example, in General Comment number 3, the HRC states that “The expression ‘inherent right to life’ cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures.”

In General Comment number 31, the HRC goes further, to state that “However the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities.” The General Comment number 31 refers to Article 2 in ICCPR and strives to give member states guidance in the implementation of the rights in their national policy and legislation.

In the case of Amirov v. The Russian Federation (Communication No. 1447/2006), the HRC refers to its General Comment number 31 in that the authorities have an obligation to investigate murder, even when there is no suspicion that the offenders are state officials. Another example can be found in the case of

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73 Human Rights Committee, General Comment no. 6 regarding Article 6 (Right to life), April 1982, para 5
74 Human Rights Committee, General Comment No. 31, CCPR/C/21/Rev.1/Add. 13, regarding the Nature of the General Legal Obligation Imposed on States Par-ties to the Covenant, March 2004, para 8
75 Human Rights Committee, Communication No. 1447/2006, Amirov v. The Russian Federation, para 11.4
Sathasivam v. Sri Lanka (Communication No. 1436/2005), where the state was held in breach of the right to life by not investigating the death of a person in police custody.\textsuperscript{76}

In the most recent session reviewing Sweden´s compliance with the convention, the HRC expresses concern on the discrepancy between the number of arrests, and the number of convictions under the Terrorist Act. The critique is based on Sweden´s obligation under articles 2, 9 and 26 (regarding discrimination and liberty and the security of the person), and highlights concerns regarding the Terrorist Act´s unfair targeting of Muslims and persons with foreign and minority backgrounds.\textsuperscript{77} Above mentioned articles are not the focus in this thesis, but the critique is still relevant since it points out a possible flaw in the Terrorist Act – namely the discrepancy between arrests and conviction. This discrepancy bids the question of whether this discriminatory practice could in fact result in a failing of the positive obligations of the right to life, by disproportionally focusing on one type of terrorism and neglecting to include other forms (such as white-supremacy).

In a report submitted to the HRC from Swedish civil society organisation Civil Rights Defenders, the signatory organisations point to several flaws in the governments counter-terrorism measures. For example, they express concern over the hasty manner in which the proposed legislation on the prohibition of terrorist travels was put in place, without a thorough analysis on the implication the legislation might have on human rights such as the freedom of thought, the freedom of movement, the freedom of expression and the freedom of association. Furthermore, the signatory organisations express concerns that the legislation criminalises everyday acts such as travelling or giving or receiving gifts.\textsuperscript{78}

The report also states that civil society actors, as well as government agencies, have expressed concerns that the new legislations would be “difficult to apply in practice and that the new provisions will have limited effect on its expressed aim:

\textsuperscript{76} Human Rights Committee, Communication No. 1436/2005, Sathasivam v. Sri Lanka, para 6:4
\textsuperscript{77} Human Rights Committee, Concluding Observations, CCPR/C/SWE/CO/7, April 2016, para 22
\textsuperscript{78} Joint NGO submission for the UN Human Rights Committee’s review of Sweden during its 116th session, 7-31 March 2016, Submitted by: Civil Rights Defenders, February 2016, para 16
to fight terrorism.” Other concerns expressed are that the legislation is not sufficiently precise and clear to comply with international standards, and that the government hasn’t assessed whether the legislation will achieve the desired effect.

As also mentioned in the concluding observations submitted by the HRC, the signatory organisations notes in their report that the government does not present statistics on numbers of arrests and numbers of convictions under the Terrorist Act. Even though the signatory organisations cannot “provide a comprehensive picture of the effects of the Terrorist Act on minority communities”, they do note that the Swedish counter-terrorism legislation is mainly debated and applied on Islamic terrorism, and in the context of Muslims.

4:4 The European Convention for the Protection of Human Rights and Fundamental Freedoms

The ECHR is strongly protected in Swedish law. According to one of the constitutional laws in Sweden, the Instrument (1974:152) of Government, no law in Sweden can be written if it contradicts the rights and freedoms expressed in the ECHR. Since 1995, the ECHR was also declared Swedish law, in the Act (1994:1219) on the European Convention for the Protection of Human Rights and Fundamental Freedoms.

In the ECHR, the right to life is expressed in article 2, as follows:

1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

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79 Joint NGO submission for the UN Human Rights Committee’s review of Sweden during its 116th session, 7-31 March 2016, Submitted by: Civil Rights Defenders, February 2016, para 17
80 Ibid, para 17
81 Ibid, para 24
82 Ibid, para 25
83 Ibid, para 25
84 Kungörelse (1974:152) om beslutad ny regeringsform, 2 kap 19 §
85 Lag (1994:1219) om den europeiska konventionen angående skydd för de mänskliga rättigheterna och de grundläggande friheterna
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

As in the UDHR, the right to life is the first articulately expressed right, which could be seen as a symbol of its status. It is also not permissible to derogate from article 2, except in “respect of deaths resulting from lawful acts of war.

The phrase ‘shall be protected by law’ indicates, as in the ICCPR, a positive obligation of the right. Not only that there should be laws on punishment for taking a life, but also state actions with the purpose to protect the lives of the people within the territory of the state. This means that the state has an obligation to prevent, investigate and, when applicable, prosecute violations.

