

Security, Technology and Control: Repositioning Securitisation Theory for the Information Society

Paper for presentation at:

“Politics in Hard Times: International Relations Responses to the Financial Crisis”
SGIR 7th Pan-European Conference, Stockholm, September 2010

On the panel:

“Security in action: understanding security from an actor-network theory perspective”
Panel 16-6, Slot 110, Scheduled Friday 16.15-18.00, R12

Jonathan Bright

PhD Candidate

European University Institute

Via dei Roccettini 9, I-50014 San Domenico di Fiesole (FI) - Italy

jonathan.bright@eui.eu

Abstract

On the 18th of September 2007 a resident of the UK, who was under the provisions of a “control order” act, was refused permission to attend college to study for a high school level qualification in biology, on the grounds that it could potentially enable him to handle chemical or biological substances which could be used in a terrorist attack. This “control order” forms one part of the UK government's response to the apparent security needs generated by the “war on terror”. But where did it come from? How, from a range of possible actions (or inactions), did the government select this legal tool, which confers unique power to control the lives of certain individuals in minute detail? How did biology teachers come to be placed on the front lines of this new type of war?

Securitisation theory represents one of the most important recent developments within security studies for the analysis of the new form of security which has emerged during the war on terror. Yet whilst the Copenhagen School's work, and subsequent critiques, have provided abundant theoretical insight into what makes a security issue, and what it means to speak security, thus far little work has gone into looking at how these securitizations are transformed into concrete policies. How does the threat of terrorism transform itself into a policy output such as the control order?

This paper looks to fill this gap somewhat. Firstly, drawing on the large body of existing literature, a three category typology of securitizations is developed based on the type of exceptional action implied by the security threat. Then, the implementation of these securitizations is discussed, looking especially at securitisation in the context of the so called “information society”. While much attention has been given to the capacity of securitisation to allow a state to escape a legal order, this paper claims that of equal importance is the technical means at the disposal of the state, and how these means are incorporated into an existing institutional context through a process of policy construction.

This theoretical discussion is fleshed out with reference to the control order described above. It is claimed that the move towards governance of security through policy has fundamentally changed the way in which securitisations manifest themselves in our society. In particular, the expansion of technical possibility has meant that declarations of exception can now fall on individuals, or even individual futures, rather than society at large. This has radical implications for the actors and audiences who speak and decide upon security threats.

Introduction - Security and Government in the Information Society

The impact of the emergence of information and communication technologies has been felt in almost every aspect of human life (Castells 2010), and thus almost every area of social science research. Security studies is no exception: the information society has brought with it new security threats arising both from the increasing complexity of social organisation in general (Elhefawny 2004), and the emerging territory of “cyberspace” in particular (Dunn Cavelty, Mauer and Krishna-Hensel 2007, Hansen and Nissenbaum 2009); and it has modified some of the “old” threats, changing the way states threaten each other (Feaver 1998, Thayer 2000), the way asymmetric warfare is conducted (Hammes 2006) and expanding both the powers and the opportunities available to internationally operating organized criminal networks (Andreas 2003).

These types of information age security threats are distinct from “traditional” security in many ways, but perhaps the most obvious is the way in which they are tackled: not by overwhelming force, nor even by some kind of balance of forces, but rather through complex networks of interlocking policies. For example, the war on terror (for better or for worse) has been prosecuted through a series of international state building efforts, combined with domestic pieces of legislation which increase the power of security forces to monitor potential terrorists. The war on drugs, meanwhile, combines domestic policing and rehabilitation programmes with international interdiction efforts and foreign aid. The common factor here is that military superiority, or indeed any notion of “superiority” in some kind of competition, is becoming less relevant. Instead, security threats are becoming conceptualised as systemic problems, and efforts to combat them become interventions to change the dynamics of the system. In other words: these new wars are not fought, they are governed.

Government represents a problem for the field of security studies. In order to study the war on terrorism, or other new security phenomena, studies of security must, in some sense, become studies of a process of designing governance. When this process is undertaken by the state, this process becomes one of policy construction, and the task of the security analyst akin to that of the policy analyst. Yet the theoretical resources of security studies are limited in this regard. “Traditionalist” paradigms (Buzan and Hansen 2009, 156-186), especially realism, afford little explanatory space to the making of policy, assuming largely that when security is threatened the state will put all its resources into doing what is needed to ensure survival, and therefore the amount of (military) resources a state has is a key measure of its security. For new security problems, however, more resources do not always provide more security, and the difficult part about *doing* what is needed can be *deciding* what is needed. For example, even highly technical passport systems will always be within the financial reach of most modern states. But their effectiveness as security tools depends on how well they are designed.

The “new” security studies (Buzan and Hansen 2009, 187-225) offers more conceptual space through which to focus on the process by which security systems are designed. In particular, the Copenhagen School’s concept of “securitization” represents a potentially fruitful framework through which to By claiming to identify the core mechanics behind *declarations* of security in a diverse variety of “sectors” (environmental, economic, political, etc.) it offers potential insight into the way a variety of otherwise analytically separate policy areas behave when they are considered to pose a security threat. As yet, however, both this framework and subsequent critiques have focussed largely on the discursive construction of security, and have yet to fully exploit securitization’s potential for exploring how policies which tackle security phenomena are formed.

