

Denmark and France: A Counterterrorism Case Study

Counterterrorism Strategies and the Infringement of Returning Foreign Fighters' Human Rights

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*\*Less information was available to analyze for Denmark due to the language barrier.*

### Abstract

Through a comparison of two case studies – Denmark and France – this paper seeks to analyze counterterrorism strategies for returning foreign fighters and the extent the strategies infringe on their human rights. The analysis will be conducted through examining the specific policies, legislation, and programs of Denmark and France regarding counterterrorism strategies. Two theories – the expanded criminal justice model (ECJM) and the critical terrorism studies (CTS) model – will be used to analyze these documents and programs and the extent to which human rights are infringed upon. Denmark and France were chosen as case studies to compare due to both having an increase in severity of terrorist attacks beginning in 2015 and continuing to the present in 2019. Furthermore, they are relatively similar in terms of the legislation and policies they have implemented. However, two points of divergence are evident. Firstly, Denmark has established robust exit and reintegration programs for foreign fighters returning home. Secondly, religious and cultural differences are acknowledged in the Danish programs, which, due to secularism, are aspects that are disregarded in France's counterterrorism strategies. These two variables will be analyzed to see if they account for a divergent outcome – a difference in the degree of infringement on human rights for returning foreign fighters in Denmark and France.

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### Denmark and France: A Counterterrorism Case Study

#### Counterterrorism Strategies and the Infringement of Returning Foreign Fighters' Human Rights

Between 2012 and 2018, 5,000 European individuals known as foreign fighters have traveled to Iraq and Syria to fight in conflict zones. Out of the foreign fighters who have travelled to conflict zones in Europe, about 1,500 have returned with about 1,000 being killed either while attempting to leave or while fighting for a terrorist organization (Ragazzi & Walmley 2018, Europol 2018). The average return rate is thus approximately 30%. The reasons for travelling to conflict zones and then returning vary greatly. An individual could leave due to feelings of marginalization, they are searching for their identity, or desire to be recognized by those around them. They often belong to lower class families, have a criminal record, and are a second-generation Muslim immigrant. Some leave for the adventure and excitement, others to create a brotherly bond, and others to avenge their family. Religion can often influence an individual's decision to leave as they desire to travel to the areas where the "battles of the apocalypse will take place" (Schmid & Tinnes 2015, p. 34-35). Their decision to leave is usually not one made alone. However, it is not just one reason that leads an individual to become a foreign fighter, it is a combination. The foreign fighters then return for four principle reasons: they are disillusioned, burned out, broken, or are arrested for the crimes they committed while abroad (Schmid & Tinnes 2015).

The journey of foreign fighters and their return home began to be seen as a serious national security threat in 2014 when the issue was placed on the United Nations Security Agenda through United Nations Security Council Resolution 2178. That is when the legally binding term: foreign terrorist fighter was coined and defined as:

... nationals who travel or attempt to travel to a State other than their States of residence or nationality, and other individuals who travel or attempt to travel from their territories to a State other than their States of residence or nationality, for the purpose of the perpetration,

planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training, including in connection with armed conflict. (Schmid & Tinnes 2015, p.12)

However, the term ‘terrorist’ is ambiguous due to the fact it is currently not legally defined by the UN. Thus, this paper will refer to the individuals who travel abroad as foreign fighters (Schmid & Tinnes 2015). They will be defined as “individuals, driven mainly by ideology, religion and/or kinship, who leave their country of origin or their country of habitual residence to join a party engaged in an armed conflict” (Paulussen & Pitcher 2018, p. 3). Nonetheless, it is notable that there is still a continuous debate regarding how to define foreign fighters, with various definitions suggested including jihadist travelers, those involved as a combatant or as operational or logistical support (Ragazzi & Walmley 2018, Borum & Fein 2016). Those who return are either referred to as returning foreign fighters or returnees for short (Ragazzi & Walmley 2018).

This current foreign fighter phenomenon has been occurring since 2012 and is the largest wave of foreign fighters that has been observed (Schmid & Tinnes 2015). Denmark and France are two countries in which the foreign fighter phenomenon has been prominent, particularly seen in the fact that both have experienced an increase in severity of terrorist attacks beginning in 2015 and continuing to the present in 2019 (Kourliandsky 2016, Morand Deviller 2016, Higgins & Eddy 2015). Around 145 individuals have travelled to a conflict zone from Denmark as of September 2018 and 10% of those are women. 67 have returned. That is about a 46% return rate. (Ragazzi 2018, p. 32). Most have joined ISIS but some have “gone to the conflict zone in Syria and Iraq to fight militant Islamist groups or other armed opposition groups” (van Ginkel 2016, p. 29, Vestergaard 2018, p. 258). Around 680 adults and more than 500 youths – 53 whom are older than 13 years of age – have travelled from France to conflict zones in Syria and Iraq. 55.8% are adults, 4.4% are older than 13, and 39.8% are younger than 13 (CIPDR 2018, p. 29). Of those approximately 1180 – or some documents citing 1910 – individuals who have left France, 255 adult foreign fighters have returned – 56.8% are men and 22.2% are women – and 68 minors have returned – 66 are less than 13 and 2 are older than 13 – as of February

2018 (CIPDR 2018, p. 28, Ragazzi 2018, p. 32). The return rate is thus between 12% and 19% in France (Ragazzi 2018, p. 32). It is important to note that these numbers are in regard to the known returnees, some individuals may have returned without the governments being aware (Ragazzi 2018).

In order to combat the foreign fighter returnee threat, Denmark and France have implemented various counterterrorism strategies including legislative as well as non-legislative measures such as reintegration programs. However, through the use of these strategies to protect the citizens and national interests of each country, human rights of the returning foreign fighters are infringed upon (Paulussen & Pitcher 2018). Thus, aside from the importance of analyzing counterterrorism strategies for returning foreign fighters due to the relatively high return rate of foreign fighters in both Denmark and France, it is equally, if not more, important to address the implications of counterterrorism strategies in regard to human rights; these implications are the various infringements on the human rights of returnees by both countries. The reasons for addressing human rights infringement are twofold. Firstly, permitting counterterrorism strategies that infringe on human rights delegitimizes Denmark and France when they criticize and admonish another country for infringing on the rights of their citizens. Thus, if Denmark and France continue to allow the infringement of human rights for returnees, their own citizens, they will continue to hold very little ground to pressure other countries to stop their actions which infringe on their citizens' human rights. Secondly, if the infringement of human rights is continually permitted for counterterrorism strategies that combat returning foreign fighters, where will the line be drawn for further infringements, be it against returnees or other citizens? The infringement of returnees' human rights is important and necessary to be addressed to ensure the extent of infringement does not increase. Once it does, it becomes difficult to retreat behind the new line drawn that permits further violations.

Thus, this paper contends that countering terrorism – particularly for the protection of the safety and interests of the nation and the public – is prioritized over the protection of the human rights of foreign fighters who are returning from conflict zones. This is illustrated through Denmark and France's counterterrorism legislation. Both countries' legislation infringes on the returning foreign

fighters' human rights to having a nationality, freedom of movement, and privacy, to the same extent. France further infringes on the right to a fair trial. This violation does not change the fact that in both countries these infringements of the human rights of returnees is continually permitted in order to combat terrorism. However, there is one distinct difference between Denmark and France in regard to the infringement of returnees' human rights. Due to Denmark's successful and stable reintegration programs for returnees – and its acceptance of any religion – it has been able to establish emancipatory spaces for the returnees to an increasingly greater extent than France. These reintegration programs and the emancipatory spaces they create, ensure human rights of returning foreign fighters are not infringed upon. It is important to note that France has attempted to establish reintegration programs modeled after the one in Denmark though the endeavor failed. It has also begun to create emancipatory spaces for its returnees released from prison through new reintegration programs. Yet, it has to overcome a further complication: its definition of secularism as one French community and culture; it contributes to the marginalization of returnees who often do not fit the mold of that established community. Thus, Denmark, more so than France, is beginning to ensure that human rights protection is a focus for returning foreign fighters when implementing its non-legislative counterterrorism strategies due to the stability of its programs and its secularism definition.

## Literature Review

### Theory

International relations' theories are abundant: realism, liberalism, constructivism, critical theory, and feminism for example. Variations of these theories are carried into the several subfields of international relations, two of those being terrorism and counterterrorism. One variation is traditional 'orthodox' terrorism studies and another is critical terrorism studies (CTS). These both, particularly CTS, are framed within a constructivist framework. As Nicholas Onuf, a constructivist theorist, states, when in an institutional setting, terror "is a social phenomenon. Where there are acts of terror, there must be specifiable agents committing them;" thus, to Onuf, "terrorism is an observer's description of

multiple acts of terror that members of a particular kind of social movement...deliberately inflict” (Onuf 2009, p. 53). These threats are constructed through discourse – this can be from political actors, the public, or terrorism experts – each with their own lens for analyzing and understanding the discourse (Meyer 2009).

How the terrorist represents himself is important. This representation is often viewed through various Western interpretations of his/her discourse. These variations, such as in media, can often lead to terrorists being perceived differently, having different meanings for those studying him/her (Hülse & Spencer 2008). In regard to counterterrorism, policies for counterterrorism are also understood through discourse due to the fact that they are created from “political, scientific, and media discourse” (Hülse & Spencer 2008, p. 576). Thus, the reaction to terrorism, the strategies created to counter terrorism depend on the perception of the act of terror. For instance, if the act is seen “as a military threat then certain kinds of policies become possible” (Hülse & Spencer 2008, p. 586). These policies include attacks from the victimized countries as well as harsh sanctions. Furthermore, the media reporting on terrorist incidents, the interpretations by various new sources, politicians, and the public regarding the incident, cause “terrorist attacks [to] become social events of significance” (Meyer 2009, p. 650). Concisely, realism also provides a framework in regard to traditional terrorism studies. Realism focuses on the protection of the national interests of a country with a specific focus on deterrence and power politics. Failure to prevent and combat terrorism is seen as a structural and legal issue by intelligence services and law enforcement. States, not the non-state terrorist actors, are seen as the principal threat (Klarevas 2004). These perceptions of how terrorism and counterterrorism policies are constructed inform traditional terrorism studies and critical terrorism studies.

#### Traditional Terrorism Studies: War and Criminal Justice Models

The first variation to be explained is traditional ‘orthodox’ terrorism studies which focuses on ideas such as the war model and the criminal justice model. As Ronald Crelinsten writes, the war model perceives terrorism as a tactic used in war; the military is seen as the responding actor to terrorism, their actions often disregarding civil liberties. The “laws of war” are the basis of the framework for



counterterrorism strategies (Crelinsten 1998, p. 399, Pedahzur & Ranstorp 2012, p. 316). Overall, maximal and excessive force is expected to be used which leads to individuals being “shot rather than arrested” – an illustration of a deterrence method and power politics which protect a country’s national interests (Crelinsten 1998, p. 399). The criminal justice model perceives terrorism as a crime and strictly adheres to the rule of law and “liberal democratic standards” – through a constructivist lens, this perception is an interpretation of terrorism from a rule of law perspective (Pedahzur & Ranstorp 2012, p. 316). Police are the responding actor, arresting individuals accused of being terrorists and ensuring they are accorded to receive due process in the justice system (Pedahzur & Ranstorp 2012). Minimal force is expected to be used by the police. The focus on criminal activities for the criminal justice model comes from the fact that terrorist groups are occasionally involved in criminal activities such as drug trafficking – this is particularly the case when a criminal act, especially a violent one, is seen as instrumental or as communicative. It is perceived that if criminal activities are targeted, the individuals and groups committing those activities are prevented from committing terrorist acts (Crelinsten 1998).

However, these two models have been seen as inadequate and unrealistic for framing how counterterrorism strategies are implemented by governments (Pedahzur & Ranstorp 2012). Most strategies fall in between. For example, the criminal justice model, and thus “democratic acceptability,” can appear to cross over to the war model such as during a trial process when certain witnesses are not able to submit a video testimony which then prevents the defense from presenting a solid case (Crelinsten 1998, p. 399). Furthermore, if criminal activities begin to be placed under the “counter-terrorism mandate” given to the police and military, crimes can then begin to be handled through militarization; it becomes the standard for dealing with crimes (Crelinsten 1998, p. 401). Thus, instead of police arresting those who commit a crime, “coercive solutions are proposed” and this is “for any number of societal problems” (Crelinsten 1998, p. 401). The criminal justice model blurs into the war model as the mandates of police and the military are blurred. This highlights the risks of infringement

on the rule of law, the allowance to commit human rights violations, and the lack of accountability especially with the creation and use of “special police units” (Crelinsten 1998, p. 411-412). Those issues are seen as disregarded in order to have “effective control of a terrible threat” (Crelinsten 1998, p. 411-412). Principally, due to the struggle liberal democracies experience with creating effective measures to combat terrorism while also adhering to the rule of law, the boundaries of their constitutions are often pushed and extended to be able to respond to terrorism. Therefore, Ami Pedahzur and Magnus Ranstorp published the article, “A tertiary model for countering terrorism in liberal democracies: The case of Israel” (Pedahzur & Ranstorp 2012, p. 315).

#### Traditional Terrorism Studies: Expanded Criminal Justice Model (ECJM)

The tertiary model, also known as the expanded criminal justice model, was created in order to suggest a model that addresses “the grey areas” and extended boundaries of “the ‘war’ and ‘criminal justice’ models” (Pedahzur & Ranstorp 2012, p. 314). The model perceives that terrorism is neither “an act of war” nor considered a crime; it is seen as an “exceptional phenomenon” – another interpretation of terrorism (Pedahzur & Ranstorp 2012, p. 315, 316). An expansion of the rule of law occurs to allow for the prosecution of terrorists, for an effective response – in general “when democracies undergo a sense of an impending threat or crisis” – that does not fully adhere to liberal democratic standards but does not completely violate them either (Pedahzur & Ranstorp 2012, p. 314-315). However, this expansion creates infringement on civil liberties, on freedom of speech, in human rights (Pedahzur & Ranstorp 2012).

Like in the criminal justice model, the state tackles terrorism through arresting and ensuring the terrorist experiences due process in the legal system. However, there is a slight difference in the treatment of terrorists throughout the process. Special courts may be added and constitutional boundaries expanded, such as through the creation of “special anti-terror legislation,” with police, the secret services, and anti-terrorism responding actors (Pedahzur & Ranstorp 2012, p. 314-316). The actions of those authorities can “include preventive arrests, surveillance techniques and gathering intelligence data” to be able to bring terrorist suspects to trial (Pedahzur & Ranstorp 2012, p. 316).

Overall, the model acknowledges that it strays from liberal standards and the methods it employs do not continually follow the “principles of criminal law enforcement;” nonetheless, it notes that these expansions of the liberal democratic standards “still significantly differs from the rules of war and customary military methods” (Pedahzur & Ranstorp 2012, p. 315). There are two advantages of this model: it creates a “continuum” between the two original models and, by acknowledging the reality of how countries respond to terrorism, it establishes a framework that ensures changes in responses to terrorism are easier to detect and classify (Pedahzur & Ranstorp 2012, p. 315).

#### Critical Terrorism Studies (CTS)

However, an emerging field of counterterrorism studies in critical theory perceives the war model, criminal justice model, and all those in between – such as the expanded criminal justice model – as inadequate due to only viewing one way in which terrorism can be countered (Lindahl 2017). The war model infringes too greatly on the human rights of individuals than democratic states should adopt (Lindahl (a) 2017). The criminal justice model is seen as assuming terrorists are similar to criminals which is not accurate, particularly since criminals and terrorists perpetrate attacks for different reasons (Lindahl (a) 2017). The expanded criminal justice model is perceived as a coercive approach to counter terrorism and does not include long-term approaches which focus on human, environmental, and gender security (Lindahl (a) 2017). Overall, these traditional terrorism studies models are seen as providing “deconstructive efforts” and a model that presents “reconstructive efforts” is required (Lindahl 2017, p. 523). Thus, those who adhere to the critical terrorism studies perspective have presented an alternative model for studying counterterrorism: the critical terrorism studies counterterrorism model (CTS) in the article, “A CTS model of counterterrorism” and “The Theory and Practice of Emancipatory Terrorism,” both written by Sondre Lindahl. The model takes an approach of focusing more on the individual, be it a citizen or a terrorist, and focusing on respecting their dignity and equality regarding the way in which counterterrorism strategies are implemented (Lindahl 2017, p. 523). Lindahl focuses on the need to preserve dignity in the response and how it will affect the perpetrator (Lindahl (a) 2017).

The key component of CTS is emancipation, with the aim of finding ways to create an ideal emancipatory space for individuals within a country. The definition of emancipation that Lindahl uses was created by Ken Booth, a critical theorist:

As a discourse of politics, emancipation seeks the securing of people from these oppressions that stop them carrying out what they would freely choose to do, compatible with the freedom of others. It provides a three-fold framework for politics: a philosophical anchorage for knowledge, a theory of progress for society and a practice of resistance against oppression. Emancipation is the philosophy, theory, and politics of inventing humanity. (Lindahl 2017, p. 524)

Thus, in general, emancipation means ensuring that individuals are secure and free to do as they desire while not impeding on another individual's security and freedom. There is no perceived point when full emancipation – where no conflict occurs – will be achieved. That is a utopian idea. However, the goal is to continually work towards it to create a utopia – despite the fact it “always remains incomplete” due to human activity being continuous (Lindahl 2017, p. 525). Therefore, throughout the world, the form of emancipation seen will have deviations with the utopian model standing as a basis for evaluating counterterrorism strategies for a country, seeing how much they diverge from the ideal, utopian model (Lindahl 2017). As Matt McDonald states, emancipation is also seen as “advances in non-repressive deliberation” while focusing on those most at risk – ethically committing to helping them – and diverting attention from the elites (McDonald 2007, p. 254). Emancipation looks at those who are silenced or marginalized and the ways in which democracy is suspended in order to fight terrorism with anti-terrorism legislation which decreases “the efficacy of anti-terror campaigns” (McDonald 2007, p. 225-256). It further states that those who are vulnerable could also be “victims of opportunity costs” – such as those who have become vulnerable due to the different priorities and commitments of states (McDonald 2007, p. 256, 258). Lastly, emancipation is seen as a higher-order choice which focuses on how actors should approach issues, thus decisions are

made thoughtfully, without rushing regarding how to respond to terrorist attacks or threats (Lindahl (a) 2017).

There are five aspects that form the CTS model: key assumption, priorities, basic principles, strategies and tactics, and evaluation. The key assumption is that terrorism is constructed from “deep politics” (Lindahl 2017, p. 527). Terrorism is seen as a social construct – the framework for terrorism within CTS is from a constructivist perspective – and thus the CTS model seeks to analyze why terrorist acts are committed. The principal priority is to prevent terrorism by specifically looking at the grievances of terrorists and looking at the political structures that lead to terrorism. The prevention of terrorist attacks is further seen as occurring through actions, not arbitrary behavior and these actions are carried out no matter if an attack occurs or not (Lindahl (a) 2017). Prevention of terrorism lastly transpires through ensuring that liberal values and principles, human rights, and freedoms are attained. This is important for protecting the freedoms of individuals and ensuring states can be emancipatory places (Lindahl (a) 2017). The CTS model also seeks to prioritize the analysis of policies, creating ones that will enhance “human security and emancipatory space” (Lindahl 2017, p. 528). This is seen as a proactive approach rather than a typical reactive approach in which human security is protected and emancipation is ensured before an attack occurs, not after (Lindahl 2017).

The basic principles of this counterterrorism model are: dare to know, emancipation, means/end relationship, non-violence, and holism. Dare to know focuses on analyzing how individuals know what they know and if actions and policies to counter terrorism actually create terrorism. Emancipation, again, focuses on ensuring that the security of one individual, be it a citizen or terrorist, does not come before another’s (Lindahl 2017). The means/end relationship focuses on the fact that the means and the end are not separate. How an individual pursues counterterrorism will affect the end result. In order to prevent terrorism, it is necessary to pursue strategies that contain characteristics desired from the result of the counterterrorism strategy. A violent counterterrorism strategy to achieve an end to terrorism is thus perceived as attaining a result which perpetuates the violence (Lindahl 2017).

Non-violence is seen as one way to operationalize the means/end relationship. Sometimes violence in the form of force or coercion is accepted such as when police infringe on an individual's human rights if a person is attempting to commit murder. However, the police ride a fine line as that can quickly diverge into police violence if the dignity of those involved is not respected (Lindahl 2017). Force or coercion that causes the "use of mass-organized offensive violence" is also not accepted. Thus, non-violent counterterrorism strategies refer to an ethical response where dignity is respected and each person is seen as equal (Lindahl (a) 2017, p. 134).

Holism focuses on how each part of the CTS model is interconnected with the aim to improve human security (Lindahl 2017). Furthermore, Lindahl states that counterterrorism should be re-conceptualized so that it is not seen within a system that is conducive to terrorism, while trying to achieve human security. The strategies should not be implemented with the purpose of countering a specific threat but ending that threat in the long run. These actions will help to create emancipatory spaces for individuals due to perceiving short-term measures, such as surveillance and draconian measures, as reducing the emancipatory space (Lindahl (a) 2017).

The strategies and tactics presented by this model include already available approaches such as "the natural disaster model of counter terrorism" (Lindahl 2017, p. 531). This example illustrates that first aid responders should be trained to assist during terrorism incidents due to terrorist attacks being similar to natural disasters – damage is caused, people are injured. Civil society acts, not the military. Moreover, the established law, human rights law, is set in stone, unable to be chipped away. Several other concrete strategies and tactics include: "keep and maintain normality;" "do not allow for a culture of fear to spread;" "avoid implementing draconian measures;" and "emphasize and advocate to the society in general the value of adhering to liberal values" (Lindahl 2017, p. 532). Furthermore, some prevention of terrorism strategies and tactics that form a utopian emancipatory space include: "reduce the powers of intelligence services to conduct mass surveillance; make it easier to appeal and obtain removal from terrorist listings;" "halt the use of offensive military violence to counterterrorism;

engage in political processes like negotiation and dialogue” (Lindahl 2017, p. 532). Terrorists and citizens are all treated equally as they are all human beings. This is essential in order to create spaces where emancipation exists Lindahl (a) 2017).