There is an obligation to protect people within state territory from deaths by third parties (meaning another individual and not only state officials), but it is centred around the measures taken to prevent and not the end result. In the case Osman v. the United Kingdom (Application no. 87/1997/871/1083) the court declared that “Article 2 may imply, inter alia, positive obligation for State to take preventive operational measures to protect individual whose life at risk from criminal acts of another individual” but that the state are to have known or ought to known of

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86 European Convention for the Protection of Human Rights and Fundamental Freedoms (1951), article 2
88 European Convention for the Protection of Human Rights and Fundamental Freedoms (1951), article 15
90 European Court of Human Rights, Case of Osman v. the United Kingdom - 23452/94, Judgment 28.10.1998 [GC], Legal Summary, para B
real and immediate risk to life and subsequently failed to take measures. In this specific case – where a schoolmaster had stalked and then killed one of his former students, the Court stated that the requisites for this had not been fulfilled and that no violation had occurred.

In the case of Öneriyıldız v. Turkey (Application no 48939/99), the Court stated that the state had acted in breach of the ECHR since they had knowledge of the risks that caused an explosion at a dump site in a slum area, resulting in several lost lives and property. It was clear that the authorities had the information necessary to suspect danger, but nonetheless no measures were taken. The state had been passive even though the risks were both immediate and real. There were several actions that could have been taken to prevent the loss of life, including informing the public and installing equipment to prevent an explosion.\textsuperscript{91}

Additionally, in the case of Kilic v. Turkey (Application no. 22492/93), the Court reaffirms the positive obligations of the right to life, stating that states have “(…) a primary duty (…) to secure the right to life by putting in place effective criminal-law provisions to deter the commission of offences against the person, backed up by law-enforcement machinery for the prevention, suppression and punishment of breaches of such provisions. It also extends in appropriate circumstances to a positive obligation on the authorities to take preventive operational measures to protect an individual or individuals whose life is at risk from the criminal acts of another individual (…)”\textsuperscript{92}.

The court also states that these measures are to be made with consideration to difficulties in policing modern societies, operational choices and the human factor – the obligations should not be of the nature that is impossible or with a disproportionate burden on the authorities. Again, the Court presses on the real and immediate risk of life that would activate the positive obligation: “For a positive obligation to arise, it must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that

\textsuperscript{91} European Court of Human Rights, Case of Öneriyıldız v. Turkey, Application no 48939/99, Legal Summary

\textsuperscript{92} European Court of Human Rights, Case of Kilic v. Turkey, Application no. 22492/93, para 62
they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.”

Cases directly concerning victims of terrorism and possible violations of the right to life include the case of *Finogenov and Others v. Russia* (applications no. 18299/03 and 27311/03), where a hostage situation was resolved with the use of gas and force. The use of these methods to resolve the situation did not constitute a violation, however there had been inadequate planning and execution of the rescue operation, in combination with an ineffective investigation and negligence in medical assistance to hostages that resulted in a violation of article 2. Another similar case was that of *Tagayeva and Others v. Russia* (application no. 26562/07) where the state was found to have violated article 2 for failing to take preventive measures in a terrorist attack where 330 people lost their lives as a result of explosions, fire and an armed intervention. The state had had detailed information of an impending threat but had not taken measures to stop the attack; no measures had been taken to stop the terrorists meeting and planning the attack, no measures had been taken to increase security or to inform the public or the school where the attack took place. Violations were also found in the failing of planning and control of the security situation, investigations after the intervention and the use of lethal force by the security personnel.

4:5 Summary

The state has a duty to protect people within its territory from terrorism that results in human rights violations, by creating effective counter-terrorism measures. This means preventing attacks, and also providing accountability in the aftermath of an attack. This obligation is not crystal clear in committee- and court practice. What is clear from practice is that there is an obligation to prevent, investigate and prosecute the killing of one individual even from a third party, but this is generally applied in cases where there are concrete failures to protect an individual’s (or several) right to life.

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93 European Court of Human Rights, Case of Kilic c Turkey, Application no. 22492/93, para 63
94 European Court of Human Rights, Case of Finogenov and Others v. Russia, Applications no. 18299/03 and 27311/03
95 European Court of Human Rights, Case of Tagayeva and Others v. Russia, Application no. 26562/07
There is no question that state obligation to protect people within their jurisdiction from terrorist attacks are connected to the right to life. The cases *Finogenov and Others v. Russia* and *Tagayeva and Others v. Russia* show that states have an obligation towards article 2 in the ECHR to prevent, handle and investigate a terrorist attack. The key words are ´real´ and ´immediate´ - the threat must be of a concrete nature for this obligation to be activated. The court rulings also do not specify legislation as a part of the preventive measures that article 2 in the ECHR requires – but merely the handling of intelligence before the attack and then the operational procedure during the attack.
5. COUNTER-TERRORISM IN SWEDEN

In this chapter, the Swedish Terrorist Act will be reviewed, as well as official Swedish threat assessments. Furthermore, reports and studies from Swedish civil society will be used to provide a wider picture of the situation of radicalisation in Sweden. The first three parts will contain material from Sweden, the domestic legislation, official threat estimations and a national NGO’s input on the situation.

Following this, a review of international critique of the radicalisation in Sweden and the state’s measures taken against this will be presented. The sources used then will be legal documents from the UN. As mentioned in chapter 2, the recommendations from the attached committee, Committee of the Elimination of all forms of Racial Discrimination (CERD), will be accounted for – to give a better understanding of the situation and the critique that Sweden has received. The ICCPR has one article that could be linked to the white-supremacy movement. Therefore, a brief description of the HRC’s view of the compliance with this article will be presented.

5:1 Act on criminal responsibility for terrorist offences and other legislation

In the Terrorist Act, a terrorist offence is an act that might seriously damage a state or intergovernmental organisation with the intent to:

1. seriously intimidate a population or a group of population
2. unduly compel a public authority or an intergovernmental organisation to perform an act or abstain from acting, or
3. seriously destabilise or destroy fundamental political, constitutional, economic or social structures in a state or in an intergovernmental organisation.\(^{96}\)

The acts (or the threat of the acts) punishable can be one or more of the following offences that is defined in the Swedish Penal Code\(^ {97}\): murder\(^ {98}\), manslaughter\(^ {99}\).