The intention of this article is to correct this deficit somewhat: to show how securitization can be used to study the process of constructing security policies. It is structured as follows. Part one explores the mechanics of securitization, and gives a brief overview of some of the most relevant critiques and extensions of the theory. It is argued that, by focussing on the effects of a securitization, some of the ambiguities surrounding actors and audiences in securitization can be tackled. A three part typology of securitizations is developed: legitimating, motivating and unifying.

Part two limits the focus to securitization in the context of public policy. Using a general framework adopted from public policy analysis, the different possible effects of securitization are analytically separated according to what part of the public policy process they fall on. Following this analytical separation, some areas of silence in securitization theory are highlighted, and the concept of “securitized policy” is specified.

Part three puts this concept into practice, looking at the example of “control orders”, a policy developed during the war on terror in the United Kingdom. I show that, whilst appreciation of the rhetorical structure of security can help understand the desire to develop policy in this area, only an exploration of the specifics of the policy making process can fully explain the end result.

Part 1 - Securitization

“Securitization” is a concept developed by Barry Buzan and Ole Waever, the two principle members of what would come to be known as the “Copenhagen School” (McSweeney 1996). First aired by Waever (1995), and fleshed out in their seminal work *Security: A New Framework for Analysis* (1998), securitization forms part of a wider “framework” for the analysis of security studies, which also includes a reworking of Buzan’s “security complex theory” (Buzan 1991, see also Buzan and Waever 2003).

The framework was an attempt to provide a means of unifying traditional security studies, with its focus on interstate war, with the so called new security studies, which brought a whole range of diverse actors and issues into the discussion of security and what it means to be secure (Buzan and Waever 1998, 2). Securitization was the concept which bridged this gap: a way of analysing the rhetorical power of security independent of its particular context. Buzan and Waever claim that there is a connection between the way one state declares war on another and the way contemporary states declare war on drugs or terrorism; and that this connection can be found in how actors refer to security issues, and use these references to security to shape and control situations.

Buzan and Waever argue that there is no objective definition of what constitutes a security threat and what does not (Buzan and Waever 1998, 30-31). Instead of the characteristics of the issue, it is the way these issues are presented that constitutes the core feature of “security”. They claim to identify a “grammar of security”, which consists of the construction of “a plot that includes existential threat, point of no return, and a possible way out” (Buzan and Waever 1998, 33). If issues are presented in this fashion, and accepted as such, then they become security issues.

An issue can, in their terms, be *anything*: an invasion, an earthquake, a field of policy, a particular person, etc., and any issue, they claim, could be defined as a security issue. They regard “issues” in general as being located on a three category “spectrum”: non-political (where a state takes no action), political (where a state takes action as part of public policy) and securitized (Buzan and Waever 1998, 23). It is the claim of this paper, of course, that even when issues are securitized, many of them are still tackled through a process resembling the public policy one: this will be explored further below.

The concept of securitization describes the act of moving an issue to the “securitized” end of this spectrum, of presenting it in security language. This act itself calls on a number of other concepts. First there is the “referent object” (Buzan and Waever 1998, 36), that which is threatened and which needs to be protected. Buzan and Waever identify different “sectors” (Buzan and Waever 1998, 22-23) which have different referent objects (for example, the state, the nation, sovereignty, the environmental are all offered as possible referent objects). Then there is the “securitizing move” (Buzan and Waever 1998, 25): the act of presenting a particular issue as an “existential threat” to a particular referent object. This move is made by a “securitizing actor”, and presented to an “audience” (Buzan and Waever 1998, 30-33).

Securitisation manifests itself in discourse, to the extent that the Copenhagen School claim it can be studied directly, “without indicators” (Buzan and Waever 1998, 25). They regard these securitizing moves as “speech acts”, a term which they adopt from John Austin (1975). These

acts have both internal and external factors which will determine if they will be successful, both of which should be accessible to the analyst through studying the discourse surrounding the issue. Internally, the acts must follow the logic of the grammar I outline above. The threat must be presented as existential, and considered in terms of two diverging paths, one leading to the point of no return, the other to a possible way out. Externally, they point to “facilitating conditions”, which include both the social position of the speaker, and the relation of the threat to other previously constructed security issues. “It is more likely that one can conjure a security threat if certain objects can be referred to that are generally held to be threatening”, they claim (Buzan and Waever 1998, 33). If these conditions are met, the audience will be convinced of the securitizing move, and the issue will become securitized.

Michael C. Williams called securitization “one of the most innovative, productive and yet controversial avenues of research in contemporary security studies” (Williams 2003, 511). As such, it has generated a vast body of secondary literature, including some substantial theoretical critiques of the process of securitization (among the most cited are Hansen 2000, Williams 2003, Balzacq 2005, Strizel 2007). Two lines of critique are of particular note.