The CTS model states that the evaluation of counterterrorism focuses on proportionality, effectiveness, and legitimacy. For effectiveness and proportionality, a calculation is used that includes: “probability of a successful attack, losses sustained in the successful attack and reduction in risk generated by the security measure” (Lindahl 2017, p. 533). The legitimacy is evaluated through the level of protection of humans and prevention of human suffering. Together, the evaluation of the three concepts provide a way to analyze the number of lives saved, the cost of those actions, and the financial and ethical effect. Specifically, counterterrorism is thus evaluated through what has been done to create and improve the emancipatory space, to address what causes terrorism (Lindahl 2017). The evaluation of effectiveness and proportionality is based on actual numbers and the legitimacy is based on human rights and the international law to evaluate the ethical level of the strategies (Lindahl (a) 2017). Overall, the CTS model has a way to measure the effectiveness of counterterrorism strategies and focuses on human security of both the civilian and the terrorist, empirically and ethically (Lindahl 2017).

#### The Debate Between Traditional and Critical Terrorism Studies’ Scholars

However, debate has been ongoing regarding the best approach for analyzing counterterrorism strategies. Traditional terrorism studies scholars tend to criticize the approach made by the CTS scholars. The debate has appeared in several state and response articles. One example is in “A case against ‘Critical Terrorism Studies,’” in which Horgan and Boyle critique critical terrorism studies with the general conclusion that it is more similar to traditional terrorism studies than CTS scholars might think (Horgan & Boyle 2008, p. 51). Horgan and Boyle argue that the critiques by CTS are not new. The bias in terrorism studies has been attacked long before CTS came into the picture (Horgan & Boyle 2008, p. 53). Ruth Blakeley responded to Horgan and Boyle’s CTS critiques in the article, “The elephant in the room: a response to John Horgan and Michael J. Boyle.” She responded by stating that CTS brings something novel to the table because it develops an analytical agenda and begins to

implement, not just rework, definitions (Blakeley 2008). Furthermore, CTS has one accepted definition of terrorism but Horgan and Boyle perceive that having no set definition is useful as it indicates that what is and is not terrorism will continually be contested (Horgan & Boyle 2008). By creating one definition, it is repressing and marginalizing the views of other individuals. Blakeley however states that having an accepted definition ensures it can be selectively applied to avoid condoning state terrorism. She thus argues that the current definition of terrorism is adequate and fits the actions of Northern states (Blakeley 2008).

Moreover, CTS scholars have stated that traditional terrorist scholars do not challenge the status quo – such as through addressing state terrorism – but Horgan and Boyle do not agree with the critique, stating that not just CTS scholars want to advance “social justice” (Horgan & Boyle 2008, p. 54). They perceive that traditional terrorism studies also see that state terrorism occurs. Some CTS scholars are suspicious of state action with which traditional terrorism studies scholars do not disagree but, according to Horgan and Boyle, state action and action by those associated with the state can also be useful and working with the government does not always mean that a person or group agrees with its actions (Horgan & Boyle 2008). However, Blakeley argues that work by terrorism scholars primarily focuses on terrorism committed by non-state actors and even though there is evidence of looking at state terrorism, it does not constitute a research agenda. Blakeley analyzed the percentage that papers on terrorism focused on state terrorism; only about 2% were found to have state terrorism as a topic (Blakeley 2008). State terrorism is “the elephant in the room” (Blakeley 2008, p. 161). There is thus a need to explore in-depth the infringement on human rights by states. She reports on why it is not common to report on state terrorism and the difficulty in the methodology and research of it. One reason is that scholars might think it is already being researched or the costs for exploring it first hand and criticizing the democratic democracies they live in, are too high. To help those being repressed with emancipation, state terrorism needs to be brought to the forefront and elites need to stop using or sponsoring it (Blakeley 2008).



Another critique is that CTS does not clearly lay out the definition of emancipation beyond helping those who are vulnerable; there appears to be little evidence regarding their claims (Horgan & Boyle 2008). Yet, they have been transparent about their aims in their research: “which is to assess and challenge the use of coercive practices by liberal democratic states, particularly state terrorism, to achieve their foreign policy objectives in the Global South, which have included the spread of global capitalism to ensure access to resources and markets” (Blakeley 2008, p. 161). In addition, some CTS scholars critique that several disciplines are grouped under ‘Orthodox Terrorism Studies’ when they should be seen as separate studies (Horgan & Boyle 2008, p. 57). Blakeley argues that collaboration with other disciplines would “enrich the research being undertaken” (Blakeley 2008, p. 160).

There are other traditional terrorism studies scholars that agree with Hogan and Boyle, such as David Jones and M. L. R. Smith. They state that the critical approach as written about in the *Critical Studies on Terrorism* journal does not add to the understanding of terrorism, specifically explaining that CTS and traditional terrorism studies “are two sides of the same coin” (Jones & Smith 2009, p. 3019). They additionally state that CTS appears to be anti-Western (Jones & Smith 2009). However, Dixit and Stump argue in response that critical theory provides a new perspective regarding the understanding of terrorism: “terrorism, at its very roots, centers on fear and targets *our* liberal democratic values. The fear generated by terrorism speaks to *our* vulnerabilities and the government’s apparent lack of ability to stop further attacks” (Dixit & Stump 2011, p. 503). In general, the question and debate is regarding whether CTS varies greatly from orthodox terrorism studies (Horgan & Boyle 2008).

Debate is important in order to flesh out theories, to create a better understanding. In this debate, both perspectives are valid, both partly have a basis of their perception regarding terrorism in constructivism and/or realism. It is important to bring in new theories, to view how they could supplement the traditional studies, to view how a new perspective for counterterrorism strategies can be observed and applied. Thus, the legislative counterterrorism strategies of France and Denmark will

be analyzed through the expanded criminal justice model along with how the CTS model can bring a different perspective to the analysis of the non-legislative counterterrorism strategies.

### Denmark

The literature available on the counterterrorism strategies for returning foreign fighters in Denmark – as well as in France – is vast. It highlights the wide range of topics that have been researched but it also illustrates the areas in which the research has yet to be analyzed in more detail and with a certain theoretical framework. Overall, the main takeaways from the literature on Denmark are the focus on the importance as well as the issues surrounding the Aarhus reintegration program, the infringement of human rights, the focus on the ‘other’ regarding legislation, and the focus on radicalization prevention; each comes with criticism. However, more specific critiques of the legislative and non-legislative counterterrorism strategies in regards to the infringement of human rights are a noticeable gap in the literature, as well as grounding the research in terrorism specific theoretical frameworks and using comparison case studies.

### The Aarhus Model: Reintegration Program

Foremost, the reintegration program – which is a part of the Aarhus model for preventing and deradicalizing terrorists – compared to legislation, are the better option to combat foreign fighter returnees. However, legislation has the ability to “erode” the efforts achieved through the program; this is due to the repressive nature of legislation as Jørn Vestergaard states (Vestergaard 2018, p. 258). He focuses on the fact that the program should be more available – it is “the wiser approach” – for those who have less serious criminal cases when they return from conflict zones. The fear of prosecution, with little chance of rehabilitation could decrease the incentive for foreign fighters to return, stating the rigid laws are “counterproductive” (Vestergaard 2018, p. 284). Vestergaard highlights the importance of the reintegration program however, a comparison program is not used to further illustrate the importance of the program.

Despite the usefulness of the reintegration program, a few issues appear to be present in the eyes of Ann-Sophie Hemmingsen through her analysis of “the main dilemmas, challenges and

criticisms with which [Denmark's] approach [for counterterrorism] is faced..." (Hemmingsen 2015, p. 5). Hemmingsen first states that cooperation and coordination between the actors is very important but it is also difficult to ensure coordination works seamlessly. Furthermore, civil society has been an increasingly potential actor to help with deradicalization in the program but there is fear of civil society being more mobilized through their increased power. Thus, worry is present regarding civil society compromising the professionalism of the Danish approach. There is the trouble of ensuring the agendas of civil society actors are legitimized or that businesses in the private sectors are not motivated by money to create or sponsor programs (Hemmingsen 2015). Hemmingsen thus wonders whether the "soft" approaches of the Danish government are the most effective approaches (Hemmingsen 2015). The fact the reintegration program in Denmark is criticized is apparent. However, it is important to address in great detail how it compares to legislative counterterrorism strategies, particularly through a case study. This could help highlight more clearly the aspects of the program that are beneficial but also those which could use improvement.

Lars Erslev Andersen addresses an identity issue with the reintegration program as he perceives it as having an increased focus on foreign fighters and returnees, recognizing them as an external threat thus blaming the "other" for the attacks (Andersen 2015, p. 182). The reintegration program a part of the Danish model is perceived as focusing too much on the "other," influenced too much by "political discourse on threat assessment" (Andersen 2015, p. 182). The identification as the "other" as the threat seems to particularly be the case for politicians as it appears easier for their campaigns if the threat is externalized and not related to domestic policies (Andersen 2015). Thus, the Danish model should focus on the "political dimension" of deradicalization and of terrorism to a greater extent compared to permitting a surface level politicization of externalized threats (Andersen 2015, p. 182-183). It is important that the reintegration program and the discourse surrounding it is critiqued however, there is no concrete theoretical foundation or comparison that would be helpful to highlight a specific aspect of the program. As well, it is apparent that scholars are beginning to address the necessities humans

are entitled to – such as human rights – through the discussion of the “other.” Yet, a deeper discussion is required when analyzing the effect of human rights through the counterterrorism strategies.

As has been stated, a comparison study has been missing from most of the literature on the counterterrorism strategies of Denmark. However, Emeline Thielen is one of the only authors to take the comparative approach to analyze the reintegration program, even addressing human rights in relation to this counterterrorism strategy. She compares Denmark to Belgium, focusing on returning foreign fighters and human rights in relation to terrorism and terrorists. Denmark is seen as treating radicalized individuals and returnees better than Belgium due to its prison system and the Aarhus reintegration program. The foreign fighters are seen as “lost sheep that need assistance to reintegrate into society” in Denmark (Thielen 2016, p. 71). Thielen states that the best solution for foreign fighter returnees “in the long term would be to develop a system that combines prevention and repression by giving real chances to individuals who want to reintegrate into society” (Thielen 2016, p. 71). This article further highlights through a comparison study that the reintegration program is a necessary aspect of counterterrorism strategies. However, again, no concrete theoretical framework is applied and no comparison is conducted regarding counterterrorism legislation.

#### The Infringement of Human Rights Through Legislation

Aside from the reintegration program, Denmark has several laws and legislation focused on counterterrorism and foreign fighter returnees. A more in-depth focus on human rights in relation to counterterrorism strategies begins to float to the surface in Vestergaard’s research. He has focused on the infringement of civil liberties and the Humanitarian Law throughout his research regarding several of these counterterrorism laws and legislation. One law states that an individual’s passport can be revoked if they are seen as radicalized or have the intention to travel to countries like Iraq or Syria. Vestergaard describes how this law as well as others create the fear that human rights and the Humanitarian law will be infringed upon with the inability to leave one’s country of origin (Vestergaard 2018). This illustrates that despite the reintegration program, repressive, legislative counterterrorism strategies are being implemented by Denmark. As well, human rights in relation to

the counterterrorism strategies is finally being addressed however, concrete theoretical frameworks or a comparison to another country is lacking.

#### The Focus on the 'Other' Through Legislation

The dialogue surrounding the counterterrorism legislation for returning foreign fighters is also problematic yet is improving as Ulrik Pram Gad addresses through stating that the meaning of dialogue in legislation is changing. This signifies a conversation is beginning to occur around counterterrorism strategies. Muslims are beginning to be perceived as a less-than-radical other compared to being perceived as a terrorist, as the radical other (Gad 2012). Gad states the counterterrorism legislation should ensure that 'the other,' Muslims, do not become radicalized through these policies (Gad 2012, p. 161). Domestically, a few policies are already implemented surrounding the concept of conversation which includes the Prime Minister in 2005 announcing that an integration policy focuses on the fact that Danish Muslims, as well as immigrants, are "allies" – with the government and others living in Denmark – "in the fight against terrorism...and that requires us to promote dialogue...in certain Muslim quarters" (Gad 2012, p. 164). Muslims appear to be the target for counterterrorism strategies and legislation. It is interesting to note that there is still the creation of the 'other' in Denmark while the reintegration program is being implemented and successfully carried out. However, the literature is missing out on creating a comparison to what other countries' counterterrorism strategies and legislation are.

#### Prevention of Radicalization

Briefly, prevention of radicalization is perceived as an important aspect of counterterrorism strategies yet even this element brings its own issues especially regarding Muslims perceived as the 'other.' The Aarhus model as well as legislation deal with radicalization prevention, before and after individuals travel to Syria or Iraq to join terrorist groups like ISIS. The focus of prevention is on communities at risk which, as Andersen states, are most often seen as those with large populations of Muslims and those who are Islamic. This, however, can have the opposite of the desired effect. Instead of prevention occurring, individuals could be pushed to radicalize or radicalize further due to this

targeting (Andersen 2015). Hemmingsen points out another issue. Those involved with the preventative counterterrorism legislation may not feel comfortable keeping an eye out for concerns that could indicate an individual might radicalize or perpetrate an attack. They can be worried about being seen as an informant which could affect the relationships within their job and the youths with which they have been working (Hemmingsen 2015). Nonetheless, a theoretical framework and comparison study are not a part of this article.

Overall, the various ways in which counterterrorism strategies are used in Denmark for foreign fighters is addressed in throughout the literature. The possibility of the infringement of human rights is highlighted which is a concept that is important to study in more depth as the infringement can reduce effectiveness of counterterrorism strategies as Vestergaard states. Unique perspectives are provided such as the focus on Muslims as a potential radical-other presented by Gad. Challenges and critiques of the Aarhus model and legislation are focused on with emphasis on the need to not further isolate Muslims as those most vulnerable to radicalization such as stated by Andersen and Hemmingsen. However, the only paper that does a comparison study is the one written by Thielen and it only compares Denmark to Belgium. Furthermore, more traditional theoretical approaches are used in the papers; an expanded criminal justice model or critical terrorism studies analysis are not implemented with too little of an analysis on the infringement of human rights through counterterrorism strategies.

## France

In comparison to Denmark, the literature on France and its counterterrorism strategies have a greater focus on secularism as well as prison radicalization. There appears to be less of a focus on robust reintegration programs with more of a focus on the structure of the police and intelligence forces and the legislation surrounding them. Thus, the main takeaways from the literature are the concentration on secularism, programs and secularism, repressive legislation, the importance of institutions and intelligence agencies, and prison radicalization. However, again, more specific critiques of the legislative and non-legislative counterterrorism strategies in regards to the infringement

of human rights are a noticeable gap in the literature, as well as grounding the research in terrorism specific theoretical frameworks and addressing the reintegration programs implemented.

#### Concentration on Secularism

Foremost, France's counterterrorism strategies emphasize "surveillance, repression, and prosecution" as Dorle Hellmuth states and are seen as unique due to its secularism which perceives citizens as all part of one French community (Hellmuth 2015, p. 4-5, 21). This is specifically in comparison to the United States (US). Hellmuth highlights the fact that France is secular makes it more challenging when, for example, dealing with religious issues in prison and other counterterrorism efforts (Hellmuth 2015).

Hellmuth goes on to highlight that France announced it was going to have a similar program to the Danish Aarhus model. This illustrates the fact that France has implemented a grassroots level approach to counterterrorism which also includes phone hotlines for deradicalizing individuals to have quick access to counsellors (Hellmuth 2015). This is done, however, with little focus on the religious dimension; many of the counterterrorism models used in European countries are dissimilar to France because they do not disregard different religions (Hellmuth 2015, Helmuth (a) 2015). Both the program and the phone hotlines "rely on providing psychological support" stating that the "phenomenon of radicalization has nothing to do with religion" (Hellmuth 2015, p. 35). Hellmuth dives further into secularism in France through a focus on the use of imams. Forming partnerships with imams or religious institutions is perceived as out of the question for counterterrorism programs – though the number of radical Jihadi inmates was ninety in June 2014 but rose to 152 in January 2015 and the number is expected to grow (Hellmuth (a) 2015). The negative impact of secularism is clearly identified and a comparison study with the US is used to highlight its effect but a theoretical framework or a focus on human rights do not appear to be present.

Secularism is also touched upon in regards to cultural assimilation as explain by Khaled A. Beydoun. He states that secularism along with cultural assimilation contribute to the inability to accomplish counterterrorism goals. The strategies do not emphasize the important need to go into

Muslim communities and connect through their culture and religion. He explains that it is necessary to take away the Headscarf and Face Concealment Bans to be able to accomplish France's counterterrorism goals and implement the Countering Violent Extremism (CVE) policing program. The program is "facilitated by building inroads within Muslim communities and developing the social capital within them to enhance on-site monitoring, electronic surveillance, and symbiotic collaboration" (Beydoun 2016, p. 1273). However, cultural assimilation – and secularism – in France undermine the importance and usefulness of CVE – which President Hollande adopted in 2012 (Beydoun 2016). Addressing cultural assimilation and secularism would help establish "religiously tolerant" strategies to prevent radicalization and deradicalize returning foreign fighters (Beydoun 2016, p. 1334). Yet, that does not appear to be France's priority and thus feelings of marginalization surface. This analysis of secularism is useful when examining legislation but Beydoun does not establish a theoretical framework, a comparison to another country's take on secularism, or a relation to human rights.

### Repressive Legislation

There are vast amounts of literature on the legislation surrounding counterterrorism itself. Those laws are perceived as successful by Hellmuth because terrorism is seen as a crime which means the actions of returning foreign fighters can be prosecuted under committing a conspiracy. Those individuals can thus be subject to "surveillance, arrests, interrogations, deportations, and prison sentences" (Hellmuth (a) 2015, p. 987). These laws are repressive including the state of emergency implemented in 2015 as stated by Jacqueline Morand Deviller. She states that the legislation allows for executive power to act as they see fit toward foreign fighter returnees, for instance (Morand Deviller 2016). Another repressive legislation is that due to the 19 September 1986 law, magistrates are able to conduct counterterrorism research and have the right "to investigate, detain and authorize wiretaps, search warrants and subpoenas" (Hellmuth (a) 2015, p. 979-978). It is not denied that the counterterrorism legislation in France is repressive. However, the impact on human rights is still not addressed nor does a comparison of repressive legislation to another country's legislation occur nor is



there a comparison to non-legislative strategies.

#### The Importance of Institutions and Intelligence Agencies

The implementation of these legislative counterterrorism strategies is also a large focus in literature. One specific study conducted by Frank Foley focuses specifically on the comparison of Britain and France through their organizational and institutional reforms which permit authorities to have greater investigative power and implement further repressive legislation (Foley 2009). Foley looks at four different types of organizations: “intelligence services, the police, prosecution agencies, and judicial bodies” stating Britain and France have been able to reform the organizations in order to “enable the gathering of court-admissible information at an earlier stage of terrorism investigations” (Foley 2009, p. 437). Foley examines if the institutional organization is formal or informal such as being announced by the government or not, if there are extensive or restrictive forms of cooperation between the various forms of organizations, and if the counterterrorism work is balanced or unbalanced between the intelligence and police forces. France is informal, extensive, and unbalanced with more emphasis on intelligence agencies (Foley 2009). France’s specific approach is existent because of how it has developed its institutions, how “the divergent organizational routines of the...French counterterrorist agencies and the...interinstitutional conventions” have developed (Foley 2009, p. 471). It is important to note the organization of the agencies that carry out the repressive legislation in order to review if repressive characteristics are throughout France’s counterterrorism strategy and the comparison study assists in this regard. However, the effect on human rights is ignored.

#### Prison Radicalization

Briefly, prison radicalization is a huge issue in France in regard to returning foreign fighters being mixed amongst those with a potential to radicalize if they are convicted through counterterrorism legislation. Hellmuth discusses strategies to counter prison radicalization. Those seen as radicalized and returning from armed conflict where they supported a terrorist group are put in an isolated area to ensure they do not radicalize other inmates. As well, there are prisons that are constructed to only house radicalized individuals (Hellmuth 2015). There is criticism however that these will turn into “prison

universities” which means that the extent of radicalization could increase due to each person being like-minded. Hellmuth states that this strategy also does not take into account the imprisoned criminals whose radicalization might go unnoticed as they have only committed small crimes so do not seem to require isolation (Hellmuth 2015, p. 27). Imams can be seen as a solution since apparently about “seventy to eighty people were prevented from leaving France within the first six months” of allowing imams to speak to prisoners over the phone (Hellmuth (a) 2015, p. 992). However, as the numbers of foreign fighters increase, it will be more difficult to isolate each individual and therefore, the effect of the imams might not be as strong on prison inmates (Hellmuth 2015). The potential after effects of counterterrorism legislation is evident in regard to prisons however, there is neither a focus on human rights nor on grounding the conversations in theoretical frameworks nor on a comparison study.

Overall, the literature on France’s counterterrorism strategies for foreign fighter returnees includes comparisons such as by Hellmuth and Foley for the US and Britain respectively. A point to investigate further that is brought up by Hellmuth and Beydoun is secularism in France. It appears that a more in depth study with a comparison to another country could be helpful in order to analyze the importance of religious freedom. Furthermore, Foley uses a theoretical base, focusing on the balance of threat theory, organizational routine theory, and the institutionalist literature and then examines how they apply to Britain and France (Foley 2009). These organizational theories along with institutional theory provide a strong base for understanding “the complex influences on counterterrorist reform in western states” (Foley 2009, p. 448). However, these theories are not strongly linked to international relations theories nor touch upon the infringement of human rights.

These various papers on the counterterrorism strategies of France and Denmark tackle the strategies from several perspectives: various theories such as balance of threat theory, the challenges related to the legislation and programs implemented, and comparisons between states. However, within this vast literature, there is principally one brief article which is written by Fabien Merz that compares the counterterrorism strategies of Denmark and France in order to decide what counterterrorism

strategies should be implemented in Switzerland. Thus, there is no in-depth study comparing the counterterrorism strategies between Denmark and France. As well, the use of the expanded criminal justice model and CTS is not a theoretical framework that is used. The infringement on human rights and the creation of an emancipatory space are not a principal focus. Through this thesis, an in-depth study regarding the comparisons of the counterterrorism legislation in Denmark and France will occur with a focus on the human rights infringed upon and the emancipatory spaces available through a unique theoretical framework.