\(^{96}\) Lag (2003:148) om straff för terroristbrott, Section 2
\(^{97}\) Brottsbalken (1962:700)
\(^{98}\) Chapter 3, section 1 Brottsbalken (1962:700)
\(^{99}\) Chapter 3, section 2 Brottsbalken (1962:700)
gross assault\textsuperscript{100}, kidnapping\textsuperscript{101}, unlawful deprivation of liberty\textsuperscript{102}, gross infliction of damage\textsuperscript{103}, arson and gross arson\textsuperscript{104}, devastation endangering the public\textsuperscript{105}, sabotage and gross sabotage\textsuperscript{106}, hijacking and maritime or air traffic sabotage\textsuperscript{107}, airport sabotage\textsuperscript{108}, spreading poison or a contagious substance\textsuperscript{109}, unlawful handling of chemical weapons\textsuperscript{110}, intentional weapons offence\textsuperscript{111}, smuggling and grave smuggling\textsuperscript{112} of certain goods, and unlawful threat\textsuperscript{113} which includes threats to commit any of the acts cited above and below.

Additional offences defined by other acts are offences under the Act (2010:1011) on Inflammable and Explosive Goods\textsuperscript{114}, the Military Equipment Act (1992:1300)\textsuperscript{115} and the Act (2000:1064) on Control of Dual-Use Items and Technical Assistance\textsuperscript{116}.

The Terrorist Act was entered into force on July 1\textsuperscript{st} in 2003. The legislation does not criminalise new acts, but instead adds requisites of intent and possible consequences of already criminalised acts. It also prohibits attempt, preparation or conspiracy to commit a terrorist offence, or the failure to disclose such an offence.\textsuperscript{117} Certain crimes in the Penal Code can be accounted for as an aggravated circumstance when being committed with the intent to support a terrorist offence.\textsuperscript{118} Profits made from offences under the act are to be forfeited, if not ´manifestly unreasonable´.\textsuperscript{119} Property that has been used as an aid to commit an offence of the

\textsuperscript{100} Chapter 3, section 6 Brottsbalken (1962:700)
\textsuperscript{101} Chapter 4, section 1 Brottsbalken (1962:700)
\textsuperscript{102} Chapter 4, section 2 Brottsbalken (1962:700)
\textsuperscript{103} Chapter 12, section 3 Brottsbalken (1962:700)
\textsuperscript{104} Chapter 13, sections 1 and 2 Brottsbalken (1962:700)
\textsuperscript{105} Chapter 13, section 3 Brottsbalken (1962:700)
\textsuperscript{106} Chapter 13, sections 4 and 5 Brottsbalken (1962:700)
\textsuperscript{107} Chapter 13, section 5 a) Brottsbalken (1962:700)
\textsuperscript{108} Chapter 13, section 5 b) Brottsbalken (1962:700)
\textsuperscript{109} Chapter 13, section 7 Brottsbalken (1962:700)
\textsuperscript{110} Chapter 22, section 6 a) Brottsbalken (1962:700)
\textsuperscript{111} Chapter 9, section 1 Vapenlag (1996:67)
\textsuperscript{112} Sections 3 and 5 Lag (2000:1225) om straff för smuggling
\textsuperscript{113} Chapter 4, section 5 Brottsbalken (1962:700)
\textsuperscript{114} Lag (2010:1011) om brandfarliga och explosiva varor
\textsuperscript{115} Lag (1992:1300) om krigsmateriel
\textsuperscript{116} Lag (2000:1064) om kontroll av produkter med dubbla användningsområden och av tekniskt bistånd
\textsuperscript{117} Lag (2003:148) om straff för terroristbrott, section 4
\textsuperscript{118} Lag (2003:148) om straff för terroristbrott, section 5
\textsuperscript{119} Lag (2003:148) om straff för terroristbrott, section 6
Act could be declared forfeited, this also applies on property the use of which constitutes an offence of the Terrorist Act.\textsuperscript{120}

The act was created as a way to implement a framework decision made in the EU regarding counter-terrorism in 2002.\textsuperscript{121} The EU framework decision was the first international agreement on a definition of terrorism.\textsuperscript{122} According to the framework decision, the act of terrorism is to be understood as an act with the purpose that is considered a threat against a democratic state. This is to avoid a situation where a person or a group whose actions have the purpose to uphold or work towards a democratic society is charged with the act of terrorism.\textsuperscript{123}

In December 2014, the Swedish government decided to call an official investigation to review the possible necessity to modify domestic legislation in order to conform to international obligations, especially with regard to UN Security Council resolution 2178 from 2014.\textsuperscript{124} Resolution 2178 was written with the condemnation of violent extremism and calls on states to take measures of prevention of terrorism and other forms of violent extremism.\textsuperscript{125}

