



Finding the right balance:
towards a human rights
assessment framework for
counter-terrorism policing

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Is it possible to protect people from terrorism and protect their rights at the same time? Are liberty and security compatible?

Irene Khan, Secretary General of Amnesty International (2005)

*I believe the appropriate balance
needs to be struck between
countering terrorism and human
rights. I believe we have struck the
right balance*

Then Australian Attorney General, Philip
Ruddock July 2007

Dr Mohamed Haneef



Police talk human rights: cautiously

“I think the thoughts of the membership at the current time, without the extra education that’s required to change the organisational mindset, is it’s probably just a bit of a waste of time and it’s just more things that’ll clog the system up. It’s viewed fairly cynically. I view it fairly cynically.”

Police talk human rights: general principles

“[police] won’t say it’s human rights, but they’re talking about, you know, helping the community, serving the community.”

“basic credo [of] fairness and frankness”

Police talk human rights: policing is human rights

“Our argument is human rights are policing.”

“[L]aw enforcement is the protection of human rights. That’s what it is.”

“[P]rotecting people's rights is a key and core function of policing and that's been the case since the inception of modern policing as a concept.”

Police talk human rights: balancing

“[U]nderlying law enforcement is people’s right to live essentially and I see our role as protecting human rights, not impacting on human rights, but in all those sort of things there’s a balance ... [but] you can’t have your head in the sand and say there’s an absolute right at every stage of a person’s existence to every one of those rights. Sometimes they have to be curtailed because we live in a world that is under a particular sort of threat at the moment and that’s terrorism.... [some police] think, like most police forces, that the balance swings too far one way sometimes.”

When human rights are restricted or limited:

- there must be a *legitimate aim* or purpose which permits the limitation of the full enjoyment of the particular right
- any restriction must be *prescribed by law*
- the limitation must be ‘*necessary in a democratic society*’ or proportionate to its aim.

[W]e must find ways of reconciling security with liberty, since the success of one helps the other. The choice between security and liberty is a false choice ... Our history has shown us that insecurity threaten liberty. Yet if our liberties are curtailed, we lose the values that we are struggling to defend.

National Commission on Terrorist Attacks upon the United States (9/11 Commission) *Report* (2004), 395.