Firstly, some authors have focussed on the problematic nature of intentionality and immediacy in threat construction (Williams 2003, McDonald 2008, Ciuta 2009). Can this framework be extended to study the whole process of how a society constructs threats? Or should it be limited to studying particular declarations of emergency, something to be placed in the context of a broader security studies? Williams, for example, has pointed out that “to focus too narrowly on the search for singular and distinct *acts* of securitization might well lead one to misperceive *processes* through which a situation is being gradually intensified” (Williams 2003, 521). He argues for the importance of images in threat construction, for example media images of asylum seekers attempting to illicitly enter the UK through the Channel Tunnel (Williams 2003, 526). In this case, it is difficult to identify a particular securitizing actor, yet the importance of the images for constructing the threat is obvious. This problem is connected to the institutionalization of security threats, and the subsequent importance of these institutions for defining future threats (Huysmans 2006).

Secondly, there is a problematic vagueness around key concepts of actors, speech acts, and audiences (Balzacq 2005, Strizel 2007, Vuori 2008). In particular, it is frequently difficult to define who the audience is, and how their need for intersubjective acceptance of the securitizing move can be reconciled with the actor centred nature of the theory itself. To put it another way, who decides when the securitization is successful? Buzan and Waever vacillate here, sometimes claiming that the mere act of the declaration causes security, at other times claiming that the audience must accept the declaration (see especially Strizel 2007, 363 on this point). To paraphrase Balzacq, they seem undecided between two types of speech act, illocutionary (where the action is caused by speaking) and perlocutionary (where the action is caused by the effects of speaking). This problem is connected to the need for actors to speak from a position of power in order to make their security claims heard, which may be problematic in a non-democratic context (Hansen 2000, Vuori 2008), or in politics without a clear locus of decision making power (Neal 2009). Buzan and Waever do note that security is not always conducted in a climate of openness and accountability, which is troubling for their assertion that it can be studied directly, in discourse (see Bhatwal-Datta 2009, 281). In this regard, several authors have critiqued the Copenhagen School for trying to read a “universal” concept of security from purely Western, state centric examples (e.g. Wilkinson 2007).

These critiques are important. However, both the looseness over the concepts of actor and audience and some of the problems of intentionality and immediacy can be clarified by considering in more detail what the effects of securitization are, a step which is also vital if securitization is to be used to study the policy process. What happens to an issue when it is moved to the securitized end of the spectrum? The Copenhagen School posits that by declaring a security emergency:

“...the actor has claimed a right to handle the issue through extraordinary

means, to break the normal political rules of the game (e.g. in the form of secrecy, levying taxes or conscription, placing limitations on otherwise inviolable rights, or focusing society's energy and resources on a specific task)" (Buzan and Waever 1998, 24).

So securitization, broadly speaking, allows an actor to break free of some kind of rules. Both in the Copenhagen School's original work, and in empirical studies which have applied the theory, the form this rule breaking takes can vary widely. As Buzan and Waever intended, the framework has created a broad church (Waever 2003), unifying an impressive range of different subjects: HIV/AIDS (Elbe 2006), the Tiananmen square massacre (Vuori 2008), European migration (Boswell 2007), UN security council decisions (Werner 2001), cyber security (Hansen and Nissenbaum 2009), as well as the more traditional security studies subject of interstate war (Roe 2008, Ven Bruusgard and Åtland 2009). All of these practical examples highlight different forms of rule breaking, which I divide here into three analytical categories: legitimating, motivating, and unifying. As I shall try to show, each of these categories has both a different purpose, and different relevant actors and audiences.

The Legitimizing Function

The legitimating effects of securitization are perhaps the most frequently mentioned, both by the Copenhagen School themselves and by subsequent applications of the theory. Invoking security can justify actions which would otherwise be considered unacceptable.

This can occur in several senses. Legally speaking, governments might invoke constitutional rights to declare a state of emergency in which normal legal rules do not apply. In this respect, as many authors have pointed out, securitization has close parallels with the work of Carl Schmitt on the concept of sovereignty (for the concept itself see Schmitt 1985, for its connections to securitization see Werner 1998, Williams 2003, Taureck 2006). Depending on the form of the constitution, the actor with the right to suspend the order may simply do so by declaring security as the reason (in Schmitt's work, he was interested specifically in Article 48 of the 1919 Weimar constitution). In this type of securitisation, the process is closest to that of the "speech act". Security is illocutionary, and there is no genuine audience. The securitizing actor must follow an internal grammar to fulfil the conditions of their legal declaration, but has no legal obligation to convince anyone that their reasoning is sound.

More commonly, perhaps, securitisation can also legitimate the (temporary) derogation from certain types of rules (Werner 1998). For example, Buzan and Waever point to the securitization of a principle of human rights as justification for intervention (and thus the suspension of sovereignty – Buzan and Waever 1998, 151). In these circumstances, security can either be illocutory or perlocutory, depending on the structure of the rule being derogated from. If the securitizing actor faces oversight (e.g. from a supreme court), then the relevant audience is that which provides this oversight, and the act is one of perlocution; if the relevant rule is structured in such a way as to already contain exceptions for security, then the act will remain of an illocutionary nature.