The purpose of the investigation was to conclude whether the legislation should be broadened in a way to also include the travelling with the purpose to perform or plan a terrorist attack. The official investigation resulted in an addition to the existing counter-terrorism legislation. The addition was made to reach those individuals that travel to a country where they do not have citizenship or residence for the purpose to commit, plan, prepare or participate in terrorist actions. The legislation should also apply to an individual that travels with the intent to receive training in terrorism.\textsuperscript{126} The addition was criticised by the Swedish Bar Association, among others. It was for example stated that the addition of the prohibition of terrorist travels and the financing of terrorism could criminalise every day actions

\begin{footnotesize}
\begin{enumerate}
\item Lag (2003:148) om straff för terroristbrott, section 7
\item Lag (2003:148) om straff för terroristbrott, section 1 and 2
\item Regeringens proposition 2001/02:135 Sveriges antagande av rambeslut om bekämpande av terrorism, para 3.2
\item Ibid, para 3.2
\item Statens Offentliga Utredningar 2015:63, Straffrättsliga åtgärder mot terrorismresor, Stockholm 2015 Förord
\item Security Council Resolution 2178, S/RES/2178 (2014), September 2014
\item Statens Offentliga Utredningar 2015:63, Straffrättsliga åtgärder mot terrorismresor, Stockholm 2015, page 65-66
\end{enumerate}
\end{footnotesize}
such as giving and receiving gifts, and that the addition could make the legislation difficult to apply and not sufficiently transparent.\textsuperscript{127}

The addition was made to the Act (2010:299) on Public Provocation, Recruitment and Training Concerning Terrorist Offences\textsuperscript{128} from 2010. The act currently criminalises urging or enticing the public to commit terrorist offences, recruiting or attempting to recruit others with the purpose to perform an act of terrorism, providing instructions or receiving instructions on the use or manufacturing of explosives, weapons and other techniques intending to use them in particularly serious crimes and the travelling with the intent to commit a particularly serious crime.

Finally, there is an act dedicated especially to the financing of terrorism, The Act (2002:444) on Criminal Responsibility for the Financing of Particularly Serious Crime in Some Cases, etc.\textsuperscript{129}. It criminalises the collection, provision or reception of funds or other assets (or the attempt to do so), with the intention or knowledge that they will be used to commit particularly serious crime.

Many of the steps taken to prevent terrorism via legislation has been done in reference to international obligations. This could indeed be seen as steps taken to conform with the positive obligations to the right to life. The definition of terrorism is an internationally accepted one and several steps have been taken to fight the internationalised terrorism. The critique received does touch on the possible difficulties on applying the legislation, which goes back to the question of whether its focus is not only possibly discriminatory but also too narrow to include all threats.

5:2 The state’s threat estimation regarding terrorism
The official assessment of the current terrorist threat towards Sweden is made by the National Centre for Terrorist Threat Assessment (NCT). The NCT is comprised by representatives from the Swedish Security Service, National Defence Radio Establishment (FRA) and the Military Intelligence and Security Directorate (MUST). They assess the probable existence of actors with intent and ability to commit a terrorist offence towards Sweden, they also assess the reliability of the

\textsuperscript{127} Sveriges Advokatsamfund, Remissvar JU2016/04600/L5, Stockholm October 2016
\textsuperscript{128} Lag (2010:299) om straff för offentlig uppmanning, rekrytering och utbildning avseende terroristbrott och annan särskilt allvarlig brottslighet
\textsuperscript{129} Lag (2002:444) om straff för finansiering av särskilt allvarlig brottslighet i vissa fall
information that they have gathered – which is then analysed to give an overall assessment of the threat level. The threat level is a scale from one to five, where one is ‘no threat level’ and five is ‘very high threat level’. Since October 2010, the NCT has issued a threat level three on the scale, which historically is a high level.\textsuperscript{130}

The threat-levels are separated into three categories: Islamic motivated terrorism, politically motivated terrorism and separatist motivated terrorism.\textsuperscript{131} The first category includes various violent Islamic actors within and outside Sweden that have the intent and ability to carry out an attack against the Swedish state. The second category includes movements such as the white-supremacy movement and the violent leftist ideology (also called the autonomous movement). The third includes the Kurdistan’s Workers Party and their sister organisations. This thesis will focus on the first and second categories, since their estimated threat levels are higher.

According to the NCT’s report from 2016, Sweden likely provides a legitimate target for attacks with violent Islamic motives. However, it is pointed out that there are other European countries that are more likely to be targets. Those that do pose a threat (fulfilling the ability- and threat requisites) towards Sweden are likely persons that have travelled and returned from fighting with Islamic terrorist organisations, and those that are in Sweden and are affected by violent Islamic propaganda.\textsuperscript{132}

Daesh is probably the largest source of inspiration in Sweden, according to the report. This is likely due to their former military and territorial successes as well as broad media coverage of their activities. The numbers of people sympathising with them are estimated to have grown in recent years. Those that travel with the intent to join the fighting often go to Syria or Iraq, and the majority of travellers

\textsuperscript{130} Säkerhetspolisen, Så sätts terrorhotnivån för Sverige, published 2017-01-18, 


join Daesh. The travellers gain knowledge, experience and a network that could support them in potential plans of an attack. The NCT estimates that a small number of these travellers will form ideas of an attack against the West, most likely in their own home countries, and that their tendencies towards violence will increase after witnessing or performing murders or executions in a conflict environment. \footnote{National centre for Terrorist Threat Assessment (Nationellt centrum för Terrorhotbedömning), Annual Assessment 2016, available at the Swedish Security Service website, \url{http://www.sakerhetspolisen.se/kontratorrorism/nationellt-centrum-for-terrorhotbedomning.html} accessed 2017-04-13, page 1} They also inspire those that don’t have a direct contact with the organisation but are willing to plan an attack themselves. The attacks carried out towards the west have increased since Daesh openly encouraged their followers to act against western countries in 2014. A number of attacks in recent years have proved to be influenced by propaganda and encouragement from Daesh, and most of them have been carried out with simple means, such as sharp objects or fire arms. The main targets of the attacks are those states engaged in the coalition against Daesh, Sweden not being one of them. \footnote{Ibid, page 2}