## Methodology

In order to analyze counterterrorism strategies for returning foreign fighters and the extent of the infringement on their human rights, a most-similar case comparison was chosen (Vestergaard 2018). Christopher Lamont, author of *Research Methods in International Relations*, describes a most-similar case comparison as being used when there are cases that are "...as similar as possible in all but one independent variable, but differ in their outcomes. [They] demonstrate [that a] difference in [an] independent variable accounts for [a] difference in outcomes" (Lamont 2015, p. 133). Thus, the two states analyzed had to have one divergent variable within their counterterrorism strategies. There also had to be a similar range in time regarding when the most recent terrorist attacks occurred to be able to analyze the evolution of counterterrorism strategies as well.

France and Denmark fit that criteria. They both had an increase in severity of terrorist attacks beginning in 2015 and continuing to the present in 2019. Furthermore, they are relatively similar in terms of the legislation they have implemented. However, there are two points of divergence. One is that Denmark has established robust exit and reintegration programs for returning foreign fighters. The other is that religion and cultural differences are not disregarded by those programs while, due to secularism, those aspects are not a part of counterterrorism strategies in France. Secularism in France is interpreted as seeking "to prevent religious encroachment in to the public sphere and does not allow religious matter to dominate the policy response" (Hellmuth 2015, p. 33). The programs and the

difference in religious focus will be the variables analyzed to see if they account for a divergent outcome – a difference in infringement on human rights for foreign fighters in France and Denmark.

The analysis will be conducted through examining policies and legislation: the Penal Code in Denmark and France, the Consolidate Act of the Administration Justice Act in Denmark, the Danish Passport Code, the Act on Danish Citizenship, the Danish Air Navigation Act, the French Civil Code, the Internal Security Law in France, the extension and codification of the state of emergency law in France, and the French Interministerial Committee for the Prevention of Delinquency and Radicalization (CIPDR). Reintegration programs will also be analyzed through government documents: the French Senate: Session for 2016-2017 N 633 and Preventing and Countering Extremism and Radicalisation: National Action Plan for Denmark. Secondary sources of those policies and programs were also analyzed.

Each legislation, government document, and secondary source were thoroughly read in order to conduct content analysis. The information which addressed returning foreign fighter policies and laws or how the reintegration programs function was noted in a separate document under the subheadings of legislation or programs for Denmark or France. Once a primary or secondary source document was read and the notes were taken, the notes were then analyzed to determine what type of legislation it could be classified as or what process of the reintegration program was described. This was accomplished for all the documents, resulting in six categories of legislation being created and the description of the programs written chronologically regarding the history of the programs and the steps each returnee was required to take before they completed the program. The categories for the legislative measures were then compared to the various human rights laws to become aware of the human rights that each legislation could be infringing upon. Links between the categories were lastly analyzed in order to understand how they connect with each other to form the extensive counterterrorism strategies of both Denmark and France. The links were also used to highlight where the strategies of Denmark and France compare and contrast.

The two theories – the expanded criminal justice model (ECJM) and the critical terrorism studies (CTS) model – will be used to analyze the extent the legislation and programs infringe upon the human rights of the returning foreign fighters and the extent to which they are provided with emancipatory spaces within each country. The ECJM focuses on the expansion of legislation to allow for more power to be in the hands of the government in order to protect the public and the nation from terrorism attacks. Thus, this theory will be used to analyze the legislation of both countries and the extent to which they expand their legislation. Moreover, CTS will be used to provide a new perspective regarding the analysis of counterterrorism strategies. Specifically, it will be used to analyze the exit and reintegration programs of both countries to see if they provide more emancipatory spaces for returning foreign fighters compared to the legislation.

Thus, the first chapter of my thesis will focus on the organization of the intelligence organizations and the view on secularism in Denmark and France in order to understand how the legislative and non-legislative counterterrorism strategies are implemented. The second chapter will analyze and compare the legislative counterterrorism strategies for returning foreign fighters in Denmark and France, focusing specifically on travel restrictions, surveillance, state of emergency, terrorism prison sentences, procedure and detention processes, and minors. ECJM will be used to analyze the infringement of human rights through these legislation measures. The third chapter will examine and compare the counterterrorism strategy of reintegration programs for returning foreign fighters in Denmark and France. CTS will be used to analyze the infringement of human rights through this non-legislative strategy.

## Denmark and France: Organization of Agencies and the View on Secularism

The discussion of counterterrorism strategies for returning foreign fighters is initiated through the foundation of the counterterrorism agencies and authorities within a country. Denmark and France both implement strategies based around the organization of their agencies and the authorities who work

within them. The organization of the agencies varies between surveillance techniques implemented and the authorities employed within each. The two principle counterterrorism strategies implemented by these organizations are: legislation with a focus on surveillance and reintegration programs. Legislation is principally a repressive measure for countering terrorism, sending foreign fighter returnees, for example, through the judicial process which involves countless intelligence agencies and authorities to implement surveillance and to collect evidence for each trial. The reintegration programs involve one-on-one, personal assistance through help from civil society as well as agencies who receive information on possible candidates for the programs. Denmark and France differ when it comes to where more resources are directed regarding the counterterrorism strategies they focus on. Denmark's agencies perceive an importance in creating a slightly balanced focus regarding resource distribution between agencies that assist with legislation and those that assist with reintegration programs. France's agencies primarily focus on legislation. The role of secularism enters the counterterrorism strategies' field in regard to how the country, its agencies, its citizens perceive religion and culture, either leading to acceptance within the community or the creation of marginalization. The first fosters belief that the community and the country is willing to help resolve grievances while the later fosters belief that issues are unable to be solved through political means.

### Denmark: Organization

Since 1997, contemporary counterterrorism structures and agencies have been established in Denmark. They first iteration focused on crime and crime prevention, slowly transitioning into terrorism prevention. One of the first structures a part of the establishment of counterterrorism strategies that has been implemented in several municipalities is called SSP which is a network of schools, social service agencies, and the police (Hemmingsen 2015). This network primarily focuses on individuals under eighteen regarding the prevention of engagement in crime. 2009 included the addition of PSP which is a network of police, social services, and psychiatric health care. This new network focuses on crime prevention as well with a greater concentration on individuals requiring psychiatric care. In 2010, the creation of a third network occurred; KSP is a network of police, social

services, and the Prison and Probation Services which continues to concentrate on crime prevention while focusing principally on individuals who have just been released from prison, assisting with the prevention of their reengagement in crime (Hemmingsen 2015, Rigsadvokaten 2016). Each network is structured in a way that allows information to be shared and authorities to be able to cooperate with each other. As can be seen, the focus of Denmark's agencies has been on the prevention of crime. Denmark's counterterrorism strategies are extracted and incorporated into these crime prevention structures which corresponds with Denmark's current perception of terrorism as "a crime comparable to other types of crime" (Hemmingsen 2015, p. 18). In relation to returning foreign fighters, these networks provide the structure and means to figure out the reasons for becoming a foreign fighter and ensuring those reasons and the return of the foreign fighters have a minimal effect on the concerned individual as well as their surrounding community (Hemmingsen 2015).

Within the networks is the support for the three non-legislative counterterrorism strategies most relevant to returning foreign fighters: intervention, reintegration, or exit, programs. There is a general level, a specific level, and a targeted level that addresses the various radicalization levels of foreign fighters. The specific and targeted levels use each of the three programs for foreign fighters who have returned but are not violent. The methods employed at the specific level are guidance to individuals, guidance to relatives, and outreach. The targeted level focuses "on capacity-building [– ensuring the necessary resources are available for the employment of each program –] and the prevention of specific criminal acts" and further radicalization (Hemmingsen 2015, p. 26-27).

It is important to note that preventing radicalization is a principle aspect of Denmark's counterterrorism strategies and the roles its agencies play within its counterterrorism plan. It would not appear to be relevant to foreign fighter returnees at first. However, prevention can apply to ensuring an individual who is radicalized will not commit a terrorist attack after returning from a conflict zone, thus preventing further radicalization, more terrorist attacks. Therefore, notably, there is a focus on programs coordinated through the SSP, PSP, and KSP networks to employ social workers as well as

health care providers to speak with returnees in order to further prevent radicalization (Rigsadvokaten 2016). The individuals who work within these networks are especially trained to know the signs of radicalization and have greater knowledge regarding the definition of radicalization. Their knowledge is applied to their work with the returnees as well as young individuals deemed susceptible to the influence of returnees' potential rhetoric surrounding terrorism. They ensure that neither individual is radicalized or further radicalized to the point a terrorist attack is perpetrated (Rigsadvokaten 2016).

There are agencies a part of these networks as well as those that interact with the networks, each a crucial aspect when implementing Denmark's counterterrorism strategies for returning foreign fighters. The primary organization that handles terror threats is the Danish Security and Intelligence Service (PET) which is the national security and intelligence authority. It is a part of the Danish police force, specifically under the control of the National Police. However, due to the assignments it receives, the Director is required to report to the Minister of Justice (Committee of Experts on Terrorism 2007). PET works with individuals at all stages of radicalization through outreach and intervention programs, for instance. However, its principle work does not focus on the programs the network structures support as PET is primarily concerned with "identifying, preventing, investigating and countering threats against freedom, democracy and security in the Danish society" through monitoring, through surveillance (Rigsadvokaten 2016, p. 11, Hemmingsen 2015, p. 29). Notably, it is authorized to collect information and evidence for trials of Danish citizens abroad thus the activities, the crimes carried out by foreign fighter returnees can be monitored (Vestergaard 2018).

One division of PET is the Center for Prevention which works with national and international actors to assist with the prevention of radicalization as well as extremism (Danish Security and Intelligence Service). In order to accomplish its goal, the center has a three-pillar approach: "outreach and dialogue with civil society [and] capacity and knowledge building among professionals;" most importantly, it is specifically involved in the implementation and coordination of the reintegration programs which target individuals who are already radicalized, including returning foreign fighters



(Rigsadvokaten 2016, p. 15). A second division of PET is the Center for Terrorism Analysis which works with the Defense Intelligence Service, the Danish Ministry of Foreign Affairs, and the Danish Emergency Management Agency. The center “[produces] threat assessments and analyses related to the terrorist threat against Denmark,” consolidating all the intelligence information collected by PET, the Defense Intelligence Service, the Danish National Police, the Ministry of Foreign Affairs, and the Danish Emergency Management Agency (Committee of Experts on Terrorism 2007, p. 7, United States Department of State 2018).

Furthermore, PET works in collaboration with the Danish Agency for International Recruitment and Integration (SIRI) to improve the skills and knowledge of professionals regarding radicalization and handling challenging situations. SIRI is housed under the Ministry of Immigration, Integration, and Housing. It supports the “development of new measures and methods” and policies for those affiliated with radicalized and extremist groups, which notably includes returning foreign fighters (Rigsadvokaten 2016, p. 14, Hemmingsen 2015, p. 17). Furthermore, it assists the Info-houses, which are a part of the reintegration programs, and serves “as an entry point with regard to gathering and disseminating knowledge” (Hemmingsen 2015, p. 30). Regional Info-houses are a partnership between municipalities and police. This is where information regarding the legal cases of foreign fighter returnees can be smoothly traded within the partnership. Moreover, the Info-houses help create “a framework for the collaboration between” organizations in regard to the review and management of cases (Danish Government 2012, p. 14).

SIRI and the Info-houses both coordinate and advise the regional and local efforts “where the approach also revolves around collaboration between the police and the security and intelligence services on the one hand and agencies responsible for the relevant social services on the other hand” (Hemmingsen 2015, p. 17). As can be seen, there is a division between a judicial based, repressive process and approach and a more emancipatory, civil process and approach within the methods

implemented by Denmark's agencies. Surveillance methods are juxtaposed to the role agencies, as well as social services, play in reintegration programs and process.

Other agencies that assist with the implementation of counterterrorism strategies in Denmark include the Danish Defense Intelligence Service (DDIS) which is the foreign and military intelligence service for Denmark involved in the production of reports of the threats abroad (Danish Defense Intelligence Service). Furthermore, there is the National Danish Police, the Public Prosecution Service (PPS), and the Danish Prison and Probation Service (Rigsadvokaten 2016). All three are housed under the Ministry of Justice however, their focuses vary between enforcing legislation for and assisting in the rehabilitation and deradicalization of returning foreign fighters. Notably, the National Police and PPS ensure the law is enforced in accordance with the laws stated in the Administration of Justice Act (Rigsadvokaten (a)). The Danish Prison and Probation Service ensures sanctions are implemented (Danish Prison and Probation Service). It has a program that specifically assists with the deradicalization of individuals such as returnees called "Deradicalization – back on track" which works with the Ministry of Social Affairs and Integration and the Prevention of a Fight against Crime Programme of the European Union. It focuses on mentoring individuals convicted of terrorism crimes (Hemmingsen 2015).

As can be seen through even these last three organizations listed, Denmark tries to bring in social workers in order "to create constructive environments" and provide resources (Rigsadvokaten 2016, p. 22). These collaborations are to ensure that citizens, youth especially, have the resources to prevent recruitment on the general level or to establish reintegration and deradicalization at the targeted level. It highlights how Denmark has the beginnings of a strong foundation for ensuring that returning foreign fighters are treated as stated in the Universal Declaration of Human Rights, focusing on the humanity and dignity of a returning foreign fighter rather seeing them as only their actions. The principal focus of Denmark's agencies is ensuring legislation is enforced for countering returning foreign fighters. However, a secondary focal point is evident, one that appears to have a more local,

civil base where trust may be more easily be built through the intervention and reintegration programs (Rigsadvokaten (a) 2012).

### France: Organization

Major institutional reform to the counterterrorism structures and agencies of France began in 1986 and were further reformed in 1996. However, the most significant amendments were after 2001. For instance, in 2004, the Directorate of Territorial Surveillance (DST or Direction de la Surveillance du Territoire) and the Central Directorate of General Information (DCRG or Direction Centrale des Renseignements Généraux) were placed under the already created Directorate-General of External Security (DGSE or Direction Generale de la Sécurité Extérieure) in order to address the failures of the Coordination Unit for the Fight Against Terrorism (UCLAT or l'Unité de Coordination de la Lutte Anti-Terroriste): its inability to share information with other organizations and its poor ability to analyze and assess threats (Hellmuth (a) 2015). As well, in 2012, the Central Directorate of Domestic Intelligence (DCRI or Direction Centrale du Renseignement Intérieur) was renamed the Directorate-General of Domestic Security (DGSi or Direction Generale de la Sécurité Intérieure). It was formed by two older organizations: the DCRG which brought “regional representation [including] more than twenty out-posts” to the new organization and the DST which brought “its established relationship with the investigating magistrates” to the new organization (Hellmuth (a) 2015, p. 984). Many of these intelligence agencies focus on targeting “criminals, delinquents, or immigrants, and any of their activities, in an effort to identify or disrupt potential terrorism–crime linkages;” they, like Denmark, perceive that if crimes are prevented or punished, the chance of radicalization occurring decreases (Hellmuth (a) 2015, p. 985).

As a part of the counterterrorism strategies which France uses to combat the foreign fighter returnees, agencies collaborate to ensure any individual who returns from a conflict zone is surveilled and prosecuted for the crimes they are alleged to have committed. Foremost, there is the National Commission of the Control of Intelligence Technique (CNCTR or Le Commission Nationale de Contrôle des Techniques de Renseignement) which is an independent commission designated to ensure

that the activities carried out by the various intelligence agencies in France are done so legally (CNCTR). Overall, these agencies, no matter their specific assignment, “seek, collect, exploit and make available to the Government information relating to geopolitical and strategic issues as well as threats and risks likely to affect the life of the Nation” (Loi n 2015-912). They use the knowledge they collect to combat terrorism issues as well as prevent those threats. Importantly, these agencies are under the direction of the government and follow the guidelines determined by the National Intelligence Council. Each of the techniques that are implemented by the intelligence organizations are first authorized by the CNCTR and then the Prime Minister (Loi n 2015-912).

The counterterrorism agencies that are most prominent in France include the Intervention Group of the National Gendarmerie (GIGN or Groupe d’Intervention de la Gendarmerie Nationale), founded in 1973, and the DGSE, founded in 1982 and reformulated in 2004. They were created for the purpose of conducting counterterrorism operations and terrorism investigations internationally such as through collecting and storing “internet, e-mail, and phone communications data of French residents” (“France: Extremism,” GIGN, Hellmuth (a) 2015, p. 98). Moreover, several domestic and national security agencies exist in order to conduct counterterrorist operations and terrorism investigations domestically. These include the General Directorate for Internal Security (DGSI or the Direction Générale de la Sécurité Intérieure), founded in 2008, and the Anti-Terrorism Sub-directorate (SDAT or Sous-Direction Anti-Terroriste), inaugurated in 2007 (“France: Extremism,” GIGN, Morag 2018).

Furthermore, UCLAT, founded in 1984, was created for the purpose of conducting threat assessments, but, most importantly, it “coordinates [counterterrorism]...efforts across the intelligence and law enforcement community,” helping to strengthen cooperation (Morag 2018, p. 171, Hellmuth (a) 2015, p. 980). The Defense and National Security Council (CDSN or Conseil de Défense et de Sécurité Nationale), founded in 1906, the National Intelligence Council (CNR or Conseil National du Renseignement), founded in 2008, and the Operational Staff for Terrorism Prevention (EMPOT or état-major opérationnel de prévention du terrorisme), created in 2015, were also established to assist

in coordination. They support the coordination of national security, intelligence agencies and their collection strategies, and “the monitoring of radicalized people” (Hellmuth (a) 2015, Benbassa & Troendlé 2017, p. 984). Throughout these agencies and their counterterrorism strategies, a large presence of presidential and authoritative power is present (Hellmuth (a) 2015).

The surveillance of returning foreign fighters, the collection of this information, the coordination and centralization of this information is central to the counterterrorism agencies in France. The focus of these agencies is almost completely on enforcing legislation, on implementing repressive counterterrorism strategies, repressive in the sense that they are for prosecuting returning foreign fighters, or any other terrorist, and not for their reintegration as seen in Denmark. France does have the Interdepartmental and Prevention of Delinquency and Radicalization (CIPDR or Interministériel et Prévention de la délinquance et radicalisation) which is responsible for piloting integration centers. However, this is one agency compared to the ten agencies that focus on operations and investigations (Benbassa & Troendlé 2017).

### Secularism

Among the reasons that an individual radicalizes, that an individual becomes a foreign fighter, religion and marginalization are among the more prominent ones. The religion an individual follows can cause them to feel marginalized and thus experience grievances they feel can only be resolved through becoming a part of a terrorist organization abroad (Silke 2002, Borum & Fein 2017). Depending on the definition, the perception of secularism by the government of a country, the perception could cause further marginalization which counterterrorism agencies could perpetuate through their support of the type of secularism defined. When analyzing secularism within Denmark and France, a stark difference is present, leading to the question regarding whether the open and accepting view of religion helps decrease marginalization when compared to secularism that emphasizes each citizen should identify with the same culture.

Secularism in France is stated to have three basic principles: “the freedom of conscience and the freedom to manifest one’s convictions within the limits of respect for public order, the separation

of public institutions and religious organizations, and the equality of all before the law whatever their belief or beliefs” (France Government). Furthermore, religion is not permitted in the public domain. Due to France’s interpretation of secularism, counterterrorism officials and agencies thus do not address the structural issues of marginalization within France, issues which could lead to individuals desiring to travel to conflict zones in order to join a terrorist group. One approach to addressing feelings of marginalization is the inclusion of imams or religious institutions in partnerships with counterterrorism agencies. However, with the intolerance, in public spaces, of cultures and religion that are not classified as the French identity, as the “one ‘French’ community,” partnerships are “out of the question, just as it is difficult to imagine local police-mosque or police-Muslim association collaborations” (Hellmuth 2015, p. 4-5). Acceptance and tolerance, the prevention of radicalization and then terrorist attacks, are important reasons to include the various ethnicities and religions within dialogue and within society. It is necessary to promote those ideals, not disparage those who are different (Hellmuth 2015).

Imams are requested to attend training to learn about secularism in France, to learn the proper comportment of oneself both to begin the pathway to earning a university degree in secularism and to learn French well enough to conduct their daily lives in the language. Imams specifically appear to be targeted, ensuring their teachings in public are secular (The general rapporteur of the Observatory of secularism 2018). Due to seemingly vilifying, targeting, and hyper focusing on imams, there has been more than a dozen Imams deported since 9/11 because they were “preaching in a manner that ran afoul of French law, and numerous Islamic places of worship have been closed for similar reasons” (Schmitt 2010, p. 45). The closures, for up to six months, are allowed under Article L227-1 of the Code de la sécurité intérieure:

For the sole purpose of preventing the commission of acts of terrorism, the representative of the State in the department or, in Paris, the prefect of police may pronounce the closing of places of worship in which the remarks that are made, the ideas or the theories

that are disseminated or the activities that take place provoke violence, hatred or discrimination, provoke the commission of acts of terrorism or glorify such acts. (Art. L. 227-1)

Islamic places of worship are targeted; no other religion and place of worship experiences discrimination to the extent of their place of worship. Thus, the French government appears to use their definition of secularism to target individuals based on a stereotype, those who practice a religion outside ‘western’ religions. Furthermore, nationalism is the driver behind these deportations and closures. The support for these nationalistic tendencies begins with the French government promoting French values and secularism when children first attend school (CIPDR 2018). However, it is a nationalism that does not advocate for the acceptance of multiculturalism, of the beauty behind diversity in religions and cultures. This attitude thus creates an environment that fosters marginalization despite the fact that diversity can help unite, rather than create the feeling of isolation for French citizens. This can lead to radicalization which can lead to the perpetration of a terrorist act.