However, the legitimating power of securitization goes beyond its capacity to suspend rules. Securitisation can simply enable an actor to do things which previously seemed politically impossible (but which nevertheless would be perfectly legal). For instance, a declaration of war does not necessarily require the suspension of a legal order nor even the breaking of any laws. It does generally however require the conviction of the public and members of the legislature that it is a legitimate choice. Reference to a security threat can provide this (see Balzacq 2003, 185, Roe 2008). In these cases the act becomes perlocutory, as the implication is that the securitizing actor is bound by the expectations of some group (e.g. public opinion, legislature). Only by changing the view of this group can they act in the way they want to. In this aspect, securitization theory becomes a sort of domestic extension to Waltzian neo-realism: a way of explaining why the resources of a

state can be deployed so absolutely to combat a security threat.

The legitimating function of securitization is where the theory is at its most immediate (though, as Wilkinson 2007 has noted securitization can in even be used to legitimate action retroactively). When there is no relevant audience, rules can be suspended and martial law declared in an instant. Even when there is a specific audience prescribed, the nature of the grammar of security declaration will mean that their response (to accept or not) must come as soon as possible. Here the intentionality of securitization is also clear. Actors will declare a security emergency to achieve a specific effect: the legitimate suspension of the legal order, or to make acceptable some action which would otherwise be deemed impermissible.

The Motivating Function

When securitization is used to legitimate, the securitizing actor is always the one performing security. That is, an actor demands the right to take an action (through securitizing), and then takes it. However, securitization can also be used to *exhort* action: a securitizing actor can use security to convince others to act. The mobilizing power of security is distinct from its legitimating function (Floyd 2007, 343), though of course closely connected to it (as the action of the audience is not only exhorted but justified – Vaughan 2009, 278). The kind of action proposed by environmental securitization, for example, is not legally problematic. Nevertheless, changing established patterns of consumption is an enormous challenge which would require both individual and collective sacrifices (for other examples of motivation see Vaughan 2009, Ven Bruusgard and Åtland 2009).

In this case, securitization is perlocutory. The audience is the performing actor: those who the securitizing actor is calling upon to take action. The securitizing actor can still emerge from the state (and could be calling on other states – Buzan and Waever 2009, 258), but does not have to: it could be a bottom-up exhortation for the state to take action (Ven Bruusgard and Åtland 2009), or may involve little or no claim on a state at all (Bhatwal-Datta 2009), or may even, in the case of revolution, cast the state as the threat itself, and take action against it (Wilkinson 2007).

This second facet of securitisation points to what has often been regarded as the “positive” effects of securitisation (for a discussion see Elbe 2006, Floyd 2007). When critical security studies as a movement began, one of the hopes was that the driving energy of security could be redirected towards “positive” goals. For example, by creating an inclusive concept of “human security”, human rights could be defended through securitisation. Or, by creating environmental security, society could begin to take exceptional action on environmental protection.

Here, the intentionality of securitization is clear in only some circumstances. Actors deploying security in order to exhort action will do so with the type of action they want to see in mind: the plot must contain a way out. However, as Williams argues, other factors such as images can also slowly convince people to take action, even if those relaying those images have no particular interest in that action taking place. The immediacy of securitization is also less obvious here. Conviction may happen immediately, may happen slowly, or may not happen at all.

The Unifying Function

A final effect of securitization is its creation of a specific kind of closed, political behaviour, which works to “silence opposition” and unify a particular audience around a common goal. In this case, the audience is again the performative actor, and securitization is again perlocutionary, but the result of securitization is not an action as such but rather a change in perception, a unification around a particular issue, an ideological solidification. This silencing of issues can be a very effective political tactic (Hansen 2000); however it is not clear that it is always deployed in an intentional sense. This function can also serve, it seems, to create a kind of antagonistic politics, which appears implicit in the Copenhagen School's claim that desecuritization represents the “optimal long range solution” (1998, 29), though it remains underdeveloped in the theory. Society is not just unified through security; it can be unified *against* a particular group, which in a way aids

the construction of a unified identity (e.g. Huysmans 2006, Wilkinson 2007, 11).

Type of Securitization	Effect	Actors			Type of Speech Act
		Securitizing Actor	Audience	Performing Actor	
Legitimizing	Suspension of Legal order	Executive	N/A	Executive	Illocution
	Breaking / reshaping of certain rules	Executive	Judiciary	Executive	Illocution or Perlocution (depends on rule structure)
	Permitting unpopular decision (e.g. war)	Executive	Legislative, Public	Executive	Perlocution
Motivating	Changing behaviour	Executive, Public	Public	Public	Perlocution
	State intervention in previously non-political area	Public	Executive, Legislative	Executive	Perlocution
	Contra-state action, revolution	Public	Public	Public	Perlocution
Unifying	Construction of ideological unity, silencing debate	Executive, Public	Public	Public	Perlocution

Table 1 – Typology of Securitization

The three different types of securitization I have described here are summarized in table 1. There are four actors in the schema (which clearly simplifies greatly): the three branches of government (executive, legislative, judicial), and the “public”, which I use as a catch all term to describe any non-government actor. As I have tried to show, there is no simple solution to the question of which one of them is the securitizing actor, who the audience is, etc. Rather, it varies according to the type of securitization.