The report from 2017 is not significantly different with regard to violent Islamic terror threats. One development from the report from 2016 is the mention of the loss of territory that Daesh has suffered, and the killings of several highly-appointed operatives. Another development is the decreased number of people that travel to join violent Islamic radical groups in conflict areas. This is likely due to the tightened security on the Turkish border and Daesh’s continually pressed military situation. It is also possible that the criminalisation of terror travels has effected this decrease. \footnote{National centre for Terrorist Threat Assessment (Nationellt centrum för Terrorhotbedömning), Annual Assessment 2017, available at the Swedish Security Service website, \url{http://www.sakerhetspolisen.se/kontratorrorism/nationellt-centrum-for-terrorhotbedomning.html} accessed 2017-04-13, page 1}

Both reports asses the threat level from violent Islamic extremism as level 3 on the scale. \footnote{National centre for Terrorist Threat Assessment (Nationellt centrum för Terrorhotbedömning), Annual Assessment 2016 and 2017, available at the Swedish Security Service website, \url{http://www.sakerhetspolisen.se/kontratorrorism/nationellt-centrum-for-terrorhotbedomning.html} accessed 2017-04-13, page 2}
Regarding the white-supremacy movement, the NCT report from 2016 describes it as violent right-wing extremists and goes under the category of politically motivated terrorism. The movement have members that advocate violence as a method to achieve their goals. This could in turn inspire individuals to carry out an attack.\textsuperscript{137}

The report states that 2015 had seen several attacks that have been xenophobically motivated, or with a critical view of the receiving of refugees in Sweden. These were probably motivated by the white-supremacy movement’s anti-Islamic rhetoric and actions. The intent of these attacks is estimated to be individually decided and not deriving from the established groups intent to execute an attack.\textsuperscript{138}

In the report for 2017, politically motivated terrorism is described as showing a low level of violent activity. It is pointed out however, that individuals and subgroups that sympathise with the groups have the ability to execute acts of violence that could be described as terrorist attacks. It is also possible that such individuals have the intent to perform such acts of violence during the year of 2017, regardless of the focus of leading operators in the established organisations.\textsuperscript{139}

The threat level in the reports regarding both 2016 and 2017 for politically motivated terrorist attacks is set at level 2 on the scale.\textsuperscript{140}

As a part of the national measures taken against terrorism, the National Coordinator to Safeguard Democracy Against Violent Extremism (National Coordinator) got its mission from the government of Sweden in June 2014. All the municipalities are engaged in the combatting of violent extremism, and most have appointed

\textsuperscript{137} National centre for Terrorist Threat Assessment (Nationellt centrum för Terrorhotbedömning), Annual Assessment 2016, available at the Swedish Security Service website, \url{http://www.sakerhetspolisen.se/kontraterrorism/nationellt-centrum-for-terrorhotbedomning.html} accessed 2017-04-13, page 2

\textsuperscript{138} Ibid, page 2

\textsuperscript{139} National centre for Terrorist Threat Assessment (Nationellt centrum för Terrorhotbedömning), Annual Assessment 2017, available at the Swedish Security Service website, \url{http://www.sakerhetspolisen.se/kontraterrorism/nationellt-centrum-for-terrorhotbedomning.html} accessed 2017-04-13, pages 2-3

their own local coordinator for this purpose. They also include the work against radicalisation in already existing structures.141

The National Coordinator divides the different kinds of extremism in largely the same manner as the NCT, however they use the phrases right wing, left wing and Islamic extremism. In the description from the introduction of the strategy, Islamic extremism exist in a manner that has not been seen before. Sweden had (at the time of writing) been spared any large-scale attacks, but were still affected by the aggressive recruitment of jihadists by terror organisations in the larger cities of Sweden.142

Furthermore, the right-wing extremism (in other words, the white-supremacy movement) are most active in smaller communities on the country side. The recruitment is mainly focused on young men. The extremism reaches local decision makers and intimidates local politicians and journalists by its violent nature, sometimes with the result of silence and inactivity.143

When asked by the National Coordinator which extremist environment the municipalities find most active, the overall answer was the right-wing extremism, thereafter the Islamic extremism and lastly the left-wing extremism. This estimation is shared by the National Coordinator, after reviewing impressions from visits at the municipalities, information gathering, conferences and the coordination that has taken place since June 2014.144

Individuals from violent Islamic extremism is estimated to be the largest threat towards Sweden and its interests. The threat comes from foreign fighters, that travel from Sweden to join the fighting for a terrorist organisation in a conflict area, and then returns to Sweden with a higher threshold of violence and traumatised by their experiences. Besides the threat of an attack that this entails, they could also

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141 National Coordinator to Safeguard Democracy Against Violent Extremism (Nationella samordnaren för att värna demokratin mot våldsbejakande extremism), Nationell strategi mot våldsbejakande extremism, 2016, page 2
142 Ibid, page 2
143 Ibid, page 2
144 Ibid, page 7
be viewed as martyrs and be a source of inspiration. Finally, there are the individuals that are not directly connected to a certain group, but are susceptible to propaganda and might be inspired to carry out an attack by themselves.\textsuperscript{145}

There are some significant similarities between the different movements, besides the obvious similarity of violence. They all strive from the same societal climate – divided though they might be by ideology. Polarisation and societal division enforces each movement; therefore, they also enforce each other and the polarisation is a big influence on individual actors.\textsuperscript{146}

The knowledge of the reasons why individuals are drawn to right- or left wing extremism is more extensive than knowledge of individuals that have radicalised, travelled to conflict areas and then returned. The information on foreign fighters that does exist comes from intelligence from the Security Services, and are therefore not accessible.\textsuperscript{147}