In comparison, citizens of Denmark are able to express themselves, their religion, and their opinions freely and openly. The society in Denmark strives to be cohesive, where their fundamental values are appreciated; those values are “freedom for the individual, equal opportunities, respect and tolerance” (Ministry of Higher Education and Science, Rigsadvokaten 2016). It is important to note that in Denmark, Christianity is a large part of the Danish culture due to “75 % of the population [being] registered members of the Evangelical Lutheran Church” (Ministry of Foreign Affairs of Denmark). However, when that cohesion, its values, the “common safety, form of society and way of life” are threatened, it is stated by the government that action should be taken to prevent those threats no matter who is the threat (Rigsadvokaten 2016, p. 6). Furthermore, the importance and duty of any religious representative in Denmark’s counterterrorism strategies are highlighted by the Prison and Probation Service: these representatives “have the obligation to prevent potential acts of terrorism and other serious crimes, if necessary by notifying the police” (Rigsadvokaten 2016, p. 20). PET has also

included outreach activities that involve religious representatives in dialogue (Rigsadvokaten 2016, Gad 2012). Religious representatives are not isolated, they are viewed as an asset to ensure there is cohesion within society, that those who might feel marginalized have options to settle those grievances aside from the path to radicalization.

However, Denmark is not free from having to figure out how to approach religious representatives who appear to preach hateful dialogue toward other religions and cultures, banning six religious figures “from entering the country for two years” (United States Department of State 2018). To combat these actions, the Danish government developed dialogue between these figures and mosques such as the Grimøjvej Mosque regarding ways “on how to handle the situation and more generally on the prevention of radicalization” (Agerschou 2015, p. 10). The dialogue is cultivated through priests, philosophers, or other scholars who volunteer their time to these programs (Agerschou 2015). It is necessary to acknowledge that Muslims are a target when it comes to dialogue between the government and religions representatives, when it comes to fear of radicalization. The government may be more accepting of a diversity of religions being practiced in public spaces; however, it does not prevent stereotypes from being perpetuated. Overall, the important role of religion is acknowledged in Denmark and thus the ability to speak about religious issues, the focus on specific religious communities helps create successful integration programs for those who radicalize due to feeling marginalized and have since returned. The programs thus have the potential to foster acceptance and tolerance. This all being said, again, focusing on a specific community when creating programs of cohesion, of tolerance can foster feelings of marginalization. Though, when compared to France, the effort to acknowledge diversity instead of suppressing it provides a space for growth, tolerance, and acceptance.

Secularism can be defined specifically as the separation of church and state however, France takes it a step further by defining its population as a French, not multicultural, community, which causes diversity to diminish within society. This can lead to feelings of being unwelcome and



marginalization within their community, thus leading to the search for other means and locations where they their grievances can be addressed. This is an environment that fosters radicalization and the creation of foreign fighters (Council of European Studies). Denmark is more accepting of diversity within the public sphere. However, it focuses greatly on the Muslim community when preventing radicalization which can foster feelings of being marginalized in its own way. The mechanisms are present, however, to foster a diverse community and to ensure reintegration programs for returning foreign fighters are strong, stable, successful, and capable of ensuring reintegration into society. Without those mechanisms, without the acceptance of diversity in public spaces, feelings of marginalization, of grievances and thus the desire to find a place of acceptance – in a terrorist group for instance – are difficult to prevent.

The organization of Denmark and France continues to develop as terrorist attacks change in their frequency, their locations, their perpetrators, and their method of the attack. The focus of the organization of agencies is principally on investigations – surveillance – and operations which decreases the privacy an individual has. However, new methods, new techniques for reintegrating returnees are being developed, particularly in Denmark. Returnees are slowly being seen as human whose dignity should be respected, not as animals who need to be caged. Secularism defined as creating one community with each person perceived as identical, as seen in France, establishes an additional issue regarding how society and how agencies address terrorist attacks, address the perpetrators of those attacks. Those perceived as different, as adding unwanted diversity to a community are often perceived as the perpetrator and thus their integration into society is often difficult. It has the opposite effect the cohesion a seemingly identical community would be thought to create, as it can marginalize an individual and thus increases the possibility of that individual being recruited into a terrorist group. Acceptance of diversity, of a diverse community, as seen in Denmark, is necessary to foster cohesion, acceptance, and tolerance, and to decrease feelings of isolation and desires to radicalize.

## Denmark and France: Legislation and Policies

The principle method of counterterrorism strategies for returning foreign fighters is the implementation of legislation which allows authorities to have power to surveil individuals, to restrict travel, and to increase prison sentences based on the fact that a crime is considered perpetrated for the purposes of terrorism. These counterterrorism legislative measures are repressive, infringing on the rights of returnees to have privacy, to have the freedom of movement, to have a nationality, and to have a fair trial. These human rights are codified in United Nations Declaration of Human Rights (UNDHR) and the European Convention on Human Rights (ECHR). However, as analyzed by the expanded criminal justice model (ECJM), these infringements on human rights are acceptable due to their principal goal being to counter terrorism. It is evident that the legislation has restrictions and thus returnees are not completely deprived of their human rights. The line distinguishing the democratic boundaries in each country are not unreservedly crossed yet special legislation is created to counter terrorism. Denmark and France have appeared to adopt this mentality; they are no exception to this form of repressive legislation, this counterterrorism strategy.

Denmark began implementing its current counterterrorism legislation in 1997. The creation of repressive measures was the focus of counterterrorism strategies. However, preventative, proactive measures, instead of reactive, began to be implemented after the 2005 London terrorist attacks perpetrated by four suicide bombers which killed fifty-two people (Hemmingsen 2015, Rodgers, Quarashi, & Connor 2015). The Danish Criminal Code added terrorism charges in 2002 and training and recruiting for terrorism was criminalized in 2006 in order to ratify the 2005 European Convention on the Prevention of Terrorism (Vestergaard (a) 2015). The first national action plan to prevent extremism and radicalization was created in 2009 which had 22 initiatives. Another action plan was created in 2014. Both plans focused on Islamist extremism with the latter focusing on ““separating the goals of counter-radicalisation from social cohesion-building and integration-agendas”” (Hemmingsen 2015, p. 12). Despite the addition of a focus on integration of terrorists into society, most of the money in Denmark is allocated toward the more traditional methods. For example, in February 2015 – when

Omar Abdel Hamid el-Hussein attacked and killed two civilians and six police officers “at a cultural centre and a synagogue in Copenhagen” – 130 million euros was allocated toward “‘Danish intelligence services’ more traditional efforts to counter and prevent terrorism,” these included surveillance (Hemmingsen 2015, p. 11). Most of the legislation appears to have been implemented before the 2015 Paris attacks with the exception of implementing travel restrictions in 2015. Reforms to the legislation are continuous.

France began to modernize and centralize its counterterrorism strategies in 1986, approximately one decade before Denmark, after the 1986 Paris attacks where five locations were bombed and five people killed. These first counterterrorism strategies included putting “investigative powers in the hands of seven anti-terrorism judges” and thus allowing them to “‘act like prosecutors but have the powers of judges’” (Hellmuth 2015, p. 21, Morand Deviller 2016, Schmitt 2010, Slevin 2015). Reforms have continuously been repressive with at least thirty being implemented (Morand Deviller 2016). The legislative reforms range from providing more power to authorities during searches to revoking passports to, in 1996, criminalizing “conspiracy to commit a terrorist offense” and thus criminal acts could be prosecuted as terrorist acts which carry a harsher prison sentence (Hellmuth 2015, p. 22). As seen with Denmark, on 21 December 2012, France implemented a law which permitted the prosecution of individuals who have committed terrorist acts or trained abroad in terrorist camps (Bakker 2013, p. 15). Many of France’s laws have been reformed after the 2015 Paris attacks, providing even greater power to agencies and authorities as specifically seen through the declaration of a state of emergency.

Overall, both Denmark and France have implemented counterterrorism legislation for returning foreign fighters in six main categories: travel restrictions, surveillance, state of emergency, terrorism prison sentences, detention/procedure upon return, and minors. Throughout these categories it can be seen that both countries have no deprivation of citizenship without criminal conviction and powers to withdraw or refuse to issue passports. Furthermore, both Denmark and France have criminal

investigations and prosecution *in absentia* as well as criminal investigations opening automatically when an adult returnee – man or woman – arrives. They also have maximum pre-charge detention – France is three days longer compared to Denmark – and prison systems set up to ensure radicalized prisoners such as returnees are separated from the general population. Notably for minors, there is an age of criminal liability for children which is fifteen for Denmark and thirteen for France (Ragazzi & Walmley 2018). As can be seen, Denmark and France have very similar counterterrorism legislation. Slight differences will be seen in terrorism prison sentences, the declaration of state of emergency, and detention/procedure upon return. However, no matter the variations, each legislative policy is repressive, infringes on human rights yet is acceptable when viewed through the lens of the ECJM.

### Travel Restrictions

Since 2014 and 2015, in France and Denmark respectively, travel restrictions have been issued to citizens deemed on the path or at the destination of radicalization, a legislation specific for foreign fighters and consistently issued to foreign fighter returnees. These restrictions include travel bans, passport revocation, citizenship revocation, and movement restriction between and within countries. For returnees in particular, these restrictions are issued to ensure individuals are unable to return to conflict zones in Syria or Iraq – they can also be issued while the individual is abroad, preventing them from returning home (“Treatment of Foreign Fighters” 2015, Morag 2018). These restrictions violate the human right to a nationality and to move freely yet are deemed acceptable by the ECJM. The safety of the public and the state are thus prioritized over the human rights of the returnees.

To first address the most repressive travel restriction legislation, both Denmark and France have implemented a law that allows citizenship to be revoked. The revocation is only allowed “provided that [the individual issued this sanction] does not become stateless as a result” as specifically stated in the Act on Danish Citizenship which the French Civil Code reiterates (“Treatment of Foreign Fighters” 2015, Morag 2018). This is a violation of human rights for the returning foreign fighters as nationality can be retracted. Article 15 of UNDHR highlights these infringements as it states that: “Everyone has the right to a nationality...No one shall be arbitrarily deprived of his nationality nor

denied the right to change his nationality” (UN General Assembly 1948). ECHR also adds under Article 3 of Protocol 4 that: “No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national” while also stating that deprivation of entry into the state of his nationality is prohibited (European Court of Human Rights 2010). Thus, nationality cannot be deprived as stated in human rights documents yet Denmark and France infringe up those rights. The revocation of nationality can occur.

However, when citizenship revocation is analyzed through the ECJM, it is apparent that an expansion of laws which are supposed to protect human rights is allowed in order to counter terrorism. The legislation regarding citizenship is expanded to provide the possibility revocation could be issued. This law is not immune from restrictions as citizenship cannot be revoked if that individual will become stateless thus the expanded laws do not cross democratic boundaries, can be accepted as democratic. Overall, the infringement of human rights is in the name of counterterrorism and thus is perceived as acceptable through the ECJM. No change is discerned to be necessary to prevent the infringements as the protection of national security, of public safety appears to be more important than the human rights of a returning foreign fighter.

A step down from revocation of citizenship is revocation of passports as well as the creation of travel bans for those perceived to have connections with terrorist groups in Syria or Iraq. Denmark and France have both implemented these laws (Rigsadvokaten 2016, Lichfield 2014). In Denmark, passport revocation is under Passport Code Section 2 (1)(4). It states that revocation occurs for a specified period of time if there is “‘reason to assume’ that an individual ‘has an intention to participate abroad in activities that could imply or enhance a danger for the security of the Danish State or the security of other States, or a substantial threat against the public order...” (Vestergaard 2018, p. 267-268). France has a similar law in which a passport is revoked, as well as the individual is banned from leaving the country, if “there are serious reasons to believe that he or she intends to...travel abroad to join a terrorist group, under conditions likely to lead to harming public safety upon his return to French

territory” as stated under Article L. 224-1 of the Code de la sécurité intérieure (Art. L. 224-1). The ban is enacted for a maximum of six months as decided by the Minister of the Interior (Art. L. 224-1, Hellmuth (a) 2015). Even if, as in the case of the returning foreign fighter, the individual is back on their home territory before the ban or passport revocation is implemented, the ban or revocation is to ensure the returnee does not return to the conflict zone, does not physically engage further with terrorist organizations (Paulussen & Pitcher 2018).

Both Denmark and France have thus implemented travel bans and passport revocation. However, France goes further regarding travel bans as, under Article L. 228-2, foreign fighter returnees may be required to stay within a certain geographical location, to report at least once a day to the police or the gendarmerie, and to “declare their place of residence and any change of place of residence” (Loi n 2017-1510). These travel bans and movement restrictions touch upon the fact that movement within a country, and not just between countries, is restricted as well.

These counterterrorism laws infringe on the human right to travel freely. Article 13 of UNDHR states that: “Everyone has the right to freedom of movement and residence within the borders of each State...Everyone has the right to leave any country, including his own, and to return to his country” (UN General Assembly 1948). Under the ECHR, the freedom of movement is present under Article 2 of Protocol 4 along with the statement that violations of this article are only able occur if they “are necessary in a democratic society in the interests of national security or public safety, for the maintenance of public order, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others” (European Court of Human Rights 2010).

Movement is a human right. To take away a foreign fighter returnee’s passport, banning travel to certain locations prevents them from being able to move freely between the countries they desire to visit. France takes it to another level by even restricting movement to a specific area of the country. Analyzed through the ECJM, the restriction of movement is an expansion of the laws that protect human rights in order to counter terrorism and thus is perceived as a necessary infringement in both

Denmark and France. If the creation and implementation of legislation is in the name of security and safety, even the ECHR acknowledges the necessity to allow for those laws to be implemented. The protection of society and security of person are prioritized over the human rights of returning foreign fighters as seen with the infringements on human right of freedom of movement in the name of countering terrorism.

Aside from the infringement of the human right regarding freedom of movement, these laws appear to make it easier for Denmark and France to charge a foreign fighter returnee with a crime, to sentence them. Through disobeying the travel ban, through resisting their passport revocation, returnees can be prosecuted for disobeying orders even if a substantial amount of evidence is unable to be collected in order to prosecute them for a more serious terrorism crime (Art. L. 224-1, Vestergaard 2018).

When comparing the travel legislation in Denmark and France with the human rights stated by the United Nations and the European Union, it is clear that an expansion of their laws has occurred to the same extent. Both revoke citizenships, passports, and restrict the movement of citizens. France does restrict movement within its territory and not just between countries but both still infringe on the right to freedom of movement, right to have their nationality. The infringement of human rights has been allowed. Through the lens of the ECJM, the expansion of legislation, the creation of this special legislation is permitted as the legislation is perceived as necessary to counter terrorism, to protect national interest and public order. The right to a nationality, the right to leave and enter a country and move within the country are infringed upon. The exceptions, the expansions do not permanently infringe upon a foreign fighter returnee's human rights due to the revocation of citizenship, of a passport, the restriction of movement being temporary, neither action is permanent (Pedahzur & Ranstorp 2012). However, the national security of the state, the safety of the public, the maintenance of public order is prioritized over the human rights of returning foreign fighters.

## Surveillance

Surveillance is one of the most detailed and extensive sections of counterterrorism legislation for returning foreign fighters in Denmark and France. It can be implemented before or after travel restrictions are issued. The information collected is used to prosecute and for the basis of arrest of foreign fighters returning from conflict zones. The legislation includes permitting access to personal and travel information regarding an individual and their location and the continual observance and collection of this information such as through cameras, phone tapping, and the ability to conduct a search before a warrant is issued. Many of the general surveillance laws have been implemented before the foreign fighter returnee threat entered center stage in 2011 (Ragazzi 2018). However, this legislation has been reformed several times because of the increasing number of returning foreign fighters in both Denmark and France. Compared to Denmark, the legislation of France has had more repressive reforms and more laws implemented regarding surveillance and the power authorities have to surveil, specifically due to the state of emergency it declared. Notably, Denmark has focused less on implementing surveillance legislation for returning foreign fighters and more on the non-legislative counterterrorism strategies, such as reintegration programs (van Ginkel 2016). Nonetheless, the surveillance legislation for both countries violates the human right to privacy though is deemed acceptable by the ECJM. The safety of the public and the state are prioritized over the human rights of the returnees.

In order to be aware that a foreign fighter is returning and surveillance should begin, travel information can be collected and monitored. In France – as well as in Denmark – for returning foreign fighters, a database called Passenger Name Record (PNR) contains passenger flight data (Loi n 2017-1510, Committee of Experts on Terrorism 2007). Intelligence and security authorities are authorized to use the information collected to enforce laws particularly related to preventing and detecting terrorist offences. Furthermore, as Article L. 232-1 specifies, this information can be collected from travel that is not within states a part of the European Union – such as from the conflict zones in Syria and Iraq



(Loi n 2017-1510). This access can be granted without a warrant in Denmark as stated in Article 148a of the Air Navigation Act (Committee of Experts on Terrorism 2007).

Upon the return of a foreign fighter, both Denmark and France state the issuance of surveillance for the returnee “in a home or other premises” occurs (Committee of Experts on Terrorism 2007, p. 3-4, The Consolidate Act on the Administration of Justice 2016). It is for a maximum of four weeks as stated in the Denmark’s Administration of Justice Act, Articles 791(2) and 806 or for as long as the individual is confined to a geographical area as stated in France’s Article L. 228-3 (Committee of Experts on Terrorism 2007, The Consolidate Act on the Administration of Justice 2016, Loi n° 2017-1510).

Each of these laws violate the right to privacy of citizens of both countries as personal information is collected in order to investigate individuals returning. This can be seen when analyzing Article 12 of the UNDHR. Privacy should not be interfered with: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks” (UN General Assembly 1948). The ECHR under Article 8 – Right to respect for private and family life – reiterates the UNDHR’s position regarding privacy (European Court of Human Rights 2010). However, as with the right to freedom of movement, there are exceptions where “there shall be no interference by a public authority with the exercise of this right” except if invading privacy safeguards the national security or public safety to ensure “the protection of the rights and freedoms of others” (European Court of Human Rights 2010).

Thus, the collection of airline passenger data and the surveillance of homes appears to be a violation of the right to privacy as the authorities are interfering in private lives. However, exceptions can be allowed under the law if life or the safety or welfare of citizens is endangered (Loi n 2017-1510, Committee of Experts on Terrorism 2007, The Consolidate Act on the Administration of Justice 2016). The ECJM supports this direction of legislation. Interfering in the privacy of returning foreign fighters’

lives is permitted, is necessary in order to counter terrorism, in order to ensure national interests and public safety are protected, prioritizing the safety of the public over the human rights of returnees. Thus, the creation of special legislation where counterterrorism legislation is expanded past human rights, interfering with privacy is acceptable when in the name of countering terrorism.

In regard to other types of surveillance for returning foreign fighters, for Denmark, surveillance can be conducted “by means of a remotely controlled or automatic camera, TV camera or similar equipment;” photographs and observation with binoculars may also be used to surveil individuals “not freely accessible” as stated in the Administration of Justice Act, Article 791 (Committee of Experts on Terrorism 2007, p. 3-4, The Consolidate Act on the Administration of Justice 2016). The interception of communication is a third surveillance method Denmark employs under Articles 780, 783, 791a and b, 799(3), and 806(3), most often using phone tapping, bugging, and opening letters and private documents without first receiving a court order (Committee of Experts on Terrorism 2007, The Consolidate Act on the Administration of Justice 2016). France permits surveillance to be conducted with these same techniques along with the use of wiretaps through the internet as stated in Loi n 2011–267. Communication and correspondence information can also be intercepted for French citizens who are abroad, as stated under Article L. 854-1 (Hellmuth 2015, Loi n 2011–267, Art. L. 854-1). Furthermore, the details of a car, its description, its license plate, and its passengers are authorized to be surveilled which includes the ability to search the car and its location without a warrant, “only requiring requisition orders” (Hellmuth (a) 2015, Loi n 2017-1510).

In France, surveillance can also be conducted through “online searches of private and public databases of financial institutions, telecommunication providers, and government services, if the data was considered ‘useful to establish the truth’” as stated in Loi n 2003–239 (Hellmuth (a) 2015, p. 981). Moreover, France also permits authorities to analyze computer data, “to record, store and transmit them...[and] to access, record, store and transmit computer data as it appears on a screen ...” which Article L. 853-2 describes (Loi n 2017-1510). Denmark has similar legislation beginning under the

2002 Anti-Terrorism Package 1. It states that authorities are able to collect and organize data that is “of ‘relevance to police interception’” and thus, internet traffic, telecommunications such as emails, can be surveilled and logged (“Denmark,” p. 5).

One aspect of surveillance that appears to be highlighted by France more than Denmark is that information is registered on a database to keep track of individuals that are perceived to be a threat in order to collect information for a trial. Thus, a record of the personal information is collected and the “intelligence gathering techniques [implemented] is established” on a database, as stated in Article L. 822-1 of Loi n 2015-912 (Loi n 2015-912). One of the locations the information collected is placed is in the automated national judicial file of the perpetrators of terrorist offenses which is used “by the national criminal records service under the authority of the Minister of Justice and the control of a magistrate” as stated by Article L. 706-25-3 (Loi n 2015-912).

The privacy of the returnees is being invaded, is being infringed upon through the use of cameras, of wiretapping, of searching cars. However, is it for countering terrorism and thus is acceptable as the ECJM explains and as both Denmark and France explicitly state. The two countries describe that surveillance can only be conducted if the individual who is being surveilled committed an act or is perceived to have committed an act that could harm human life or the community and if deemed a serious enough issue. This issue could be returning foreign fighters as stated by Article 781 of Denmark’s Administration of Justice Act and in Article L. 852-1 of the Loi n 2015-912 in France. (Committee of Experts on Terrorism 2007, The Consolidate Act on the Administration of Justice 2016, Loi n 2015-912).

Notably, for France, as stated in Article L. 853-1, when collecting information for the trial of foreign fighter returnees, “authorization may be granted, when the information cannot be collected by any other means legally authorized, to use technical devices which allow the capture, fixation, transmission and recording of words spoken privately or confidentially, or images in a private place” (Loi n 2015-912). This also applies to being able to collect information in an illegal way through “a

vehicle or private place” (Loi n 2015-912). There are constraints on these surveillance techniques as they can only occur once the CNCTR authorizes the use of the intelligence techniques. Their use can only be authorized for a maximum of thirty days though the authorization is able to be renewed as stated by Article L. 853-3 (Loi n 2015-912).