In general, when securitization is used in circumstances where the security policy is not technically challenging, but may be unpopular or contravene certain laws, then the securitizing actor will also be the performing actor, and the audience will be those who impose constraints and thus decide on the legitimacy of the move. When securitization is used in circumstances where the action might theoretically be legitimate, but still requires the active support and buy in of other actors, then the audience and the performing actor will be the same. Finally, it is worth noting that securitizations may have multiple effects, and may represent combinations of the above typology (Buzan and Waever themselves have recently remarked on the possibility for multiple audiences, Buzan and Waever 2009, 275).

Part Two - Securitized Policy

As I said in the introduction, the intention of this paper is to develop the concept of a “securitized policy”, which can be used to explore the development of policies set up to tackle new security problems. Having established a definition of securitization, it is to the definition of this concept I now want to turn.

I regard a “securitized policy” as a public policy which has emerged in response to a successful securitization. Securitized policies will only emerge in part of the typology of securitizations developed above: in particular, the performing actor will always be the executive or the legislative. A securitized policy is also distinct from other types of security action a state can take (such as war) in that it will in some way go through the normal policy making process of a state, and furthermore will generally have a “domestic” focus. It is this type of policy, I argue, that is the common response to most new security problems.

The concept of securitized policy is built upon securitization theory, which already specifies many of the core dynamics. In this section, I want to begin to define this concept, through reference to one of the central paradigms of public policy analysis: the “stages approach” (deLeon 1999).¹ This approach separates the policy process into distinct stages, and examines the different actors and logics at play in each stage. There are a number of different variations on these stages proposed by a number of different authors. In this paper, I use the five proposed by James E. Anderson (1975): problem formation, policy formulation, adoption of policy, implementation of policy and policy evaluation. This separation is made for heuristic purposes and does not necessarily imply a fixed temporal order. Nevertheless every public policy will have to, in some sense, go through all of the stages.

The stages approach is used to model the public policy process in general, but it can also be of use as a framework for more specific theories of *types* of policy process, such as the “securitized policy” which I propose here, by providing some kind of analytical separation of the different logics proposed, and pointing to potential areas where the theory is underdeveloped. In what follows, I will provide an overview of each of the five stages, and show in what areas the theory of securitization provides expectations for how the rhetorical deployment of security will affect specific policy processes.

Problem formation

This stage concerns how policy areas are developed, how problems are defined and how they come to be placed on the political agenda. For Anderson, a policy area emerges when a “problem” can be defined as a public problem, and will come to be placed on the agenda of policy makers when sufficient importance can be attached to it. Furthermore “the nature of the problem...helps determine the nature of the policy process”. (Anderson 1975 chapter 3, quote from p55). As the initial stage, problem formation sits somewhat in between the specifics of the policy process, and other processes by which society itself constructs problems.

Securitization has clear impacts on the phase of problem formation, particularly in terms of its motivational and unifying functions. Firstly, a successful securitization can contribute to creating an area of government intervention: for example, Hansen and Nissenbaum argue that the securitization of “cyberspace” has contributed to subsequent government intervention in this area (Hansen and Nissenbaum 2009). Secondly, by implication, a securitized policy area will automatically be on the policy agenda, and should even distract attention from other agendas, as security policies always have a high priority. Finally, the area may be constructed in the form of antagonistic politics mentioned above, creating a “self” and counter posing it against an “other”.

¹ I should note that the stages approach is controversial and has been the subject of many critiques. For a summary see Sabatier 1999. However, I do not believe these critiques affect its usefulness for the analysis of securitization which I pursue here.

It is at this stage where the critiques of the immediacy of securitization become most relevant: security problems are not always formed as an area of policy by securitization, and the background conditions for the securitization of these problem areas can also happen outside the specific act of securitization itself. However, as I have stated, my interest in this paper lies mainly in studying the results of problem formation, rather than problem formation per se. These critiques therefore do not represent too much of a problem for the specific concept of securitized policy.

Policy Formulation

Policy formulation refers to the more specific act of developing policy for tackling a particular problem (Anderson 1975, 66). It involves two activities: both the forming of general principles about “what should be done”, and the more detailed drafting of specific legislation (Anderson 1975, 70). Policy formulation thus involves a variety of actors: legal and technical specialists will be required to draft legislation, but they may do so with reference principles or goals established on a wider basis.

In this stage, securitization has much less to say as a body of theory. As I mention above, in their analysis of the grammar of security, the securitizing move should contain “a plot that includes existential threat, point of no return, and a possible way out” (Buzan and Waever 1998, 33). This possible way out, in the terms outlined here, would be a “policy”: a possible action which the state could pursue. One would also expect as a general rule that the policy take some kind of preventative action: not just responding to a current event, but preventing future similar events.

But, securitization produces only limited expectations about the way this policy is formed, and how this formation relates to other policies and institutions in the field. Does it encourage institutional change, or the formation of new institutions? Do existing actors recognise the need to change, or resist impingement on their territory? The capacity of the government seems important here: where can they intervene, and with what tools? Furthermore, the specific drafting of the policy is left open. For example, even if airline security is regarded as vulnerable to the threat of terrorism, what policy best tightens this security? More or better baggage scanners? Pre-flight screening? Who is in position to make this decision? This lack of connection between securitization and the expertise required in drafting specific decisions is something authors such as Dunn Caveltly (2005) have made some remarks on.