5:4 Local non-governmental organisation’s view of radicalisation in Sweden

One of the organisations that investigates and reports on radicalisation in Sweden is Expo, a foundation that has been mapping, examining and informing on the organised intolerance in Sweden since 1995. Expo focuses especially on right wing extremism and has several approaches in their work.\textsuperscript{148} For example, they publish a magazine, they perform their own research and they educate schools, organisations, governmental agencies and companies on organised intolerance.\textsuperscript{149}

The latest yearly review report that Expo released is from 2015. According to the report the year saw a decrease in activity and at the same time a surge of radicalisation. The decrease in activity is likely linked to a change in the dynamic of the

\textsuperscript{145} National Coordinator to Safeguard Democracy Against Violent Extremism (Nationella samordnaren för att värna demokratin mot våldsbejakande extremism), Nationell strategi mot våldsbejakande extremism, 2016, pages 7-8
\textsuperscript{146} Ibid, page 8
\textsuperscript{147} Ibid, page 29
\textsuperscript{148} Stiftelsen Expo website: http://stiftelsen.expo.se/historia.html accessed 2017-04-18
\textsuperscript{149} Stiftelsen Expo website: http://stiftelsen.expo.se/verksamhet.html accessed 2017-04-18
groups, a decomposition and redistribution of sympathisers, as well as some difficulties with reaching a certain political power.\textsuperscript{150}

The activism of the extreme right takes its form in political parties, spreading of propaganda, creating web forums and online magazines and protests. The activists consist of members of established groups as well as individuals that are attracted to their narrative. Expo reports that there was a rise of activism outside the established groups in 2015. This activism consisted of joint efforts of sub-groups into separate attacks towards temporary housings for refugees, amongst other targets. The actors of these joint efforts have been sub-groups with racial ideologies and football firms. This has resulted in the creation of citizen guards with racial ideologies.\textsuperscript{151}

2014 saw a wave of attacks against temporary housings for refugees, with most of the offenders not identified. In the case that someone has been declared a suspect, they have had ties to groups with racial ideology. According to Expo, this is not a coincidence. In the web forums, the attacks where celebrated or excused. The offenders were described as freedom fighters or rightfully frustrated Swedish citizens. The most severe of these attacks was the attack on Kronans school in Trollhättan, where a man killed three people. The man had no ties to any extremist organisation, but had consumed racist propaganda online.\textsuperscript{152}

Expo states that there is indeed a question of radicalisation in the right wing extremist environment. This has been driven onwards by the growing unhappiness with the apparently large number of refugees accepted by Sweden.\textsuperscript{153}

\textsuperscript{150} Stiftelsen Expo website, the yearly review of 2015: \url{http://expo.se/hatetspolitik/farre-aktiviteter-okad-radikalisering/} accessed 2017-04-18
\textsuperscript{151} Ibid
\textsuperscript{152} Ibid
\textsuperscript{153} Ibid
5:5 International and regional perspectives of radicalisation in Sweden

The ICERD was entered into force in 1969, with the resolve to eliminate racial discrimination and segregation in all its forms and to deter and fight racist doctrines and practices.154 Sweden signed the convention in 1966 and ratified it in 1971.155

The latest accessible concluding observations that the committee attached to the ICERD (the CERD) is from 2013. The CERD welcomes the state´s adoption of the national action plan to safeguard democracy against extremism, but expresses concern about the increase of racially motivated hate speech against minorities such as Muslims, Afro-Swedes, Roma and Jews. It especially points out that these hate speeches sometimes are the work of politicians. Hate speech is also reported to have increased in the media and on the Internet.156

In addition, although welcoming the enhanced data on xenophobic and racially motivated hate crimes and new efforts to handle these types of crimes, the CERD expresses concerns about the ´limited effectiveness´ of the measures taken against hate crime. The committee also notes the discrepancy between the reports of racially motivated hate crimes and the decreasing number of preliminary investigations and convictions.157

One reoccurring critique that the committee raise against Sweden is the state´s refusal to prohibit racist organisations in domestic legislation. This has been an ongoing discussion between the committee and the state for several periodic reviews.158 The question of prohibition leads back to article 4(b) of the convention which declares that the state “(s)hall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite

154 International Convention on the Elimination of All Forms of Racial Discrimination 1969, Preamble
156 Committee on the Elimination of Racial Discrimination, Concluding Observations, Communication number CERD/C/SWE/CO/19-21, September 2013, para B (h) and 12
157 Ibid, para 11
158 Ibid, para 13
racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law”.\textsuperscript{159}

One argument that Sweden has declared towards the prohibition of these organisations is that the current legislation is enough to hinder the activities for such groups, and that it is consequentially not necessary to apply additional legislation for the prohibition of the organisations themselves. The committee does not agree on this description of the situation. It notes that despite the state’s assurances that the current legislation is enough to safeguard against racist expressions (including the operation of groups advocating racial discrimination), the racist and extremist organisations within its territory continue to function.\textsuperscript{160}

Regarding the Terrorist Act, the committee notes that there is a discrepancy between number of arrests and numbers of convictions under the legislation, which makes it express concerns regarding the occurrence of racial profiling.\textsuperscript{161}

Moving on to the ICCPR, the rights relating to radicalism in general and the white-supremacy movement specifically is article 20, which reads: “1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”\textsuperscript{162}

As is the case with the ICERD, Sweden is not fully conforming with the convention, and article 20 in particular, following its refusal to legally prohibit the existence of racist organisations. The HRC notes this in the most recent review of Sweden, recommending Sweden to remove its reservation to the article and taking action to prohibit racist organisations.\textsuperscript{163}

In line with this, the HRC also expresses concern about the continued occurrences of hate speech and violence towards Muslims, Afro-Swedes, Roma and Jews.