Terrorism appears to be an exception for all invasions of privacy. It is a human right to know that ones’ privacy will not be invaded, that their personal information will not be collected through the interception of telecommunications and computer data, that their lives are not being documented by the government through photographs and videos. However, Denmark and France appear to state that the exception to interfering with this right is when there is a threat to national security and public safety; countering terrorism fulfills this exception. The ECJM supports this stance by stating that special legislation, legislation that infringes on human rights, infringes on the rights to privacy, is able to be created to counter terrorism. It does not expand into the war model as the military is not currently being used to conduct surveillance yet, the surveillance methods still go beyond legislation which follows human rights’ laws.

Rights are being violated for returning foreign fighters but the democratic accountabilities and boundaries are not fully violated as there are constraints on each of the surveillance laws. Most of the constraints are based around the length of time allowed for surveillance and the few circumstances when it is allowed – the potential of a terrorist attack being perpetrated is one of those circumstances and foreign fighter returnees being perceived as having the potential to commit an attack is another (Hellmuth (a) 2015, Loi n 2017-1510, Committee of Experts on Terrorism 2007, p. 3-4, The Consolidate Act on the Administration of Justice 2016). National and public safety are prioritized over the protection of privacy of returnees however, it is acceptable to cause an invasion of privacy due to the expansion of legislation being for the purpose of countering terrorism as the ECJM describes.

Regarding the surveillance power authorities have, under the Danish Administration of Justice Act, the investigation and surveillance abilities of authorities are broadened from what is stated in the

Danish Constitution (Danish Government 2012). Searches and surveillance can be conducted without a warrant or under one warrant and information can be exchanged between authorities – including the Security Intelligence Service and the Danish Defense Intelligence Service – with less restrictions as stated under Articles 783, 791a and b, 799(3), and 806(3) of the Act (Committee of Experts on Terrorism 2007, The Consolidate Act on the Administration of Justice 2016). France has similar laws regarding power authorities have to surveil as authorities are able to share information as well; those authorities include the National Police, Gendarmerie, the Interior Ministry, the DCRG, and the Prison and Probation Services (SPIP) (Hellmuth (a) 2015, Benbassa & Troendlé 2017). Furthermore, house searches can be conducted without the consent of the owner and even if an item is not on the search warrant, it can be further investigated (Hellmuth (a) 2015).

Aside from being able to conduct searches and surveillance without warrants, the power of authorities is further evident regarding how they conduct surveillance. In Denmark, if there are thought to be terrorism crimes perpetrated, all types of surveillance are allowed (The Consolidate Act on the Administration of Justice 2016). It is important to note that for cases dealing with terrorism charges, “if it is decisive for an investigation to conduct a search without informing the suspect or other persons about it...the court may issue a warrant for such a search specifying that no witnesses should attend;” this is under Articles 796(3) and 799 of the Administration of Justice Act (Committee of Experts on Terrorism 2007, p. 5, The Consolidate Act on the Administration of Justice 2016). However, there are a few restrictions. Firstly, exchange can only occur if it is in order to cooperate with each other as stated under Article 115. Secondly, the court and Ministry of Justice must be informed of all the actions taken by authorities within twenty-four hours of the surveillance being implemented. Overall, surveillance cannot be longer than four weeks (The Consolidate Act on the Administration of Justice 2016).

For France, under Article L. 223-4 of the Code de la sécurité intérieure, when the authorities perceive that there is a risk a terrorist attack could be perpetrated a video surveillance system can be

installed without notifying the committee in charge of video protection for video surveillance. There is a similar process for wiretaps (Art. L. 223-4, Schmitt 2010). Moreover, as stated in Loi n 2016-629, the police and judicial branches have extended “authority to hold terrorist suspects without access to a lawyer for up to four hours, and authorizing police officers to place suspected returning foreign fighters in house arrest for up to one month” (“France: Extremism,” p. 9, Loi n 2016-629). Moreover, as Schmitt notes, under Loi du 29 juillet 1881 Article 24, “...French authorities [do not] have to meet a ‘probable cause’ threshold to use wiretaps or electronic surveillance” (Schmitt 2010, p.39).

The searches without warrants or on just one warrant, omitting the requirement of witnesses during searches, not informing those being surveilled, all types of surveillance being permitted, and the continued exchange of information highlight what seems like stark violations of the right to privacy. However, constraints are placed on each of the laws such as the length surveillance can last or special exceptions are made for those perceived as committing terrorism crimes. Foreign fighter returnees fall under the category of committing terrorism crimes thus they are often believed to warrant human rights infringements, the violation of privacy. According to the ECJM, the expansions of the democratic laws, of the surveillance legislation which causes infringement on privacy is necessary and permitted in order to combat terrorism (Pedahzur & Ranstorp 2012). The national interests and safety of the public and the nation are prioritized over the rights of returnees. Yet, the ECJM continues to perceive the expansion of legislation as necessary to counter terrorism. Denmark, as well as France, allow for the expansion of legislation and the ECJM supports the continuation of counterterrorism strategies that infringe on the right to privacy for returnees. This is as long as the legislation remain in pursuance of countering terrorism, in the pursuance of the protection of national interests and the safety of the public.

Denmark and France have similar surveillance legislation, similar surveillance methods, and similar power provided to authorities to surveil. They thus both implement the same infringements on human rights – the right to privacy – both championing these violations in the name of counterterrorism, in the name of security. The counterterrorism laws interfere with the privacy of

foreign fighter returnees, violating their right to privacy. The rights of returning foreign fighters are thus neglected over those of each country and their other citizens. ECJM perceives, however, the expansion of surveillance legislation, the creation of special legislation is acceptable, despite the disregard for the right to privacy, as it is in order to combat terrorism, to counter foreign fighter returnees.

### State of Emergency

One aspect of counterterrorism legislation that France has implemented and Denmark has not is the state of emergency. This is important to note since the legislation that was created under the state of emergency increased the power of authorities, specifically providing a greater ability to surveil without a warrant and to arrest individuals without judicial procedures (Loi n 2015-1501, Grunstein 2017). The right to privacy and the right to freedom of movement are infringed upon through this category of legislation. It is important to note, however, that the right to not have other international laws infringed upon through laws created in the state of emergency used to be a human right infringed upon before several laws created through state of emergency were codified at the same time as the state of emergency ended. The safety of the public and the state are prioritized over the human rights of the returnees. The ECJM views these infringements as permitted as it is in order to counter terrorism.

The state of emergency is applied in two circumstances: “in case of imminent danger resulting from serious breaches of public order – [which is the case here] – and in the event of nature and gravity, the character of public calamities” (Morand Deviller 2016, p. 76). It has been declared seven times, the first being in 1955, before its declaration on 14 November 2015 when the Charlie Hebdo attack occurred (Kourliandsky 2016, Morand Deviller 2016). Article 4 of the Loi n 2015-1501 du 20 novembre 2015 renewed and put into force the state of emergency law from 1955: Loi n 55-385 du 3 avril 1955. Once it was declared in 2015, it was renewed every three or six months until the Loi n 2017-1510 du 30 octobre 2017 “replaced and codified” many of the laws created through state of emergency (Morand Deviller 2016, United States Department of State (a) 2018).

Several of the legislations implemented under the 2015 state of emergency and carried over to the 2017 law include the surveillance laws and authoritative powers described under the travel restrictions and surveillance sections. These include restricting the movement of individuals within their city of residence, search warrants being able to be issued without judicial input, and being able to search more locations (Grunstein 2017). As well, through the state of emergency and codified in the 2017 law, the Minister of Interior is able to order the house arrest of a person on “serious grounds for believing that his conduct constitutes a threat to public security and public order” (Loi n 55-385, Loi n 2015-1501) Therefore, the state of emergency and then the 2017 law established legislation that infringes on the human rights of returning foreign fighters, their right to privacy and to freedom of movement as described in the previous two sections. The ECJM perceives that the special legislation first created through the state of emergency and the infringements on human rights that come with it as acceptable and necessary in order to counter terrorism.

However, an additional human right that addresses the laws implemented under the state of emergency is Article 15 of the ECHR “Derogation in time of emergency,”

In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law. (European Court of Human Rights 2010)

This article describes the fact that the state of emergency laws are an exception to the human rights described throughout the ECHR as the state of emergency is in the name of protecting public safety and national interests, of countering terrorism. Nonetheless, it is required under this human right that the laws implemented by the state of emergency do not infringe on other international laws. It could be argued that the state of emergency laws do infringe on international laws as they infringe on the human rights outlined in the UNDHR. Despite the right to the derogation in time of emergency,



the power of authority was expanded in order to allow for more thorough searches, longer detentions, and more restriction of movement. This is accepted as the infringements allowed in order to counterterrorism as perceived by the ECJM. Though, with the state of emergency ending and several of its laws being codified under the 30 October 2017 law, this human right infringement is no longer applicable. However, the infringements of human rights which are also described thoroughly in the travel restrictions and surveillance sections – right to freedom of movement and the right to privacy – are very much applicable under the new law.

The ECJM considers the permanent implementation of several of the state of emergency laws as a permanent expansion of the repressive state of emergency; they are thus perceived as special legislation to the ECJM. The continual review of the state of emergency has been eliminated. The human rights of returnees – their privacy, their freedom of movement – are therefore permanently infringed upon as described in the previous two sections. However, it is acceptable as the laws created place restrictions on the expanded, permanent power of authorities since judges still have some control. Importantly, Denmark has not implemented a state of emergency though many of the laws created through France's state of emergency, and which are now codified, are very similar to those Denmark has established for its travel restrictions and surveillance legislation. Denmark and France thus still infringe on the human rights to nationality, freedom of movement and privacy to the same extent. The ECJM sees the human rights infringements as permitted and acceptable despite the permanence of several of the human rights infringements due to being in the name of countering terrorism. Some restrictions are in place regarding the extent to which the expanded legislation can be implemented but it is evident that the national interests and public safety are prioritized over the human rights of returnees.

### [Terrorism Prison Sentences](#)

Once the restrictions to travel have been issued and surveillance has taken place in order to collect evidence for the charges laid out against a returning foreign fighter, and the individual has been found guilty, the next step in the judicial proceedings is sentencing. Terrorism prison sentences are

unique compared to other parts of legislation in that there appears to be no human rights defining how long a sentence for a terrorism crime can be in comparison to similar crimes committed for more traditional reasons. The closest human right is only in regards to ensuring an inmate is not tortured (General Assembly 1948). However, there is a stark difference between Denmark and France regarding the length of a prison sentence applied for an individual who commits a terrorism act. In Denmark, the prison sentences issued for foreign fighter returnees convicted of a terrorism crime are harsher than those in France. This difference is due to the fact that an individual who commits any crime with the intention of it being related to terrorism can receive life imprisonment in Denmark. However, in France, the length of the prison sentence depends on the type of terrorism crime perpetrated. The ECJM views the increased sanctions for terrorism crimes committed or intended to be committed compared to crimes committed for more traditional purposes as acceptable and permitted due to this expansion being implemented in order to combat terrorism.

It is important to note that when the foreign fighter returnees, as well as any other individual charged with a terrorism crime, are imprisoned in Denmark and France, they are put into separate units, isolated from the general population. In France, there is the “creation of five specialized units for dealing with radicalization (QPR or *quariter de prise en charge de la radicalization* units)” which house twenty-five to twenty-eight inmates (Ragazzi & Walmley 2018, p. 90). For Denmark, through its 2016 counter-radicalisation Action Plan, “‘radicalised’ prisoners [were place] in specialised units, each housing between four and six inmates” (Ragazzi & Walmley 2018, p. 90).

The terrorism crimes and sentences in Denmark are outlined in Chapter 13 of Denmark’s Criminal Code. Article 114 describes the charges in the greatest detail (Strfl § 114). Before outlining the specific terrorism charges and their punishments, it is notable to highlight how foreign fighter returnees are able to be charged for crimes committed abroad. An individual who is a Danish national and commits a criminal act abroad is able to be indicted under Articles 7 and 8 of the Criminal Code of Denmark. They then can be prosecuted by the Danish government upon return as they “shall...be

subject to Danish criminal jurisdiction” particularly when the crime committed is “punishable under the law in force” in the foreign territory. (Strfl § 7, Strfl § 8). In combination with Articles 7 and 8, Article 114, defines a terrorist and a terrorism act as:

Any person who, by acting with the intent to frighten a population to a serious degree or to unlawfully coerce Danish or foreign public authorities or an international organisation to carry out or omit to carry out an act or to destabilize or destroy a country’s or an international organisation’s fundamental political, constitutional, financial or social structures, commits one or more of the following acts, when the act due to its nature or the context, in which it is committed, can inflict a country or an international organisation with serious damage, shall be guilty of terrorism and liable to imprisonment for any term extending to life imprisonment. (Strfl § 114)

The terrorism acts the definition refers to are regarding acts of homicide, violence, “deprivation of liberty,” violating the weapons law, arson, impeding traffic safety, and seizing transportation even if the individual only has intent or threatens to commit the crime (Strfl § 114).

The five sections of Article 114 explain the length of the possible prison sentence if convicted of specific terrorism crimes. For any crime committed, be it violence or deprivation of liberty or arson, the maximum prison sentence is imprisonment for life which is often an extension of the maximum prison sentence when the crime is committed for traditional reasons. For instance, under Article 114, the sentence could be life in prison for a violent crime however, under Articles 245 and 246 regarding violence, “imprisonment for any term” cannot exceed six years (Strfl § 245, Strfl § 246). This expansion of possible sentences is acknowledged and accepted by the ECJM. For Article 261 regarding the deprivation of liberty, it is up to four years of imprisonment and up to twelve years if the deprivation has been caused in order to gain something, “has been of long duration...or [the individual kidnapped is in] any...state of dependence in any foreign country” (Strfl § 261). However, some of the crimes committed already have a maximum sentence of life imprisonment such as arson as stated in Article

180 (Strfl § 180). Thus, not all sanctions for terrorism crimes are affected by the extension of prison sentences but it is important to note because several sanctions for crimes do experience the change.

Thus, as can be seen, the prison sentence legislation is extended when terrorism is a motive to commit a crime. As the ECJM describes, the expansion of this legislation is permitted and accepted. It is perceived as special legislation created in order to counter terrorism. The human rights aspect of this legislation is a bit more difficult to analyze as there is no specific human right that covers the extension of prison sentences based on the motive to commit a crime. Therefore, it is cannot distinctly be determined if the national interests and safety of the public is prioritized over the human rights of returning foreign fighters.

France's terrorism charges are in the Penal Code under Title II: Terrorism. Foremost, like in Denmark, for foreign fighters who return, any crime committed outside the French territory can still lead to conviction under French law, specifically under Article L. 113-6 of the Penal Code: "French criminal law is applicable to any crime committed by a Frenchman outside the territory of the Republic...if the facts are punished by the legislation of the country where they were committed" (Art. L. 113-6). Secondly, the offenses that can be charged as an act of terrorism include: attacks on life, the integrity of a person or vehicle, theft or damage to property, combat group offenses such as providing a place to hide, concealment of finances, money laundering, and insider trading. As well, participating in a group that has the intent to commit a terrorist act or joining a training camp – military or ideological – are also considered terrorism crimes as stated in the Penal Code and Loi n 2012-1432, respectively (Art. L. 421-2-1, Hellmuth (a) 2015).

In Article L. 421-3 of the Penal Code, similar to Denmark, states that when the crimes listed above are committed with at least the intent to commit a terrorist act, the prison sentence is increased. However, unlike in Denmark, the maximum length of the prison sentence depends on the type of crime. Seven levels of prison sentences exist: "If the person is sentenced to thirty years in prison, he or she will be sentenced to life imprisonment;" if it is twenty years, it is increased to thirty years; if it is fifteen

years, it is increased to twenty years; if it is ten years, it is increased to fifteen years; if it is five years, it is increased to seven years, and if it is up to three years, the sentence is doubled (Art. L. 421-3). Thus, if a crime is considered to be perpetrated as a terrorism act, the sentence is automatically harsher than it would be under traditional circumstances. Under the ECJM, the expansion of the sanction legislation in which stricter sentences for crimes committed as a terrorist act is permitted, is acceptable as their implementation is for countering terrorism. However, there appears to be no human right that states a sanction, such as prison sentences, should not be extended depending on the circumstances. Overall, as the ECJM states, these legislative expansions leading to longer prison sentences are allowed.

Both Denmark and France extend their criminal sentences if the crime is considered committed as a terrorism act. Denmark is harsher in the sense that all terrorism acts can lead to a life imprisonment. Whereas in France, it is dependent on how long the maximum sentence was for the crime committed for traditional reasons; thus only crimes that had a maximum sentence of thirty years are extended to life imprisonment. Overall, it is evident that those who commit a crime in Denmark and France with the intention of committing it in the name of terrorism are legally able to receive a maximum prison sentence that is longer than would have been the case if the crime was committed for more traditional reasons. This is one type of counterterrorism strategy as it locks up the accused terrorist, in the case of this paper a returning foreign fighter, for a longer time in order to protect the public and national interests. The ECJM accepts this as a form of special legislation and thus the expansion of prison sentences is perceived as necessary for Denmark and France in order to counter terrorism.

### Detention/Procedure Upon Return

The travel restrictions, surveillance, and the issuance of sentences do not occur until after the procedure when the foreign fighters return. France infringes more on the human rights of returning foreign fighters – on their right to a fair trial – than Denmark within this section of counterterrorism legislation. The safety of the public and the state are prioritized over the human rights of the returnees however, the ECJM would perceive this as permitted. In France, an investigation is automatically

opened for the foreign fighters who return and are suspected of terrorism. The returnees are then subject to “administrative control” as stated in Article L. 225-1 (Art. L. 225-1). Then under Article L. 225-2, the individual is notified within a month of their return that they are restricted to living in a specific location and must report to gendarmerie units periodically. Article L. 225-3 specifies that they should declare their address or change in address within one year of return. They cannot be in contact with anyone else who the government believes to be a threat to public safety. There is a punishment of three years in prison and € 45,000 if they do not oblige. If the individual is no longer seen as a threat, the restrictions will be lifted (Art. L. 225-3).

Regarding detention, in France, the foreign fighter returnees could “be held in pre-charge detention for up to four days and two days can be added if approved by a “freedom and release judge” (Morag 2018, p. 167, Ragazzi & Walmley 2018, p. 42). Furthermore, returning foreign fighters who are thought to have a high potential of committing a crime are placed in provisional detention in order to prevent them from committing a crime. They can be in detention for a maximum of one year initially but that “can be extended for up to 4 years” (Morag 2018, p. 167, Ragazzi & Walmley 2018, p. 42). A human right as stated in both the UNDHR and the ECHR is right to a fair trial which includes quick processing and innocent until proven guilty (European Court of Human Rights 2018, General Assembly 1948). Being in detention for up to four years based on suspicion appears to violate and infringe on these rights. The ECJM would see this violation as acceptable and necessary as it protects the national interests and public safety and prioritizes that protection over the rights of returnees for the purposes of countering terrorism. As well, the detention has a limit regarding how many years a returnee can be held for based primarily on suspicion.

In Denmark, the maximum pre-charge detention is three days (Ragazzi & Walmley 2018). Denmark uses a registration form for ISIS, which is a form of intelligence “within the conflict zone...to convict a Danish citizen of joining a terrorist organisation” (Ragazzi & Walmley 2018, p. 45). These approaches to foreign fighter returnees are commonly seen as preventing further terrorist acts as well

as preventing their potential influence on young individuals, potentially radicalizing them (Rigsadvokaten 2016). It is important to remember that these procedures apply only if the government is aware of these returnees – this applies for France as well as for Denmark.

France appears to have a stricter procedure for when foreign fighters return. Their actions infringe on the right of the returnees to have a fair trial. However, this is seen as protecting the national interests and the safety of the public in France, prioritizing the security of the state and its other citizens over the human rights of returning foreign fighters. The ECJM acknowledges the infringement that was established through the creation of special legislation but also accepts that the legislation has been established to counter terrorism and thus is permitted. Denmark seems to primarily have pre-charge detention but no provisional detention for up to four years. Thus, France infringes further on the human right of a fair trial than Denmark though the infringement is accepted as seen through the ECJM.

### Minors

The final but one of the more important legislations to highlight are how returning foreign fighter minors are treated in comparison to the legislation specifically created for adults. More and more women are heading to Syria and Iraq to fight in terrorist groups such as ISIS. These numbers are acknowledged as increasing (Ragazzi & Walmley 2018). However, how women are treated in comparison to men is not specifically noted in Denmark and France legislation; there appears to be no difference in the handling of men and women foreign fighter returnees. As Ragazzi and Walmley explain, in France, female returnees are treated like males as they “are just as likely as men to be subject to investigation and prosecution due to a shift in perception about their roles in IS;” this is in order to decrease gender disparity (Ragazzi & Walmley 2018, p. 46). Minors, on the other hand, have specific legislation implemented to ensure their treatment differs from that of adults. There are no specific human rights laws that cover minors but each human rights law and thus infringement of those human rights applied in the above sections also applies in the case of minors; however, there appears to be no legislation that infringes on those rights. The ECJM perceives that no special counterterrorism legislation has been created for minors.

In Denmark, one of the pertinent sections under the Criminal Code that is involved in the prosecution of minors, specifically returning foreign fighters in this case, is Article 15 of the Danish Criminal Code which states that, “acts committed by children under the age of 15 are not punishable” (Strfl § 15). Moreover, Article 74(1) states that,

where a person, who at the time of the crime had not reached the age of 18, has committed a serious person endangering offence or another serious offence, the court can decide that the individual shall submit to a structured, supervised social-pedagogical treatment for the duration of two years, if it is considered expedient for the prevention of further offences. (Strfl § 74)

As is seen under this article, minors do appear to receive lighter sentences compared to adults. Aside from receiving treatment for two years, these youths can be placed in a residential institution for a maximum of twelve months which can be extended by six months if another crime is committed within that time, as stated under Article 74(2) (Strfl § 74). Furthermore, there are programs such as parent networks and national hotlines, as well as counselling that are designed for de-radicalizing minors (Rigsadvokaten 2016, Bertelsen 2015). Thus, the legislation appears to not infringe on any human rights. The ECJM would perceive that no special legislation was implemented in order to combat terrorism when related to minors.