Adoption of Policy

Once policy is formulated, through whatever process, comes the stage of adoption. This adoption phase contains both the formal declaration of support of the policy by a particular government, and the completion of the set of stages needed to turn it into legislation, which will clearly vary according to the polity. Government support is sometimes difficult to separate in practice from policy formulation (Anderson 1975, 75), however, analytically speaking, it is worth noting that the decision of government to support a policy does not necessarily follow from its formulation (depending, often, on which actor formulates it).

Securitization makes a number of clear propositions for adoption. Firstly, governments themselves are more likely to adopt policies which have been framed as having some kind of security effect (in this way, actors outside government can motivate them to adopt a policy by framing it in security terms). Secondly, legislators or other bodies outside the government who act within the policy adoption process are more likely to support the proposal. Debate about the proposal will be minimized, opposition will be silenced. Buzan and Waever argue that power holders can “exploit” security situations to escape democratic control and constraint (Buzan and Waever 1998, 29), and therefore one might expect governments to attach unpopular policies to some kind of security emergency in order to help win support. Thirdly, legal barriers to the adoption of a policy can be overcome (if, for example, it might be regarded as contravening constitutional or human rights law). In fact, if particular actors are deploying security in order to achieve specific

goals, we ought to expect more references to security needs in a policy which needs to overcome significant legal challenges. However, securitization does not offer complete expectations in this area. As several authors have pointed out, it is not clear under what circumstances policy will be adopted if formed (see Collins 2005, Roe 2008, Neal 2009), or what factors intervene to shape this process of adoption.

Implementation of Policy

Implementation refers, clearly, to the act of putting legislation into practice (Anderson 1975, chapter 4). How this is done will depend both on the structure of the polity which has adopted the legislation, and the type of legislation itself. Some laws may be highly specific about how they are to be implemented, whilst others might leave this issue up to particular agencies (for example, the creation of a new type of crime does not usually specify how the police should tackle this crime). This stage of policy is significant because the actual effects of a piece of legislation can be largely determined by how it is implemented or enforced.

Securitization theory makes only limited propositions in this area. In particular, we would expect that the resources and effort devoted to implementing securitized policies be large, and that the attention paid to them would be continuous. However, relating to the points about policy formulation, securitization says little about who performs the implementation, or how their work affects the outcome of the securitized policy. As I pointed out in section 2, securitization has been critiqued for saying little about technology and institutions through which security is performed (Huysmans 2006).

Policy Evaluation

Finally, the stages framework stresses the importance of evaluation. How perceptions of the success and failure of a policy are developed will shape future policy interventions in the issue area. Perhaps more than the other stages, this step does not necessarily occur sequentially: “policy evaluation can and does occur throughout the policy process, and not simply at its last stage” (Anderson 1975, 132). While, especially in democratic polities, one would expect some kind of assessment of the extent to which policies resolved the problems they designed to, in practice this process is fraught with difficulty: of establishing what the exact goals of a policy were, of establishing causality, of measuring impact, etc. (Anderson 1975, 138-142).

Securitization offers limited reflections on how policies will be evaluated: there is nothing explicit in the theory which points to how this process takes place. However, one could hesitantly propose that, if securitization followed a grammar of security, it should be relatively easy to establish if the emergency policy proposed did genuinely avert the crisis situation foreseen.

Stage	Expectations derived from Securitization	Relevant Critiques, Missing Pieces
Problem Definition / Agenda Setting	<ul style="list-style-type: none"> - Reference to security need can help create an area of policy - This policy area should be high on the political agenda - It may also be characterised by a kind of antagonistic, us vs. them politics 	<ul style="list-style-type: none"> - Policy areas can be created before being securitized - Security problems can be defined over time
Policy Formulation	<ul style="list-style-type: none"> - Security declaration should contain policy suggestions in the form of a “possible way out” - These suggestions should include 	<ul style="list-style-type: none"> - How is the problem connected to a policy solution?

	<ul style="list-style-type: none"> pre-emptive/risk based action (i.e. before the point of no return) - May ignore or compromise existing legal structures / established patterns of behaviour 	<ul style="list-style-type: none"> - How do existing policies/ institutions in the field interact?
Adoption of Policy	<ul style="list-style-type: none"> - Executive will be likely to support policy - Legislative and public will also be more likely to support policy. Debate will be minimal - Judiciary will be more likely to support policy in the case where it breaks some rules 	<ul style="list-style-type: none"> - Under what circumstances will a securitized policy fail to be adopted?
Policy implementation	<ul style="list-style-type: none"> - Deployment of significant resources for implementation will be seen as legitimate - Actors implementing the policy should be motivated to succeed - Even after adoption it will continue to be high profile and important 	<ul style="list-style-type: none"> - Under what circumstances will a securitized policy fail to be implemented? - Who implements securitized policy?
Policy Evaluation	<ul style="list-style-type: none"> - The clear grammar of security should make it evident if the policy has been a success or failure 	<ul style="list-style-type: none"> - Who evaluates securitized policies, and how?