\textsuperscript{159} International Convention on the Elimination of All Forms of Racial Discrimination, article 4(b)
\textsuperscript{160} Committee on the Elimination of Racial Discrimination, Concluding Observations, Communication number CERD/C/SWE/CO/19-21, September 2013, para 13
\textsuperscript{161} Ibid, para 16
\textsuperscript{162} International Covenant on Civil and Political Rights 1966, Article 20
\textsuperscript{163} Human Rights Committee, Concluding Observations, CCPR/C/SWE/CO/7, April 2016, para 6-7
They also express concern regarding the religious intolerance and the large numbers of incidents including physical assaults towards mainly Muslims and Jews, and the underreporting of such cases.\textsuperscript{164}

5:6 Summary

The Terrorist Act seems to include all forms of terrorism, regardless of the motivations from actors. The definition of terrorism is one of international acceptance. It is worth noting that the adding of the prohibition for terrorism travels does seem to aim at a certain type of terrorism (namely the internationalised terrorism that often takes form as violent Islamic extremism), at the same time the state does not seem to consider adding a prohibition on racist organisations for the purpose of decreasing the activities of radical white supremacists. The measures taken to prevent terrorism are apparently eagerly taken, with quickly formulated additions to legislation (despite warnings from experts), all done with the keeping of international obligations in mind. At the other hand, measures taken to prevent hate crimes, racist organisations and hate speech are taken more carefully, with the arguments that current legislation is sufficiently preventing such crimes.

The descriptions of types of threats seem to differ between the movements. From what can be read from the NCT´s estimations and the National Coordinator´ s strategy, it appears that the threat from violent Islamic extremism is a potential threat where the official estimation is high on the scale – whereas the threat from white-supremacy is already occurring and targeting crucial pillars of a democratic society (local political representatives and state officials and journalists), and at the same time has a lower threat estimation on the scale.

\textsuperscript{164} Human Rights Committee, Concluding Observations, CCPR/C/SWE/CO/7, April 2016, para 16
6. ANALYSIS

The information that could be found in relation to different types of radicalisation is varied. There is a lot more information on violent Islamic extremism from governmental sources than there is on the white-supremacy movement. As for the sources from Swedish civil society, it is the other way around. The language is also quite different, and the categorising of the crimes. With white-supremacy the crimes discussed are mainly hate-crimes and not terrorism. This cannot be explained by stating that white-supremacy does not constitute a terrorist threat, considering it being part of both the NCT and the National Coordinator´s estimations.

Naturally, when it comes to matters of national security there are some information that is classified. For example, how the NCT forms their conclusions on the threats towards Sweden. It is only recently that they have at all commented their work leading up to the yearly estimations, and those comments were vague and general. In several of the documents surrounding the strategies against radicalism, it is pointed out that the white-supremacy movement is highly active – in the National Coordinator’s strategy it was even pointed out that the municipalities thought the white supremacy movement to be the most active out of all extremist groups. Still, the official estimation is that the highest threat comes from violent Islamic extremism. It is difficult to analyse this, given that the methods and tools used to make the estimation is not easily accessed. It is however still worth mentioning this curious gap between local and national estimations.

Another interesting aspect of the official documents is the labelling of the different groups of extremists. Depending on the author of the document, they all have similar names and categories, like for example the categories of the NCT´s yearly estimations: ‘Islamic motivated terrorism’, ‘politically motivated terrorism’ and ‘separatist motivated terrorism’. The obvious point here is the immediate use of ‘Islamic´ instead of ´religious´, especially when the other categories have more general phrases such as ´politically´ or ´separatist´. As has been pointed out by Huysmans, rhetoric is a vital part of the shaping of policies as well as the public´s mindset. Not only rhetoric but the technocratic nature of this is interesting to point

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out, this is a clear example of a categorising and labelling that will spread down from these national governmental agencies to municipalities, police, migration officers and others that come into direct contact with these issues. To use the label ‘religiously motivated terrorism’ would still fulfil the purpose of the estimation and could also enable it to include religious fanatics not belonging to Islam. A failure to do so certainly gives the impression that Islam is the only religion capable of violence or terrorism.

According to the National Coordinator, the threats from far-right individuals is of a rather concrete nature – with examples of political representatives and journalists being frightened to silence. These kinds of threats could be seen as serious threats against a democratic society – which very much depends on free press and the possibility for politicians to carry out their work safely. The threat from the violent Islamic extremism hadn’t taken such a concrete form at the time of producing the strategy, and yet it is estimated to be a larger threat towards national security than those attacks by white-supremacy groups that have actually taken place.

The Swedish Terrorist Act does not exclude any form of terrorism based on the motive behind the act. It could, at first glance, be said to apply equally on white-supremacy and violent Islamic extremism. The adding of the prohibition of terrorism travels makes an exception. This part of the legislation can be said to only apply on international terrorism (which at this time is said to be mostly Islamic violent extremism, as stated in chapter 1). At the same time, there are no specific legal measures taken to combat white-supremacy. One such measure, for instance, could be to prohibit racist organisations, as recommended by several local NGO’s and the CERD. Furthermore, when connecting this to the language used in national strategies and threat estimations as well as their conclusions, it becomes clearer what movement has been considered as the biggest threat.

Regarding the jurisprudence from UN-committees and the European Court of Human Rights, there is not very much jurisprudence directly connecting the right to life to the prevention of terrorism, and those cases that do include this connection are cases where an act of terrorism had already been committed and lives subsequently lost. It is clear that in order to be in breach of the ECHR, there needs to be
a real and imminent threat of an attack that the state could have, but didn’t, prevent. The critique from the court is only based on how the state handled the ongoing situation – not how the legislation that is supposed to prevent (or handle) the situation is formulated.