In France, when the foreign fighter minors of any age return, they are first subject to health and psychological tests and receive “aid services, social welfare...or the judicial protection” (Benbassa & Troendlé 2017, p. 75). Then, as stated in Measures 53 and 54 of “Prevenir Pour Protéger” National Action Plan, information of these minors is centralized in collaboration with the Paris and the local prosecutor’s office “in order to provide [minors] with the means for a long-term follow-up” (CIPDR 2018, p. 21). Long term programs are organized with the Ministries of Education and Health and “long-term social and medico-psychological follow-up [occurs for these children] by mobilizing...child psychiatry resources under the supervision of the juvenile judge” (CIPDR 2018, p. 21). Furthermore,



the minors may also be obliged to do a “civic training course,” go to an educational center, attend school, or attend vocational training (Benbassa & Troendlé 2017, p. 65).

However, in France, a minor under thirteen years of age is not considered criminally liable – which is two years younger than in Denmark (Ragazzi & Walmley 2018). Thus, minors over thirteen can “be placed under judicial supervision” as stated by Article 138 of the Code of Criminal Procedure (Benbassa & Troendlé 2017, p. 65). Minors over sixteen “may...be placed under house arrest with electronic surveillance when they incur a term of imprisonment of at least two years” as stated in Article 10-3 of an Ordinance; however, if the minor is over the age of thirteen and does not comply with judicial orders, they can also be placed under electronic surveillance (Benbassa & Troendlé 2017, p. 65). Pre-trial detention for children only occurs if the house arrest or surveillance does not provide enough security. The sentences for minors can often include an educational component as stated under the order of 2 February 1945 relating to child delinquency. Overall, as the Loi n 2017-258 of 28 February 2017 states, educational assistance is often the consistent measure applied to children who return and the child’s judge will then “assess the need to order measures of protection and assistance to the minor concerned...whose implementation is entrusted to the departmental services of child welfare” (Benbassa & Troendlé 2017, p. 76). Again, the legislation appears to not infringe on any human rights. The ECJM would perceive that no special legislation was implemented in order to combat terrorism when related to minors.

For both Denmark and France, the legislation for returning foreign fighter minors refers to ensuring they have education and social services available in order to help them reintegrate into society, to ensure they will not commit a terrorist act or any other crime. There appears to be no infringement on human rights as their right to privacy, to nationality, to freedom of movement, and to a fair trial do not appear to be impeded. The rights of minors do not appear to be prioritized below those other citizens who are minors. The ECJM highlights that there are no expansions of the legislation to counter terrorism through returnees who are minors. However, if the legislation was expanded and if their

rights were infringed upon, through the creation of special legislation, that would be permitted if there was a reasonable fear that the minor could threaten the safety and security of the public and national interests. The legislation would also be permitted as it would be perceived as implemented to counter terrorism, as specified by ECJM.

Legislation is created to restrict travel, to give intelligence services more power, to allow for surveillance even without warrants or notifying foreign fighter returnees of the investigation underway, to have higher sentences for those who commit terrorism crimes, and to have stricter procedures and detention processes for those who return from conflict zones. The infringement on human rights for the returning foreign fighters is clear: infringement on the right to a nationality, to freedom of movement, to privacy, and to a fair trial. National interests and public safety of the public is prioritized over the human rights of returnees.

Both Denmark and France infringe on the human rights of returning foreign fighters through the legislation to about the same extent. France did invoke the state of emergency which Denmark did not. However, the laws that were created and implemented through the state of emergency and the legislation that codified some of the power provided under it are very similar to the power of authorities and surveillance methods in Denmark. France also infringed on the right to have no other international laws infringed upon through the state of emergency which Denmark did not. Yet, Denmark infringes on human rights due to repressive legislation without even implementing a state of emergency, the action that this right attempts to prevent; as well, the state of emergency is no longer active, thus this human right infringement is no longer applicable. Furthermore, Denmark does have harsher sentences for returning foreign fighters, however both countries have increased the possible prison sentences when an individual commits a terrorism crime. The only legislation where France clearly infringes on human rights more than Denmark is the right to a fair trial as detention can be for an extended period of time in France. Thus, in the case of legislation, both countries infringe equally on the human rights except when analyzing the detention/procedure upon return legislation. No matter this difference, the

human rights of foreign fighter returnees are placed below those of other citizens yet the infringement is authorized. The ECJM accepts and permits these infringements as they are implemented in order to counterterrorism, in order to protect public safety and national interests.

## Denmark and France: Reintegration Programs

Legislation is not the only way that Denmark and France have been countering terrorism, specifically returning foreign fighters. Reintegration programs are also a strategy being implemented. They are intended for individuals who are thinking of radicalizing, for those who have radicalized but not yet left the country, and for those who have returned from abroad. Additionally, the programs are intended for those who have been convicted of a terrorism crime but are given an opportunity, once their prison sentence is complete, to have assistance when reintegrating into society. Both Denmark and France have programs that assist with at least one of those stages of radicalization. Each have a program directed towards returning foreign fighters, be it immediately once they return or after their prison sentence. With analysis through the CTS model, it can be perceived that these reintegration programs help to address the structural issues that cause and perpetuate radicalization, such as marginalization due to the difficulty to reintegrate into society and France's definition of secularism. The programs help to prevent attacks by creating emancipatory spaces where the human rights of the returning foreign fighters are protected, where their dignity is respect, and where they are perceived as equal compared to other citizens. These programs appear to be a step in the direction of human rights protection, moving away from their rights prioritized below rights and security of other citizens as well as the state, for the purpose of countering terrorism. Denmark has a stable, successful reintegration program. France has directed resources to this area as well, however, the success of their programs is questionable (Ragazzi & Walmley 2018, 51). Thus, Denmark has created more emancipatory spaces, protected human rights to a greater extent for returning foreign fighters in comparison to France.

### Denmark: Aarhus Model – Reintegration Program

The reintegration program, more commonly known as the exit program, that Denmark has established – a part of the Aarhus model – has been adapted from a program for “early intervention crime prevention” that has been around for more than 30 years (Vestergaard 2018, p. 260). It is well known in the counterterrorism community and other countries have begun to model their counterterrorism strategies after this program, including France. The program, which was created after 9/11, was established in Aarhus and went from dealing with youth gangs “to [dealing] with religious radicalization” (Koehler 2015, p. 131). Then in 2013, the reintegration program for returning foreign fighters was established particularly after the fact that “international research [revealed] that staying in a conflict zone significantly increases the risk of radicalization” (Vestergaard 2018, Agerschou 2015, p. 9-10). The reintegration program is only for returning foreign fighters who have not committed a crime while abroad and are willing to participate. However, if foreign fighter returnees have committed a crime while abroad, they first go through the judicial process and are sentenced to prison. If they are then released, it is becoming mandatory that those individuals are required to participate in a reintegration program before being granted parole. This requirement is implemented with “the purpose of this [strengthening] the motivation among radicalized prisoners to enroll in exit programmes that may impact them to change their behavior and motivate them to disengage from a radicalized environment” (Rigsadvokaten 2016, p. 31).

The philosophy behind the Aarhus model is “based on the Life Psychology model of agency [with] the main presumption that the well-being of human beings depends on having a good-enough grip on life” (Bertelsen 2015, p. 246). A principal for the Aarhus model is inclusion, playing to the idea that what most of the foreign fighters want to have is a “decent life” and thus view “joining ISIS [as] fighting for utopia, fighting for a place where they’re wanted. In that sense they’re not that different from other young people” (Braw 2014). The program attempts to humanize the returnees, establishing them as any other citizen in Denmark. As one of the individuals who has a leading role in the Aarhus reintegraiton program, is a counsellor for returning foreign fighters, and a psychology professor at the

University of Aarhus, Preben Bertelsen reiterates that “the key in the Aarhus model is recognizing that these people are not that different from the rest of us...We’re not stigmatizing them or excluding them. Instead, we tell them that we can help them get an education, get a job, re-enter society” (Braw 2015). Thus, as part of the program there is an acknowledgement of a lack of equality regarding opportunities and continually experiencing exclusion from society with no help from “political rhetoric [which] has sometimes been anti-immigrants or racist...” (Braw 2015). From there, two goals of the Aarhus reintegration program are highlighted: “to help individuals exit extremist religious or political environments [and] to establish conditions that ensure the inclusion of individual citizens as well as the inclusion in the society as fellow citizens” (Agerschou 2015, p. 1). Both goals help to address the structural issues of marginalization of communities within Denmark which is a main principle of the CTS model.

The Aarhus model has processes and programs for each stage of the radicalization process, all the way from the general level where radicalization prevention occurs through workshops and seminars to the specific level where non-violent individuals thinking of traveling to Iraq or Syria are assisted through family networks and Info-houses. It also reaches the targeted level which deals with the rehabilitation, and reintegration, or exit, program (Koehler 2015, European Forum on Urban Security 2016). The reintegration program is specifically meant for returning foreign fighters (Braw 2015).

The Aarhus reintegration program is seen as encouraging individuals to return, especially if they become disillusioned, as it helps ensure acceptance as a Danish citizen despite their previous beliefs and actions, it helps eliminate the possibility of going through the judiciary process (Braw 2015). Those who are a part of the program include police officers, social workers, and government representatives within the Aarhus civil society – or whichever city they are based in. This allows for short and quick communication to ensure the necessary support is provided (Koehler 2015). The Danish Security and Intelligence Service is “the driving force behind the reintegration efforts” through

providing social workers with information regarding the identity of the foreign fighter returnees who would benefit from the counseling aspect of the program (Braw 2015).

The initial part of the Aarhus reintegration program begins at the Info-houses which are composed of “two police constables and an employee of the Department of Social Services” and are located in “all twelve Danish police districts” (Agerschou 2015, p. 11, 12, Hemmingsen 2015, p. 27). The police, along with social workers, exchange information regarding radicalized individuals, providing a framework for cooperation between these public servants. Much of the information is presented and reported to the Info-houses (Keohler 2015, Hemmingsen 2015). Info-houses view the information and concerns reported by individuals such as “agencies, services, professionals or civilians” (Hemmingsen 2015, p. 27). Once the concerns and information on the individuals are collected, the Info-house then highlights if the individual is an appropriate candidate for the reintegration program (Hemmingsen 2015). This may involve the Danish Security and Intelligence Service’s Centre for Prevention (Hemmingsen 2015). If deemed appropriate the case is then handed to “a ‘task force’ comprised of representatives from government agencies and mentors placed under the directorate of the police commissioner” (Koehler 2015, p. 132, Agerschou 2015). Those who are specifically a part of this group include the East Jutland Police District who is the head of the team as well as a psychologist, the Department of Social Services, the Department of Children and Young People, and the Department of Social Affairs and Employment (Agerschou 2015, p. 19). The group assesses each individual to identify the services a part of the reintegration, or exit, process most beneficial to them.

There are two main reintegration program pathways for those returning – who are referred to as Syria volunteers: individual counselling and guidance for those who have returned from Syria or counselling and guidance for the relatives of the Syria volunteers – either in groups or individually. For the individuals returning, these counselling sessions often include “debriefing, a session with a psychologist, medical care, [and a] mentor contact” (Agerschou 2015, p. 9-10, European Forum for

Urban Security 2016, p. 2). The aim of these two processes is to complete the counselling and guidance as quickly as possible, resulting in either successful reintegration, a mentor-mentee relationship, or “a preventive measure” (Agerschou 2015, p. 22). The task force could also recommend a second exit process (Agerschou 2015). The non-judiciary, non-violent aspect of the program is becoming very evident as noted through the lens of the CTS model. There are no harsh surveillance methods implemented by the Danish authorities and there is no detention of the individuals who return without a criminal record. This is an important aspect of the program that highlights how it helps create an emancipatory space that the CTS model states is a necessary aspect of counterterrorism strategies. The individuals are treated like citizens on the same level as any other citizen. Their human rights and dignity are respected. The returnees’ human rights are not prioritized below the security of the state and the public, its other citizens. This then creates a greater chance that they will continue to act in a civil way, not resorting to violence to relieve their frustrations.

If the task force recommends a second exit process, risk assessment and referral is carried out again (Agerschou 2015). The task force specifically works with the same members who are a part of the initial reintegration program as well as the Department of Employment and the Danish Prison and Probation Service (Agerschou 2015, European Forum on Urban Security 2016). After the assessment and referral, the Info-house makes an inquiry as to the motivations behind joining the program. If individuals are still seen as posing a threat, they are referred to the Danish Security and Intelligence Service’s Center for Prevention (Hemmingsen 2015, European Forum on Urban Security 2016). Once those deemed appropriate for the reintegration program are chosen – possessing no sign of being a potential threat – the cases are submitted to the task force. Two important members of the task force during this state of the process are the management of the Department of Social Services and the East Jutland Police District as they are responsible for approving the program candidates (Agerschou 2015).

Once the candidates are approved, the task force then assesses and decides again which aspects and services of the program “the individual citizen needs,” initiatives which the police and the

municipality offer (Agerschou 2015, p. 12). The financing of the programs is done through the Department of Social Services and the Department of Employment. Thus, those authorities have to approve the individual plans. The candidate for the reintegration program then has to sign a form saying information can be exchanged between the authorities and “with this written consent the regular rules regarding exchange of information laps” (Agerschou 2015, p. 12, Bertelsen 2015, p. 242, 243). The individual then signs a cooperation agreement and is “assigned a contact person from the Info House,” talking to each other at least once a month (Agerschou 2015, p. 12).

This second reintegration program helps provide an emancipatory place for returning foreign fighters. These individuals are often marginalized due to coming back from a conflict zone and the reintegration program plays a role in ensuring that their freedom is not compromised due to authorities believing an innocent returnee should be processed in the judicial system. Their dignity is respected and they are recognized as equal to the other citizens in society. They ensure a means/end relationship where the restriction of freedom, the invasion of privacy, the infringement of human rights created by counterterrorism legislation does not occur as security. There is the hope this will prevent attacks as violence and violation of rights is not used to counter returnees’ behavior. The decreasing probability of an attack being perpetrated is in part due to the fact non-violent methods are implemented as well as ensuring the dignity and equality of the foreign fighter returnee are respected. Through addressing these aspects of the CTS model as well as addressing one structural reason – felling marginalized – a returnee might perpetrate an attack, emancipatory spaces are created.

Overall, the principle methods in the Aarhus reintegration program are: risk assessment and referral, counselling and guidance, compulsory mentor processes, education and employment, housing, psychology sessions, network resources, anchoring of faith/political conviction, and medical treatment (Agerschou 2015, Hemmingsen 2015). In regard to counselling and guidance, each individual who is a part of the program is offered this method to assist with “exiting a violent and extremist environment;” the social network of the individual can also be supported through guidance and



counselling (Agerschou 2015, p. 13). They are counselled regarding: “the risk of staying in a conflict zone which includes physical trauma, psychological trauma, radicalisation, and derived effects on family and friends” as well as “the possibility of getting help regarding one’s own situation” (Agerschou 2015, p. 19). Psychology sessions are also offered which are paid for by SSP. There is a specific focus on PTSD and Transcultural Psychiatry (Agerschou 2015, Hemmingsen 2015).

Regarding mentoring, it is an individual whom the returnee already trusts (European Forum on Urban Security 2016). There is a focus on training more women in order to keep up with the increasing number of women traveling abroad and then returning (Rigsadvokaten 2016). The mentor administers support during the reintegration program in order “to provide coherence and continuity in the exit process” and to “[ensure] the citizen’s capability of handling the challenges that the radicalization has resulted in;” the support of the mentor is principally to assist with reintegration into society (Agerschou 2015, p. 13). The mentor also helps identify reasons to de-radicalize, activities to help the mentee feel included, and can be a person in which the individual can confide (Bertelsen 2015). The mentor further helps with the individual’s access to the health care system (Agerschou 2015).

Furthermore, education and employment are two pathways the individual who is a part of the program can take. The mentor helps the mentee remain in contact with their employer or educator, ensuring that they continue their individualized exit process. In order to assist returning foreign fighters with having a greater possibility to attend an educational institution, the reintegration program will help “inform the local educational institutions about the local anti-radicalisation work” (Agerschou 2015, p. 20, Bertelsen 2015, p. 244). In regards to housing, it is rare but sometimes housing relocation may occur if the environment the mentee is surrounded by is violent. The relocation occurs with assistance from the Social Housing Department (Agerschou 2015). As this demonstrates, the foreign fighter returnee’s environment is analyzed and a solution is created. Violence is not a principle method used to prosecute returnees while reintegration occurs in order to address the structural issues of

marginalization within communities. The dignity of the returnees is respected and they are perceived as equal to other citizens thus, an emancipatory space is being created on Denmark.

Along with housing, the network of the individual is evaluated in order to see if there are people who will support the returning foreign fighter – the immediate network of family or an alternative network of friends. The evaluation is completed by the Info-house and if immediate family members are identified as a strong support system, the Jutland Police Distract assists with counselling and guidance. If it is an alternative network, the mentor is involved. The networks help the returnee integrate with a strong support network. Human rights are not infringed upon as surveillance is not interfering with their privacy and individuals are not prevented from traveling throughout Denmark or across its border (Agerschou 2015, Young 2016).

This whole process “will typically take up to a year” but of course the time can vary, with an “Info House employee [following] and [staying] in contact with the citizen both during and after the completion of the exit process” (Agerschou 2015, p. 16). In order to assess if an individual is finished with the process, the goals in the written consent form must be met though “the exit process may be terminated at any time by either the citizen or the authorities if the citizen does not adhere to the agreement entered into” (Agerschou 2015, p. 16). This could place the individual in the judicial process which then leads to their human rights beginning to be infringed upon. This means the individual will most likely have a difficult period of de-radicalization and possible reintegration. However, despite all the effort applied through the reintegration program, “depending on the individual’s particular situation, collaboration with...PET or the Danish Prison and Probation Service may be needed” (Agerschou 2015, p. 17, Bertelsen 2015). Thus, greater surveillance efforts may be implemented which leads to their right to privacy being infringed upon.

One benefit of the Aarhus reintegration program is that it is in small communities so that police and social workers are able to use personal connections to become informed about radicalized – and radicalizing – individuals and their process to de-radicalization. In any larger group, there might be an

issue of privacy concerns due to having to implement surveillance methods which require less manpower (Koehler 2015). The success of this Aarhus reintegration program is seen by the fact that “as of March 2015, 16 jihadists had returned to Aarhus and 10 of them participated in the pilot de-radicalization program” (El Difraoui & Uhlmann 2015, p. 180). Three individuals requested a change in social environment. The seven who did not request a change in environment are still a part of the program, successfully receiving jobs or attending school. Six people who were contacted about the program said they did not need the help. Only one case was considered a failure (El Difraoui & Uhlmann 2015). It is important to note that the Danes are divided regarding reintegration program. Some who are a part of the politically right opposition party, Danske Folkepartiet, believe that foreign fighters should not be allowed to return. They go further by stating that a mosque in Aarhus from where around twenty-three jihadists reportedly were sent to Syria, should be closed. However, the current party in the Danish government desires to continue with reintegration programs letting foreign fighters return and continuing the softer approach of the reintegration program (“Treatment of Foreign Fighters” 2015).

The Aarhus reintegration program highlights how Denmark has created emancipatory spaces for the returning foreign fighters. There are only certain returnees who can participate – those who have not committed any crimes while abroad and those who are willing to participate – however it is significant that there is a program that ensures dignity and human rights of a returnee are respected, that there is a program using non-violent methods to prevent terrorist attacks through creating emancipatory spaces. Having the option for even the approximately 24% of individuals eligible for the program is an important step to creating more emancipatory spaces. This program is meant to prevent attacks through counselling and psychological support to ensure the returnees have tools for handling their PTSD, preventing a potential crime or attack from being committed. The social network establishments and educational and occupational support also ensure that returnees can reintegrate into society smoothly, feeling less disconnected from society and thus preventing attacks. These non-

violent aspects of the Aarhus reintegration program establish an emancipatory space that the judicial process is unable to strive towards as it more likely instills further anger and exposes returnees convicted to environments that can perpetuate radicalization and the potential for a terrorist attack to be committed.

This preventative step – preventing further attacks and radicalization – of the Aarhus reintegration program is a principal priority of the CTS model. It highlights that Denmark is creating emancipatory places to ensure the rights of returning foreign fighters are not infringed upon, that their rights are not ignored, not neglected compared to those of other citizens. The program also follows the principles of non-violence and means/end relationship regarding its steps and goals. This program thus establishes security for Denmark, for each citizen, including the returning foreign fighters. A legislative counterterrorism strategy is not always and does not always have to be the answer to countering terrorism. Providing a civil way to de-radicalize individuals who are willing to put in the time and effort is very much a possible solution. Human rights are not infringed upon and an emancipatory space is created as the Aarhus reintegration program addresses de-radicalization of returning foreign fighters through holistic means.

### France: Attempted Programs

France has tried its hand at reintegration programs for returning foreign fighters within “The Centers for Reintegration and Citizenship” (Benbassa & Troendlé 2017, p. 9). These centers were modeled after the Aarhus model with the same focus of only including returnees who had not committed a terrorist act (Helmuth 2015, CIPDR 2018). However, their success is not comparable to the Aarhus reintegration program in Denmark. The first step to creation of these centers was the establishment of a “pluralist information mission” on 16 March 2016 called “Disindoctrination, disembarkment and reintegration of jihadists in France and Europe” (Benbassa & Troendlé 2017, p. 10). This was created in order to help prevent and de-radicalize individuals through “encouraging the reintegration of the individuals concerned in a social, family and professional environment” through a

case-by-case educational, psychological and social program, which includes a religious contact (Benbassa & Troendlé 2017, CIPDR 2018, p. 22, Hellmuth 2015).