Table 2 - “Securitized Policy” as derived from Securitization

The principle characteristics of a “securitized policy” which I have drawn from securitization theory are summarised in table 2. The use of the stages approach shows that securitization theory offers assumptions that partially cover all stages of the policy process, yet also points to some areas where the theory is weak and underdeveloped: in particular, how policies are formulated, and how they are implemented. It shows as well that the different functions of securitization will occur at different points in the policy cycle. The motivating and constructing functions will occur during agenda setting and policy formation, whilst the legitimating functions will occur mainly in the policy adoption stage. Finally, the continuing relevance of several of the critiques mentioned in section 2 has been highlighted: however, under the stages approach, rather than weaknesses in the overall theory, they can be repositioned as silences relating to specific stages which need to be fleshed out.

Part 3 - Control Orders as Securitized Policy

It is to these underspecified areas of the concept of securitized policy which I now turn. In this section, I will flesh them out with reference to a specific example, and thereby also provide an overall indication of how the securitized policy concept works in practice.

As I have said, my interest is developing a concept that specifies what happens when a policy forms out of a securitized policy area, not looking again at how problem areas are securitized. It makes sense therefore, methodologically speaking, to chose a policy area which is obviously and unequivocally securitized: here, the results of securitization should be clearest. I am also, as I said, interested in tackling new security problems. The new security problem which is today most obviously securitized is of course terrorism.

Terrorism has resulted in a huge array of policy outputs. The “securitized policy” which I study here is the development of “control orders” in the UK, a specific legal device brought into law

in 2005 which allows certain individuals to be placed under a kind of partial house arrest, with a range of restrictions imposed on their movements, interactions and activities.

Problem Formation

The problem which produced control orders as a policy response can be separated into two parts. Firstly there is the general threat of “terrorism”, something to which the UK was historically accustomed to, but gained new meaning and significance following the attacks of September 11th. Terrorism, as a “securitisation” can be linked to many different issue areas to the extent that it has been tentatively classified by the Copenhagen School as a “macrosecuritization” : a constructed security threat with a range of implications which has thus generated a variety of different policy responses (see Buzan 2006, Buzan and Waever 2009). While relevant to the stage of problem formation, it is not the aim of this paper to consider how terrorism was constructed as a security threat (as I said above, problem formation rests both inside and outside of the policy process itself). Suffice to say that I consider it obvious that, both before 9/11 but especially afterwards, terrorism constitutes an area of policy in which states regularly intervene, and furthermore consider to be a security priority.

Of more immediate relevance to the construction of control orders is the relationship between terrorism and the UK's criminal justice system. The UK's justice system is “adversarial” (as opposed to other structures, such as the one in France, which is more “investigative”). Under an adversarial system, judges and juries decide the merits of a case on the basis of facts presented by two parties, one defending the accused, the other prosecuting. These parties have sole responsibility for bringing relevant evidence to the trial (in an investigative system, an investigating judge, who is not *a priori* either defending or prosecuting, may decide for themselves which pieces of evidence are relevant). In other words, the accused (and those acting on their behalf) have both more power and more responsibility. In order for them to effectively defend themselves, certain basic principles have established themselves: most importantly, the accused has to know the charges against them, and to a certain extent the evidence pertaining to those charges.

The Labour government which was in power for the entire initial period of the war on terror (1997 - 2010), whilst professing a desire to see most terrorists dealt with by the criminal justice system, nevertheless perceived a number of problems created by the requirements of this system: in particular the problem of using intelligence gathered on suspects as evidence. Intelligence may be patchy or fragmentary, or may be inadmissible in a normal criminal court (e.g. phone tap evidence). Furthermore, there is a need to preserve secrecy over the way intelligence was gathered (Privy Counsellor Review Committee 2003, 57). The question of whether to allow phone tap evidence in court has been considered several times: most recently during debate over the 2000 Regulation of Investigatory Powers Act. The idea was rejected mainly because of fears of revealing the techniques through which communications are intercepted, which would encourage criminals to take evasive measures, and put those giving the information at risk. (Home Office 2004, 25-25, Privy Counsellor Review Committee 2003, 57, footnote 107). Crucially, therefore, the terrorism problem formed in such a way as to mean that prosecution of any single terrorist could make terrorism overall more likely, by compromising the system which had identified the suspect in the first place.

This resistance to the use of intelligence as evidence created a special type of terrorist suspect in the UK: one who the security services are aware of and know to be a threat, but are either unable or unwilling to prosecute. This led to the creation of a system of “detention without trial” under provisions made by Part IV of the 2001 Anti-Terror, Crime and Security Act [ATCSA] (see Tierney 2005). This act, itself influenced by the 1997 Chahal ruling (which made it impossible to deport foreign nationals to states with a history of torture), provided for the indefinite detention without trial or charge of foreign nationals suspected of involvement with terrorism. Between 2001 and 2005, 16 men were detained under the act, mostly in Belmarsh and Woodhill prisons (Nellis 2007, 265, Privy Counsellor Review Committee 2003, 51). Detention orders were issued by the Home Secretary, and were allowed if he/she “reasonably (a) believes that the person's presence in the

United Kingdom is a risk to national security, and (b) suspects that the person is a terrorist” (Walker 2007, 1405). Cases were heard by the Special Immigration Appeals Committee [SIAC], a court established to deal with immigration matters that was used to this type of atypical legal procedure (Constitutional Affairs Committee 2005).