This would mean that the first question formulated in part 2:1 (Do the current legislation and strategies to combat terrorism in Sweden result in a failure to ensure everyone within its territory their right to life with respect to a potential terrorist attack?) is to be answered as a negative. According to jurisprudence on the matter, the positive obligation of the right to life is only activated when there are concrete cases that are being neglected. This is a difficult thing to estimate, at least beforehand, when there is no clear insight to the intelligence or the managing of intelligence within governmental agencies. But from the information that has been presented in this thesis, it is hard to confirm that there are such concrete and real cases concerning the white-supremacy groups in Sweden.

Still, when applying the theory of Huysmans, one could look at the impact of the legislation on other levels of society. Just as the use of language in national strategies affect the labelling and overall handling of cases on local levels, the language in the legislation could affect the labelling of terrorists – it could be argued that this is reflected in the strategies and vice versa. It is not obvious to all that white-supremacy groups are to be labelled terrorists, but instead the crimes they commit are often considered to be hate-crimes. This could have an effect on what is considered to be a threat, not only by politicians but by public opinion as well. The legislation has been criticised for not being effective enough, and for the discrepancy between numbers of arrests and numbers of prosecutions and convictions. It begs the question of whether the view of what groups are considered terrorists affects the surrounding institutional work when preventing an attack. The legislation itself defines terrorism depending on the act itself, not the group or individual behind the attack – but the strategies are clear in what kinds of individuals and groups are the biggest threat: those that are motivated by a violent Islamic extremism.

When pulling at this thread, there is no way of knowing just how socially constructed the sense of insecurity really is. This would mean that there is a lot to
loose from overly categorising the forms (or motives) of terrorism, and more to gain by actively including movements not currently viewed as terrorism – such as white supremacy. Therefore, even though there is no violation of the positive obligations of the right to life when not actively including white-supremacy in counter-terrorism measures, it could still be beneficial to do so – so beneficial that it could result in a stronger protection of the right to life with regards to terrorist attacks.

Another interesting aspect of the material presented is how different kinds of crimes are defined, specifically the division of hate-crimes and terrorism. Considering the threat estimations made by the NCT and the National Coordinator, one would place terrorism in a higher position of the political hierarchy (as described by Huysmans). To estimate this estimation, one could, as Huysmans suggest, look beyond the threat-subjects themselves and add institutional history, routines and the competition between agencies to the analysis. Could it be that the historical existence of white-supremacy in Sweden makes this sort of threat to be perceived as lower in hierarchy than the supposed new and rising threat of internationalised terrorism?

Often when discussing violent Islamic extremism and white-supremacy, they are approached from different perspectives and also in different contexts. In a national security environment (as in the NCT-reports, national strategies and domestic legislation) there is an acknowledgement of the similarities between the movements; namely the radicalisation itself and the need for polarisation and societal unrest for the promotion of the cause. In a human rights environment (committee-statements, regional court rulings, NGO´s statements etc.) there is often a discussion on white-supremacy as a threat against human rights and the state´s obligation to protect people from these groups on the one side, and violent Islamic extremism as a threat, sure – but mostly the counter-actions as the real threat against human rights and the rule of law.

There is a valid reason for this division: counter-terrorism measures are often, it could be argued, not in proportion to the perceived threat and often discriminatory against certain groups in society. They are also a source of dangerous derogations from principles of human rights and the rule of law. Having said this, it could also
be beneficial to question whether these two kinds of extremisms might not need to be treated more equally – both in terms of rhetoric and in threat-estimation. It might be so, that this could help end the balancing between security and human rights – to instead see security and human rights as two pieces that fit together in a democratic society.

6:1 Conclusion
The first question posed in chapter 1 was the following: Do the current legislations and threat estimations to combat terrorism in Sweden result in a failure to ensure everyone within its territory their right to life with respect to a potential terrorist attack?

When answering this from a strictly legal perspective, drawing on the jurisprudence from UN-bodies and the European Court of Human Rights, the answer is that there is no ground for claiming that Sweden could be violating the right to life in this respect. Despite there being attacks performed by individuals sympathetic with white supremacy, there are no concrete (accessible) information to suggest that these attacks could have been prevented by the state. This said, it does not mean that there isn’t a risk of a violation – however, assessing those kinds of risks without the full information on the methods of threat assessment would result in a high amount of speculation not suitable in a legal context.

The notion of speculation does however lead on to the second question posed in chapter 1, which allows for a bit more theorising: Could a wider interpretation of the positive obligations of the right to life result in a more effective counter-terrorism legislation in Sweden?

As discussed above, there is room to view legislation as not only the prohibition of certain acts, but as a tool with which to guide the notion of security and what is deemed a threat. When reviewing the official threat estimations together with the legislation there appears to be a tilt towards viewing violent Islamic extremism as more of a threat than the white-supremacy movement – especially when comparing the estimations to those made by NGO’s and UN bodies. This would suggest that there is room for improvement in the protection of the right to life in regard to terrorist offences.
Normally, when discussing the strengthening of national security measures, there would be cause for concern about derogations from human rights and the rule of law. When discussing it from a human rights perspective however, one could interpret the notion of positive obligations of the right to life to also enfold the active inclusion of all forms of terrorism as a way to safeguard the people within jurisdiction. This would simultaneously reduce the discriminatory practices that the focus on violent Islamic extremism could result in and protect those who are affected by the acts of the white-supremacy movement – creating a more effective, and at the same time more human rights-friendly, national security. Considering the connection between the domain of insecurity and legislation, this could result in a change in legislation so as to more actively target white supremacy.
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