A May 2016 plan called the Action Plan Against Radicalization and Terrorism (PART) officially established the reintegration and citizenship centers (Benbassa & Troendlé 2017). The centers were placed under judicial control which was led by the Ministry of Justice. However, they were run by the Inter-Ministerial Committee for the Prevention of Delinquency and Radicalization (CIPDR). Those who managed the centers were “psychologists, educators and social workers” using methods that include “restoring of social ties and ideological debate but no religious dimension” (Hellmuth 2015, p. 35, CIPDR 2018, p. 22, United States Department of State (a) 2018). The only religious dimension a part of the vision for the centers was to instill France’s definition of secularism, “to instill a vision of their religion compatible with the values of the Republic, to accompany them and help them reintegrate in society, permitting them to develop personal and professional projects” (Hellmuth 2015, p. 35).

The Centers for Reintegration and Citizenship “[were] intended to be a medium term between a totally open environment and the prison” (Benbassa & Troendlé 2017, p. 39). Thirteen other centers similar to it were meant to be opened after the expected success of the first one – which opened in September 2016 in a town west of Paris (Benbassa & Troendlé 2017). France was beginning to take a step away from the repressive efforts seen in its legislative counterterrorism strategies and moving toward rehabilitation and reintegration efforts. However, the reintegration program at the centers was not entirely successful. It had enough room for twenty-five people but only up to nine people were in the program at a time and only one person was there when the center was inspected on 3 February 2017. Even this individual was sentenced to four months in prison “for violence and glorification of terrorism” on 9 February 2017 (Benbassa & Troendlé 2017, p. 40, “France: Extremism,” p. 1-2, 10).

The exact make-up of the centers and their reintegration program was that the centers had “five psychologists, one psychiatric nurses, nine specialized educators, and a religious chaplain who was

there fifteen hours per week” (Benbassa & Troendlé 2017, p. 41). The reintegration program envisioned by the center was based on four pillars: “distancing, civic engagement, therapeutic approach and professional integration” (Benbassa & Troendlé 2017, p. 41). The first phase was the development of the returnee’s project, such as an internship or returning to family, which could be from six weeks to three months. The second phase was carrying out the project which could last up to four months. The last phase was finalizing the project which would be the last three months and this phase was supposed to include tutoring and figuring out with whom the returnee should remain in contact after leaving the center. However, no one stayed more than five months and thus the program scrambled to figure out other ways to maintain a link to those who left (Benbassa & Troendlé 2017).

Furthermore, the program’s attempt to teach “French history, religion and philosophy with the aim of instilling democratic and humanitarian values” appears as if the French government is stuffing nationalism down the throats of those who do not fully identify with the French culture and community (Reed & Pohl 2017). Another example regarding the lack of success for the center and its reintegration program is that “in January 2017, one of the program’s participants was arrested after it was discovered that he had previously attempted to travel to Syria” (“France: Extremism,” p. 2). This discovery “[speaks] to the program’s vetting and security constraints” (“France: Extremism”). By June 2017, the participants had left the programs and thus the Committee running the programs closed the center that had just “opened nine months earlier” which led to President Macron “[calling] for an inter-ministerial committee to meet in December [2017] to begin designing a new comprehensive government plan to counter radicalization” (United States Department of State (a) 2018).

The overall reasons for the program failing was stated in a report made by the Senate in 2017 called “the Committee on Constitutional Laws, Legislation, Universal Suffrage, the Rules of Procedure and General Administration (1) on the de-indoctrination, de-embarrassment and reintegration of jihadists in France and in Europe” (Benbassa & Troendlé 2017, p. 1). It highlighted that the selection of the candidates was mismanaged. The individuals involved in the selection process were not notified

when proposals for returnees, for example, were identified and collected and thus not all were present to assess the information. For instance, the fifty-nine-people identified as acceptable candidates for the program were notified of their acceptance before UCLAT could include their opinion in the decision process (Benbassa & Troendlé 2017). Most importantly, the program was poorly organized due to the fact the close concentration of radicalized individuals created further radicalization. The individuals were uprooted and isolated from their communities, preventing successful reintegration into society. This is in contrast to Denmark where those in the program are kept in the areas they live (Benbassa & Troendlé 2017).

Thus, France's reintegration program attempted to create an emancipatory space for returning foreign fighters, using the same holistic, non-violence approach as Denmark to address the structural issues of marginalization within France. This led to less surveillance and thus less interference regarding returnee's privacy and travel restriction. Information was collected to identify appropriate candidates for the program but was not used for surveillance. However, the returnees were confined to a specific area which restricted their movement though being a member of the program probably ensured their movement was less restricted than if they went through the judicial process. The program was a step toward ensuring the human rights of the returnees were prioritized to the same extent as those of other French citizens, creating an emancipatory space. However, due to the miss-steps the program coordinators took, it did not succeed and was closed, closing the emancipatory spaces with it.

There is one successful reintegration program that helps returnees de-radicalize and reintegrate however, it is for individuals already in the judicial system. It is called the Mulhouse program which began on 16 October 2015. The individuals are placed in the program through pressure from a judge and is seen as an alternative measure for helping with deradicalization and reintegration (Benbassa & Troendlé 2017). The individuals participate for three months. Four aspects are involved in this program: "support for families, psychological care...educational and civic actions, and social and professional integration" (Benbassa & Troendlé 2017, p. 33). The candidates are first evaluated to

understand their situation and why they radicalized. An individualized program is then established that is based on “the personality of the person concerned,” like in the Aarhus reintegration program (Benbassa & Troendlé 2017, p. 29). Next, steps are taken to help reintegrate and create a social link to society. The last phase helps “to deconstruct the certainties of the person and help them to rebuild themselves, to mobilize them on a future project,” be it educational or professional, to then be able to assess their own reasons for radicalizing (Benbassa & Troendlé 2017, p. 29). The program ends with a report regarding how much progress was made (Benbassa & Troendlé 2017).

Then, through Measure 58 of the “Prevenir Pour Protéger” National Action Plan of 2018, it was stated that three more centers like the Mulhouse program should be created for radicalized individuals who have been imprisoned. Returning foreign fighters are the specific target. The centers were first tested in Ile de France, Lille, Lyon, and Marseille (CIPDR 2018). They will be established under the Ministry of Justice and the reintegration program at each center will again “feature educational, psychological, social and cultural interventions” (Ragazzi & Walmley 2018, p. 93-94). The aim of the program is to assist with “the disengagement of extremist violence in an open environment through multidisciplinary, individualized, comprehensive and intensive monitoring” (Ragazzi & Walmley 2018, p. 93-94).

There are fourteen participants to test this new program with eight identifying as male and six identifying as female. However, the program can hold fifty individuals. The individuals who will help those convicted will be “practitioners of clinical psychology, psychiatry, and religious experts” (Ragazzi & Walmley 2018, p. 93-94). The program will also include interventions that involve the family, visiting their home, and restorative justice (Ragazzi & Walmley 2018). Due to being convicted criminals, they “can be subject to a range of measures including house arrest, electronic surveillance, and probation restrictions” (Ragazzie & Walmley 2018, p. 93-94). Thus, the Mulhouse program and this new center are another step toward emancipatory spaces. They, however, do not accomplish completely eliminating the infringements of human rights as the individuals in the programs already



went through detention and surveillance during the judiciary process and may continue to be surveilled after. Nonetheless, these individuals are able to have help reintegrating into society which is a principle the CTS model states is an important aspect of counterterrorism strategies. Prevention is mostly accomplished through non-violent means. The returning foreign fighters thus still have a chance to live in an emancipatory space even after they have been convicted of a crime.

These programs that France has been trying to establish are on the path to the creation of emancipatory spaces as they ensure that the rights of foreign fighter returnees are prioritized to the same extent as those for other French citizens. However, France's reintegration program to help those returning who have not committed a crime has failed as too much isolation was created between the individuals in the program and those in society. Reintegration was unable to occur; addressing the structural problems that could lead to further radicalization was unable to take place; holism was unable to be accomplished as the structural issues of marginalization were not addressed appropriately. Thus, the creation of emancipatory spaces where dignity is respected, where each individual is equal to each other was not accomplished. Despite the non-violence and the means/end relationship being implemented through the establishment of the reintegration program, the French program was unable to prevent terrorism attacks or crimes being committed which leads to a higher possibility returnees' human rights will be infringed upon. Emancipatory spaces were unable to be established through the reintegration program that assisted returnees who have not committed a crime.

The reintegration programs for returning foreign fighters who did not commit crimes were not the only programs France has attempted to implement. Thus, France does have programs that are still ongoing, helping to create emancipatory spaces for returnees incarcerated for terrorism crimes committed abroad. Participation however is not a choice as the judge assigns who joins the program. Furthermore, foreign fighter returnees' human rights have already been infringed upon through detainment for an extended period of time or the surveillance implemented or even the revocation of their passport or citizenship. These programs nonetheless are one step toward creating emancipatory

spaces, as they increase the possibility of prevention of further terrorist attacks upon release. They, like the unsuccessful reintegration program, use non-violent methods and thus establish a means/end relationship through helping with reintegration into society – addressing the structural issue of marginalization that leads to radicalization. Since they are already convicted criminals, they can be monitored, and they can be put under house arrest so their privacy is still infringed upon. Overall, France has not offered a complete emancipatory space and thus is not as close to accomplishing emancipation and preventing the infringement of the human rights of returning foreign fighters when compared to Denmark.

There are several non-legislative and non-repressive programs in place in Denmark and France that are able to implement the necessary emancipatory measures for returning foreign fighters. They create emancipatory spaces that are identified by the CTS model as an important principle for counterterrorism strategies. The reintegration programs provide that opportunity for returnees to be perceived as equal to all other citizens, to have their dignity respected, to have their human rights recognized as not prioritized below those of the other citizens. Human rights are protected through these programs as they help prevent the possibility of a returnee being processed through the judicial system that houses repressive legislation.

Overall, the programs are a step in the right direction to the creation of emancipatory spaces. They establish the opportunity to address the structural issues that lead to terrorism through non-violent means which prevents further attacks, prevents further radicalization of the individual themselves or other citizens – an important aspect for the counterterrorism strategies as identified by the CTS model. Emancipatory spaces are thus created. Denmark has been more successful than France with its program beginning about thirty years ago and smoothly adopting and implementing the reintegration program for six years now. France has a long way to go before its programs are stabilized as one iteration has failed and the other infringes on a few human rights due to former convicts a part of the program requiring surveillance. However, France is slowly on the path to providing emancipatory opportunities.

There are cases where experiencing an emancipatory space is not possible for certain returning foreign fighters due to the terrorist attacks they may have committed abroad or on national soil upon return. Nonetheless, for those who have the desire and hope to de-radicalize and reintegrate, the emancipatory spaces to do just that are becoming available.

## Conclusion

Denmark and France have been implementing contemporary counterterrorism strategies – legislative and non-legislative – for at least thirty years. They have been reformed and new strategies have been created. However, one constant since 2012, in regard to each country's attempt to counter terrorism, is adjusting strategies to best suit countering foreign fighter returnees. As soon as they emerged as a high-risk threat, their human rights have been infringed upon through legislative counterterrorism strategies. Both Denmark and France infringe on their human rights to almost the same extent. There are slight differences such as France implementing the state of emergency and infringing upon the right to a fair trial and Denmark having harsher prison sentences for terrorism crimes compared to France. No matter the difference, their legislation infringes on the human rights to have a nationality, freedom of movement, and privacy. Both governments seem to allow the extension of their laws, the creation of special legislation that crosses democratic boundaries yet is deemed acceptable, is permitted due to the extension being for the purpose of countering terrorism. Both countries thus prioritize the rights, the protection of the public and the nation over those of returning foreign fighters – continually infringing on their human rights. Overall, Denmark and France are the most similar regarding legislation for travel restrictions, surveillance, and minors; they have differences regarding state of emergency and prison sentences; there is a clear variation between the countries when looking at legislation for detention/procedure upon return.

Firstly, in regard to the similarities between the legislation implemented in Denmark and France, their legislation allows for restriction of movement, revocation of a passport, or revocation of citizenship. The power authorities have to surveil and the types of techniques that can be implemented

includes the installation of cameras and house searches before a warrant is issued. Thus, for the travel restrictions and surveillance, these sections of legislative counterterrorism strategies infringe on the human rights of having a nationality, freedom of movement, and privacy to the same extent in Denmark and France. As stated by ECJM, the infringement is permitted due to being in the name of countering terrorism and for the protection of the safety of the nation and the public. This protection is prioritized over the human rights of returnees. Moreover, when analyzing the legislation for minors compared to adults, it is apparent that adult women and men are treated similarly in both Denmark and France regarding the implementation of legislation. For both countries, minors are subject to different legislation compared to adults when they return, but it is similar in the sense that it focuses on providing education and counselling, not appearing to infringe on human rights. The one difference is that children in France are criminally liable at age thirteen while the criminal liability age in Denmark is two years older.

Secondly, as stated, Denmark and France have infringed on counterterrorism strategies for returning foreign fighters to the same extent, except for three principle differences: state of emergency, the harshness of prison sentences, and the length an individual can be in detention. France has implemented the state of emergency and Denmark has not. This highlights that France has explicitly stated it implements a more repressive counterterrorism strategy compared to Denmark. However, the legislation that was a part of the state of emergency, codified into law and is very similar to the legislation and the infringement of human rights – those infringed upon in the travel restrictions and surveillance sections – which Denmark has already established. Thus, the strategy of a state of emergency declaration does not differentiate the two countries to a great extent. Furthermore, both Denmark and France have implemented harsher prison sentences for individuals who perpetrated a terrorism crime compared to those who have committed traditional crimes. However, Denmark's extension of the prison sentences for individuals convicted of terrorism, are harsher than those in France. Any crime can result in life in prison while in France, it depends on the type of crime

perpetrated. Nonetheless, both counterterrorism legislations implemented are considered special, expanded legislation which is acceptable, is permitted due to the purpose being to counter terrorism, as stated by the ECJM.

Thirdly, in regard to the third principle difference between Denmark and France, the one variation between the countries that is very noticeable, in regard to the human rights being infringed when legislative counterterrorism strategies are implemented, is in relation to detention/procedure upon return. Denmark and France both have laws for what to do when a foreign fighter returns. However, it appears that France is a lot harsher when it comes to how long an individual is held in detention based on a suspicion. It can be up to four years which infringes on the right to a fair trial as it means a trial is not conducted quickly nor is the person seen to be innocent until proven guilty. Denmark does not seem to implement such infringements through legislative measures. Thus, Denmark and France infringe on human rights of returning foreign fighters to the same extent except when analyzing the legislation for detention/procedure upon return in which France infringes on one human right that Denmark does not. Overall, these infringements are permitted since they are implemented in the name of countering terrorism, in the name of protecting the safety of the public and the nation, prioritizing that safety over the protection of the human rights of returnees.

Regardless of the infringement through legislative counterterrorism strategies, the protection of the infringement of human rights for returnees is noticeable when the non-legislative counterterrorism strategies – the reintegration programs – and secularism are analyzed. Firstly, it is distinguishable that Denmark is ahead of France regarding creating emancipatory spaces, ensuring human rights are not infringed upon for returning foreign fighters. The six-year-old reintegration program in Denmark is a branch of a thirty-year-old program that assists with the prevention and reintegration of traditional criminals. The returnee reintegration program was created to help returning foreign fighters, who have not committed a crime while abroad, to reintegrate into their community through methods such as counselling, contact with a personal mentor, and employment assistance.

France has attempted to create a reintegration program like the one in Denmark yet it did not succeed because too much isolation was created between the community the returnees were reintegrating into and the location of their program. However, France has been successful with a reintegration program that has been created for returning foreign fighter convicts once they are released from prison. This program does not prevent human rights from completely being infringed upon as the convicts are still required to go through the repressive judiciary process and are still required to be under surveillance once they leave prison. Thus, Denmark has been more successful in creating emancipatory spaces for returning foreign fighters, for protecting their human rights, in comparison to France, due to the structure and stability of its reintegration program. Additionally, it may only be a small number that are able to participate in the reintegration programs yet, at least a space is beginning to be provided to ensure human rights are not infringed upon, even if it is for just one person. CTS highlights the fact the programs do not infringe on human rights by illustrating how the programs attempt to use non-violent methods to prevent terrorist attacks, address structural issues such as marginalization through preventing isolation of returnees, and ensure the dignity of the returnees is respected.

Secondly, the definition of secularism that France implements creates an even more difficult time for the country to establish emancipatory spaces due to the fact that its creation of one French community and culture can establish feelings of marginalization. It isolates those with different ethnicities and religious identities. They are unable to be represented in the general population and thus develop grievances in regard to feeling pushed out of the French society that is created. This can perpetuate a terrorist attack, not prevent it; this increases the chance of radicalization and prevents reintegration programs from succeeding in decreasing marginalization due to the fact the returnees do not feel like they can fit in, in the first place. While, in Denmark, any religion is excepted, not one culture or community is created and stated to be how each Danish citizen should classify themselves. This often decreases the feelings of marginalization and increases the ability of the reintegration programs to help returnees reenter society. Thus, secularism and the reintegration programs play a role

in the extent emancipatory spaces are created, to the extent human rights are thus infringed upon. They either open or close doors to preventing the infringement that the legislative counterterrorism measures implement in both Denmark and France.

Countering terrorism, therefore protecting the safety and interests of the nation and the public, is prioritized over the human rights of foreign fighters who are returning from conflict zones as illustrated through Denmark and France's legislative counterterrorism strategies. The returnees' human rights are infringed upon. However, Denmark, more so than France, is beginning to ensure that human rights are a focus for returning foreign fighters when implementing its non-legislative counterterrorism strategies, such as the reintegration program due its stability. These legislative and non-legislative measures are analyzed through the theoretical frameworks of ECJM and CTS which highlight where counterterrorism strategies infringe on human rights or attempt to create emancipatory spaces in order to protect those rights. Nonetheless, there are restrictions to this analysis that would be important to analyze in further studies such as: the reaction of citizens regarding these strategies and if the repressive or rehabilitative base for the counterterrorism strategies in France and Denmark respectively are underlying their judicial systems as a whole. There may be these counterterrorism strategies for returning foreign fighters but, what are the implications for other aspects of the judicial system and the citizens of a country and what has informed the repressive or rehabilitative base for these strategies?

Then again, how does a country know if the way they have been conducting their strategies is working, is successful? It appears that the programs have at least a structure to analyze their effectiveness through the success rate of the individuals who participate and the evaluative aspect of the CTS model, but what about the legislation? There are ways to measure its effectiveness, both qualitative and quantitative. The quantitative methods are the most reliable due to less interference of biases that could appear in the qualitative method. Yet, when not all terrorism attempts are reported by the government, when it is difficult to attain the correct number of each individual who has left or returned or who has intent to commit a terrorism act, it is difficult to do a quantitative study (Perl

2007). Measuring the effectiveness is still a very important field to continue to explore and find better ways to include in studies as that may help analyze which strategies need to truly be reformed or implemented.

One aspect that should be continuous when going on to further analysis of the counterterrorism strategies, particularly those for returning foreign fighters, in Denmark and France or other countries, is the human rights and their infringement on returnees. In order for Denmark and France – as well as any other country that implements counterterrorism strategies for returning foreign fighters – to be perceived as making legitimate claims against nations that infringe on the human rights of their own citizens, they should first take action to prevent the infringement of human rights on their citizens, their own returnees. Analysis should continually be conducted to ensure measures are put in place to protect each citizen's human rights, be them a returning foreign fighter or not. Furthermore, lines will continue to be crossed if infringement on returnees is repeatedly allowed. When it comes to legislation for traditional criminals or immigrants who have recently become citizens, there is thus a possibility that infringement of their human rights could occur if a strong enough argument, like there being a potential threat to the safety of the public and the nation, is put forth. This is due to the fact that citizens who happen to be returning foreign fighters have their human rights infringed upon, legally permitted under law in the name of countering terrorism. If the line is pushed for them, where will the line be drawn for others who are often marginalized in societies?

The infringement of returning foreign fighters' human rights should be at the back of the mind during each of these extensions of this initial analysis of the counterterrorism strategies for returning foreign fighters. It is the most important aspect that needs to continually be reevaluated to ensure the returnees and their human rights are not forgotten, are not neglected. This analysis has proven if anything that the rights, the safety, the interests of returning foreign fighters – who are humans with desires that are achieved and enacted through unconventional means, means they perceive as the only way to accomplish their goals – are prioritized below those of other citizens and the state. Denmark



overall has provided more emancipatory spaces to prevent infringement of human rights on foreign fighter returnees. This is despite the fact Denmark and France infringe on their human rights to almost the same extent when analyzing the legislative counterterrorism strategies. This analysis of infringement should be kept in mind as further studies are conducted to examine the effectiveness of counterterrorism strategies, the reaction of citizens, and the underlying values and beliefs of the judicial systems; this is all necessary in order to understand how other countries should implement their counterterrorism strategies for returning foreign fighters.

## References

- Agerschou, Toke. (2015). Preventing Radicalization and Discrimination in Aarhus. *Journal for Deradicalization*, 5-22. Retrieved from <http://journals.sfu.ca/jd/index.php/jd/article/view/2/2>.
- Andersen, Lars Erslev. (2015). Terrorisme et contre-radicalisation: le modèle danois. *Politique étrangère*, 173-183. doi: 10.3917/pe.152.0173
- Art. L. 113-6 C. pén. (French Republic). Last modified 25 March 2019.
- Art. L. 223-4 C. s. inter. (French Republic). Last modified 30 March 2019.
- Art. L. 224-1 C. s. inter. (French Republic). Last modified 30 March 2019.
- Art. L. 225-1 C. s. inter. (French Republic). Last modified 30 March 2019.
- Art. L. 225-3 C. s. inter. (French Republic). Last modified 30 March 2019.
- Art. L. 227-1 C. s. inter. (French Republic). Last modified 30 March 2019.
- Art. L. 421-1 C. pén. (French Republic). Last modified 25 March 2019.
- Art. L. 421-2-1 C. pén. (French Republic). Last modified 25 March 2019.
- Art. L. 421-3 C. pén. (French Republic). Last modified 25 March 2019.
- Art. L. 421-5 C. pén. (French Republic). Last modified 25 March 2019.
- Art. L. 422-3 C. pén. (French Republic). Last modified 25 March 2019.
- Art. L. 422-6 C. pén. (French Republic). Last modified 25 March 2019.
- Art. L. 706-102-1 C. pr. pén. (French Republic). Consolidated 3 June 2016.
- Art. L. 854-1 C. s. inter. (French Republic). Last modified 30 March 2019.
- Bakker, Edwin et al. (2013). Dealing with European Foreign Fighters in Syria: Governance Challenges & Legal Implications. *International Centre for Counter-Terrorism – The Hague*, 1-28. Retrieved from <https://icct.nl/wp-content/uploads/2013/12/ICCT-Bakker-Paulussen-Entenmann-Dealing-With-European-Foreign-Fighters-in-Syria.pdf>.

- Benbassa, Esther & Catherine Troendlé. (2017). *Rapport D'Information* (Senate: Session for 2016-2017 N 633). Paris: France, Senate.
- Bertelsen, Preben. (2015). Danish Preventive Measures and De-radicalization Strategies: the Aarhus Model. *Panorama: Insights Into Asian and European Affairs*. 241-253.
- Retrieved from [http://psy.au.dk/fileadmin/Psykologi/Forskning/Preben\\_Bertelsen/Avisartikler\\_radikalisering/Panorama.pdf](http://psy.au.dk/fileadmin/Psykologi/Forskning/Preben_Bertelsen/Avisartikler_radikalisering/Panorama.pdf).
- Beydoun, Khaled A. (2016). Beyond the Paris Attacks: Unveiling the War within French Counterterror Policy. *American University Law Review*, 65(6) 1273-1334. Retrieved from <http://www.aulawreview.org/beyond-the-paris-attacks-unveiling-the-war-within-french-counterterror-policy/>.
- Blakeley, Ruth. (2008). The elephant in the room: a response to John Horgan and Michael J. Boyle. *Critical Studies on Terrorism*, 1(2),151-165. doi: 10.1080/17539150802184561.
- Borum, Randy & Robert Fein. (2017). The Psychology of Foreign Fighters. *Studies in Conflict & Terrorism*, 40(3) 248-266. doi:10.1080/1057610X.2016.1188535.
- Braw, Elisabeth. (2014). Inside Denmark's Redical Jihadist Rehabilitation Programme. *Newsweek*. Retrieved from <https://www.newsweek.com/2014/10/24/denmark-offers-returning-jihadis-chance-repent-277622.html>.
- Cragin, R. Kim. (2017). The November 2015 Paris Attacks: The Impact of Foreign Fighter Returnees. *Foreign Policy Research Institute*. 212-226, doi: 10.1016/j.orbis.2017.02.005.
- Center for Terror Analysis. (2018). Assessment of the terror threat to Denmark. *PET*. 1-10.
- Retrieved from <https://www.pet.dk/English/Center%20for%20Terror%20Analysis/~media/VTD%202018/VTD2018ENGpdf.ashx>.

CIPDR (Comité interministériel de prévention de la délinquance et de la radicalization). (2018).

« Prévenir Pour Protéger » Plan national de prévention de la radicalization.

Retrieved from <https://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2018/02/2018-02-23-cipdr-radicalisation.pdf>.

CNCTR. La presentation de la CNCTR. *Le Commission Nationale de Contrôle des Techniques de Renseignement*. Retrieved from [https://www.cnctr.fr/2\\_presentation.html](https://www.cnctr.fr/2_presentation.html).

Committee of Experts on Terrorism. “Denmark.” *Council of Europe*. April 2007, pp. 1-8, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680641023>.

Council of European Studies. The Rise of Populism and Violent Extremism in France: Two Sides of the Same Coin. *EuropeNow*. Retrieved from <https://www.europenowjournal.org/2018/10/01/the-rise-of-populism-and-violent-extremism-in-france-two-sides-of-the-same-coin/>.

Crelinsten, Ronald. (1998). The Discourse and Practice of Counter-Terrorism in Liberal Democracies. *Australian Journal of Politics and History*, 44(1) 389-413. Retrieved from <https://onlinelibrary.wiley.com/doi/abs/10.1111/1467-8497.00028>.

Danish Defence Intelligence Service. About DDIS. Retrieved from <https://fe-ddis.dk/eng/About-DDIS/Pages/About-DDIS.aspx>.

Danish Prison and Probation Service. (2012). The Danish Prison and Probation Service – in brief. Retrieved from [http://www.prisonstudies.org/sites/default/files/resources/downloads/inbrief\\_updateddec.2012.pdf](http://www.prisonstudies.org/sites/default/files/resources/downloads/inbrief_updateddec.2012.pdf).

Danish Security and Intelligence Service. The Preventive Security Department. Retrieved from <https://www.pet.dk/English/The%20Preventive%20Security%20Department.aspx>.

- De Roy van Zuijdewijn, Jeanine. (2014). The Foreign Fighters' Threat: What History Can (Not) Tell Us. *Perspectives on Terrorism*, 8(5) 59–73. Retrieved from [www.jstor.org/stable/26297262](http://www.jstor.org/stable/26297262).
- Denmark: Extremism & Counter-Extremism. *Counter Extremism Project*, Retrieved from <https://www.counterextremism.com/countries/denmark>.
- Dixit, Priya & Jacob L. Stump. (2011). A Response to Jones and Smith: It's Not as Bad as It Seems; Or, Five Ways to Move Critical Terrorism Studies Forward. *Studies in Conflict & Terrorism*, 34, 501-511. doi:10.1080/1057610X.2011.571195.
- El Difraoui, Abdelasiem & Milena Uhlmann. (2015). Prévention de la radicalisation et déradicalisation : les modèles allemand, britannique et danois, *Politique étrangère*, 171-182. doi:10.3917/pe.154.0171.
- European Court of Human Rights. (2010). European Convention on Human Rights. *Council of Europe*. Retrieved from [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf).
- European Court of Human Rights. (2010). Guide on Article 6 of the European Convention on Human Rights. *Council of Europe*. Retrieved from [https://www.echr.coe.int/Documents/Guide\\_Art\\_6\\_criminal\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_6_criminal_ENG.pdf)
- European Parliamentary Research Service. (2018). The return of foreign fighters to EU soil. Amandine Scherrer (Ed.). *European Parliament*. Retrieved from [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/621811/EPRS\\_STU\(2018\)621811\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/621811/EPRS_STU(2018)621811_EN.pdf).
- Europol. (2018). TE SAT: European Union Terrorism Situation and Trend Report. *European Union Agency for Law Enforcement Cooperation*. Doi:10.2813/00041.
- Foley, Frank. (2009). Reforming Counterterrorism: Institutions and Organizational Routines in Britain and France. *Security Studies* 18(3) 435-378. doi:10.1080/09636410903132920.

France: Extremism & Counter-Extremism. *Counter Extremism Project*, 1-14. Retrieved from

<https://www.counterextremism.com/countries/france>.

Gad, Ulrik Pram. (2012). Concepts of dialogue as counterterrorism: narrating the self-reform of the Muslim Other. *Critical Studies on Terrorism* 5(2) 159-178.

doi:10.1080/17539153.2012.677250.

Danish Government. (2012). Government Report: On Counterterrorism Efforts. 1-22. Retrieved from <https://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>.

Grunstein, J. (2017). A New Counterterrorism Law Reflects France's New Normal. *World Politics Review (Selective Content)*, 1-3. Retrieved from

<https://goucher.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=125620092&site=ehost-live&scope=site>.

(GIGN) Groupe D'intervention De La Gendarmerie Nationale. Structure.

<https://www.gendarmerie.interieur.gouv.fr/gign/Decouverte/Structure2>

Gvozdeva, Evgenia, et Nancy Rosen. (2018). [BRIEFING]France: Terrorist attack in Trèbes refuels public discussions about the efficiency of surveillance over potential jihadists, highlighting the misinterpretation of the Fiché S concept by journalists and politicians.

*World Terror Watch*. Retrieved from

<http://sdb.esisc.org/Incident/View/31894f98-3420-4646-86e05b0360b1a2c0?Type=Incident>.

Hellmuth, Dorle. (2015). Countering Jihadi Radicals and Foreign Fighters in the United States and France: Très Similaire. *Journal for Deradicalization*, 4, 1-43. Retrieved from

<http://journals.sfu.ca/jd/index.php/jd/article/view/24>.

(a)--- (2015). Countering Jihadi Terrorists and Radicals the French Way. *Studies in Conflict & Terrorism*, 38(12) 979-997. doi:10.1080/1057610X.2015.1076277.

- Hemmingsen, Ann-Sophie. (2015). An Introduction to The Danish Approach to Countering and Preventing Extremism and Radicalization. *Danish Institute for International Studies*, 1-53. Retrieved from [http://pure.diis.dk/ws/files/470275/DIIS\\_Report\\_2015\\_15\\_2\\_ed..pdf](http://pure.diis.dk/ws/files/470275/DIIS_Report_2015_15_2_ed..pdf).
- Higgins, Andrew & Melissa Eddy. (2015). Terror Attacks by a Native Son Rock Denmark. *The New York Times*. Retrieved from <https://www.nytimes.com/2015/02/16/world/europe/copenhagen-attacks-suspect-is-killed-police-say.html>.
- Horgan, John & Michael Boyle. (2008). A case against ‘Critical Terrorism Studies.’” *Critical Studies on Terrorism*, 1(1) 51-64. Retrieved from [https://s3.amazonaws.com/academia.edu.documents/35142052/2008\\_horganboyle.pdf?AWSAccessKeyId=AKIAIWOWYYGZ2Y53UL3A&Expires=1539026786&Signature=Eio5W522NFwJrWBakA6gDxuEeMA%3D&response-content-disposition=inline%3B%20filename%3DA\\_case\\_against\\_Critical\\_Terrorism\\_Studie.pdf](https://s3.amazonaws.com/academia.edu.documents/35142052/2008_horganboyle.pdf?AWSAccessKeyId=AKIAIWOWYYGZ2Y53UL3A&Expires=1539026786&Signature=Eio5W522NFwJrWBakA6gDxuEeMA%3D&response-content-disposition=inline%3B%20filename%3DA_case_against_Critical_Terrorism_Studie.pdf).
- Hülsse, Rainer & Alexander Spencer. (2008). The Metaphor of Terror: Terrorism Studies and the Constructivist Turn. *Security Dialogue*, 39(6) 571-592. doi: 10.1177/0967010608098210.
- Jones, David & M.L.R. Smith. (2009). We’re All Terrorists Now: Critical –or Hypocritical- Studies ‘on’ Terrorism? *Studies in Conflict & Terrorism*, 32, 292-302. doi:10.1080/10576100902744128
- Klarevas, Louis. (2004) Political Realism: A Culprit for the 9/11 Attacks. *Harvard International Review*, 18-23. doi: 10.1111/lsi.12088.
- Koehler, Daniel. (2015). Family Counselling, De-radicalization and Counter-Terrorism: The Danish and German programs in context. *German Institute on Radicalization and De-radicalization Studies*. Retrieved from

- [https://www.researchgate.net/publication/303678200\\_Family\\_Counselling\\_De-radicalization\\_and\\_Counter-Terrorism\\_The\\_Danish\\_and\\_German\\_programs\\_in\\_context](https://www.researchgate.net/publication/303678200_Family_Counselling_De-radicalization_and_Counter-Terrorism_The_Danish_and_German_programs_in_context).
- Kourliandsky, Jean Jacques. (2016). Attentats de 2015 en France: sécurité globalisée et repli diplomatique. *Desafios*, 28(2) 413-424. Retrieved from <http://dx.doi.org/10.12804/revistas.urosario.edu.co/desafios/a.5066>.
- Lamont, Christopher. (2015). *Research Methods in International Relations*. London, SAGE publications.
- Lindahl, Sondre. (2017). A CTS model of counterterrorism. *Critical Studies on Terrorism*, 10(3) 523-541. doi:10.1080/17539153.2017.1336289.
- (a)---(2017). *The Theory and Practice of Emancipatory Terrorism* (Doctoral dissertation). Retrieved from The National Center for Peace and Conflict Studies: University of Otago.
- Lichfield, John. (2014). France bans citizens with 'jihadi links' from travelling abroad as it strengthens anti-terror laws. *Independent*. Retrieved from <https://www.independent.co.uk/news/world/europe/france-bans-citizens-with-jihadi-links-from-travelling-abroad-as-it-strengthens-anti-terror-laws-9595930.html>.
- Loi n 2012-1432 du 21 décembre 2012. (The Republic of France). Consolidated 20 January 2019.
- Loi n 2015-912 du 24 juillet 2015. (The Republic of France). Consolidated 31 October 2017.
- Loi n 2017-1510 du 30 octobre 2017. (The Republic of France). Consolidated 1 November 2017.
- Loi n 55-385 du 3 avril 1955. (The Republic of France). Consolidated 21 March 2019.
- Loi n 78-17 du 6 janvier 1978, Art. 39. (French Republic). Modified 12 December 2018.
- Loi n 78-17 du 6 janvier 1978, Art. 41. (French Republic). Modified 20 June 2018.



- McDonald, Matt. (2007). Emancipation and critical terrorism studies. *European Political Science*, 6, 252-259. doi:10.1057/palgrave.eps.2210142.
- Merz, Fabien. (2017). Dealing with Jihadist Returnees: A Tough Challenge. *Center for Security Studies in Security Policy*, 210, 1-4. Edited by Christian Nülist, Retrieved from.
- Meyer, Christoph O. (2009). International terrorism as a force of homogenization? A constructivist approach to understanding cross-national threat perceptions and responses.” *Cambridge Review of International Affairs*, 22(4) 647-666. doi:10.1080/09557570903325462.
- Migration and Home Affairs. (2018). The Danish SSP system: Local collaboration between schools, social service and police. *European Commission*. Retrieved from [https://ec.europa.eu/home-affairs/node/7488\\_en](https://ec.europa.eu/home-affairs/node/7488_en).
- Ministry of Higher Education and Science. A safe and balanced society. Retrieved from <https://studyindenmark.dk/why-denmark/quality-of-life-1/a-safe-and-balanced-society>.
- Ministry of Foreign Affairs of Denmark. Religion and identity. Retrieved from <https://denmark.dk/people-and-culture/religion>.
- Morag, Nadav. (2018). International Counterterrorism Laws and Practices: Israel and France in Comparison. *International Criminal Justice Review*, 28(2) 162-176. doi:10.1177/1057567718763249.
- Morand Deviller, J. (2016). *Reflexions Sur L’Etat D’Urgence*. *Juridical Current*, 19(2) 75–86. Retrieved from <https://goucher.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=116818995&site=ehost-live&scope=site>
- Onuf, Nicholas. (2009). Terror/ism. *International Relations*, 23(1) 53-60. doi:10.1177/0047117808100609.

- Orozobekova, A. (2016). The Mobilization and Recruitment of Foreign Fighters: The Case of Islamic State, 2012–2014. *Connections*, 15(3), 83-100. Retrieved from <http://www.jstor.org/stable/26326453>.
- Paulussen, Christophe & Kate Pitcher. (2018). Prosecuting (Potential) Foreign Fighters: Legislative and Practical Challenges. *International Center for Counter-Terrorism – The Hague*. Retrieved from <https://icct.nl/wp-content/uploads/2018/01/ICCT-Paulussen-Pitcher-Prosecuting-Potential-Foreign-Fighters-Legislative-Practical-Challenges-Jan2018-1.pdf>.
- Pedahzur, Ami & Magnus Ranstorp. (2012). A tertiary model for countering terrorism in liberal democracies: The case of Israel. John Horgan & Kurt Braddock (Eds.) *Terrorism Studies: A Reader* (313-330). New York: Routledge.
- Perl, Raphael. (2007). Combating Terrorism: The Challenge of Measuring Effectiveness. *Congressional Research Service*, Retrieved from <https://fas.org/sgp/crs/terror/RL33160.pdf>.
- Ragazzi, Franceso & Josh Walmley. (2018). The return of foreign fighters to EU soil: Part II. Member States' approach (External study). Amandine Scherrer (Ed.). *European Parliamentary Research Service*, 23-102, Doi:10.2861/205.
- Reed, Alastair & Johanna Pohl. (2017). Tackling the surge of returning foreign fighters. *NATO*. Retrieved from <https://www.nato.int/docu/review/2017/also-in-2017/daesh-tackling-surge-returning-foreign-fighters-prevention-denmark-rehabilitation-programmes/en/index.htm>.
- Rodgers, Lucy, Salim Quarashi, & Steven Connor. (2015). 7 July London bombings: What happened that day? *BBC News*. Retrieved from <https://www.bbc.com/news/uk-33253598>.

- Rigsadvokaten. (2016). Preventing and Countering Extremism and Radicalisation: National Action Plan. *Danish Government*. Retrieved from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/wh2at-we-do/networks/radicalisation\\_awareness\\_network/docs/preventing\\_countering\\_extremism\\_radicalisation\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/wh2at-we-do/networks/radicalisation_awareness_network/docs/preventing_countering_extremism_radicalisation_en.pdf).
- (a). The Danish Prosecution Service. Retrieved from [https://www.ejn-crimjust.europa.eu/ejnupload/infoabout/the\\_danish\\_prosecution\\_service.pdf](https://www.ejn-crimjust.europa.eu/ejnupload/infoabout/the_danish_prosecution_service.pdf).
- Schmitt, Gary. (2010). France: In a League of Its Own. Gary Schmitt et al (Eds). *Safety, Liberty, and Islamist Terrorism: American and European Approaches to Domestic Counterterrorism* (31-47). Available from <http://ebookcentral.proquest.com/lib/goucher-ebooks/detail.action?docID=667133>.
- Schmid, Alex & Judith Tinnes. (2015). Foreign (Terrorist) Fighters with IS: A European Perspective. *International Centre for Counter-Terrorism – The Hague*. Retrieved from <https://icct.nl/wp-content/uploads/2015/12/ICCT-Schmid-Foreign-Terrorist-Fighters-with-IS-A-European-Perspective-December2015.pdf>.
- Selvin, Peter. (2015). The bombs exploded, and France's prime minister called it 'war.' It was 1986. *The Washington Post*. Retrieved from [https://www.washingtonpost.com/news/worldviews/wp/2015/11/18/terrorisms-long-history-in-paris-where-the-french-ask-how-the-story-ends/?noredirect=on&utm\\_term=.e17a647a3171](https://www.washingtonpost.com/news/worldviews/wp/2015/11/18/terrorisms-long-history-in-paris-where-the-french-ask-how-the-story-ends/?noredirect=on&utm_term=.e17a647a3171).
- Silke, Andrew. (2002). Becoming a Terrorist. *Terrorists, Victims and Society: Psychological Perspectives on Terrorism and its Consequences*, (14)21 29-54.  
doi:10.1002/9780470713600.
- Strfl § 7. (Denmark). Modified 21 December 2005.

Strfl § 8. (Denmark). Modified 21 December 2005.

Strfl § 15. (Denmark). Modified 21 December 2005.

Strfl § 74. (Denmark). Modified 21 December 2005.

Strfl § 101. (Denmark). Modified 21 December 2005.

Strfl § 114. (Denmark). Modified 21 December 2005.

Strfl § 180. (Denmark). Modified 21 December 2005.

Strfl § 183. (Denmark). Modified 21 December 2005.

Strfl § 192. (Denmark). Modified 21 December 2005.

Strfl § 237. (Denmark). Modified 21 December 2005.

Strfl § 245. (Denmark). Modified 21 December 2005.

Strfl § 246. (Denmark). Modified 21 December 2005.

Strfl § 261. (Denmark). Modified 21 December 2005.

The Consolidate Act of the Administration Justice Act. (2016). Retrieved from

<https://wipolex.wipo.int/en/text/451192>.

Observatoire de la laïcité. (2018). RAPPORT ANNUEL de l'Observatoire de la laïcité. Prime

Minister. Retrieved from [https://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2018/05/laicite\\_rapport\\_annuel\\_2017-2018\\_v9-web.pdf](https://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2018/05/laicite_rapport_annuel_2017-2018_v9-web.pdf).

Thielen, Emeline. (2016). *La lutte contre la radicalisation violente : comparaison entre la*

*Belgique et le Danemark*. (Doctoral dissertation). Retrieved from Faculté de droit et de criminologie, Université catholique de Louvain.

Treatment of Foreign Fighters in Selected Jurisdictions: Country Surveys. (2015). *The Law*

*Library of Congress*. Retrieved from [https://www.loc.gov/law/help/foreign-fighters/country-surveys.php#\\_ftn65](https://www.loc.gov/law/help/foreign-fighters/country-surveys.php#_ftn65).

UN General Assembly. (1948). Universal Declaration of Human Rights.

United States Department of State. (2018). Country Reports on Terrorism 2017 – Denmark.

Retrieved from <https://www.refworld.org/docid/5bcf1fab13.html>.

--- (a). (2018). Country Reports on Terrorism 2017 – France. Retrieved from

<https://www.refworld.org/docid/5bcf1fa73.html>.

Van Ginkel, Bibi et al. (2016). The Foreign Fighters Phenomenon in the European Union.

*International Centre for Counter-Terrorism – The Hague* 7(2), 1-54. doi:

10.19165/2016.1.02.

Vestergaard, Jørn. (2018). Foreign Terrorist Fighters: De-Radicalization and Inclusion vs Law

Enforcement and Corrections in Denmark. *University of Copenhagen*. Retrieved from

[https://curis.ku.dk/ws/files/189160450/JV\\_Foreign\\_Terrorist\\_Fighters\\_The\\_Needed\\_Balances\\_in\\_EU\\_Criminal\\_Law.pdf](https://curis.ku.dk/ws/files/189160450/JV_Foreign_Terrorist_Fighters_The_Needed_Balances_in_EU_Criminal_Law.pdf).

Young, Holley et al. (2016). “Approche factuelle et conseils politiques.” *Terrorism and*

*Radicalization: Prevention, De-radicalization, & Citizenship*.