These orders can be regarded as a previous instance of securitized policy (of the second type as defined in Table 1), which behaved almost exactly in the way securitisation theory would lead us to expect: it arose in response to an apparent imminent security threat (terrorism), whose threat (to the UK) was so far solely in the future; it breached existing structures of law and norms, derogating from certain aspects of the European Convention of Human Rights, and suspending significantly the rights of those who were detained; and it was structured in an anticipatory, risk based way – it weighed not so much the past actions of detainees, as their potential for engaging in future acts of terrorism.

However, two points of nuance are worth making. Firstly, ACTSA emerged out of respect for a previous piece of law, which guaranteed some rights for illegal immigrants (i.e., that they cannot be deported to a state which will torture them). ACTSA should therefore be seen not solely as a contest between terrorism and the rule of law, but rather a contest between terrorism and various different parts of the law, testing which one will break first.

Secondly, inconsistent with the idea of a fully securitized policy, in 2004 the House of Lords eventually declared ACTSA to be incompatible with the 1998 Human Rights Act. Their reasoning is interesting. They accepted that there was a state of emergency, and furthermore that the government should have a reasonable margin in deciding the existence of such an emergency (Dyzenhaus 2006, 176). However they found fault with the policy (Walker 2007, 1407) on the grounds that it was both disproportionate (the threat these men posed did not justify the removal of their liberty) and discriminatory (it applied only to foreign nationals), and thus breached articles 5 and 14 of the ECHR.

Policy Formulation

Part IV of ACTSA came with a built in “sunset clause”: parliament was required to vote to renew it on a yearly basis. The Law Lords ruling on ACTSA came in December 2004, three months before the next renewal deadline in March 2005. Faced with this decision, the government had four options: release the prisoners entirely; attempt prosecution; ignore the ruling (and risk almost certain prosecution themselves) or devise an alternative legal structure which would not be in breach of their human rights obligations.

The government chose to respond with what they called a “twin track approach”, which they outlined in January 2005². This approach on the one hand attempted to resolve the situation of some of the foreign detainees by seeking to deport them “with assurances” that they would not be tortured, whilst on the other creating a new system of special detention powers known as control orders. These orders, which came into being in March 2005 as part of the Prevention of Terrorism Act, were defined as “an order against an individual that imposes obligations on him for purposes connected with protecting members of the public from a risk of terrorism” (Walker 2007, 1411). Those subject to them could remain in their homes, but could have a huge array of restrictions placed on their daily lives, including curfews, obligations to report to the police on a daily basis, prior checks on visitors to their houses, a ban on group meetings, no access to the internet (the exact mix of restrictions varied from case to case – see Walker 2007, 1412). Enforcement was to be provided through a mixture of police surveillance and electronic tagging.

The main aim of control orders legislation was, clearly, to find a way of detaining the category of suspects which had previously been treated by Part IV of ACTSA in a way that would be considered legitimate, or at least not in breach of the ECHR. The legal process upon which control orders were based resembled that of ACTSA. Whilst court review was taken away from SIAC and passed to the High Court, “the process by which this court review [was] undertaken very

² See House of Commons Hansard debates for 26 Jan 2005, pt4, Column 305

much resembles the SIAC model” (Walker 2007, 1409). The new legitimacy of control orders was therefore established not on the basis of a changed legal procedure, but rather on the idea that an order was less punitive than a custodial sentence (as well as making it applicable to British citizens, which ended the objection of discrimination). In particular, the claim³ was that this type of order would not require derogation from the ECHR under article 5 (liberty).⁴

The idea of non-custodial sentences supported by electronic tagging was not a new one in UK law. Britain already relies heavily on the technology for parolees and bailed prisoners, with over 50,000 individuals electronically tagged in the year leading up to the imposition of control orders (National Audit Office 2006), and their use “has mostly been accepted by the probation and social work staff on whose professional territory it has impinged” (Nellis 2007, 263).

The extension of tagging to terrorists subjects was also not a new idea. The 2003 “Newton Report” made by the Privy Counsellor Review Committee 2003, which was part of the terms of ACTSA, criticised the application of detention without trial, and recommended a number of potential other solutions, including the imposition of “restrictions” which fall short of outright detention (Privy Counsellor Review Committee 2003, paragraphs 250 – 253). This idea was repeated in 2004 by a review of the Joint Committee on Human Rights in their report on the SIAC process. However, in their 2004 response to the Newton report, the Home Office had previously rejected the idea of using electronic tagging of terrorists, arguing that it would not provide sufficient security (Home Office 2004, 27). When they were adopted in 2005, control orders could therefore be said not to be the policy the Home Office desired, but rather the least worst of all available options.

How do these facts fit into the theory of securitization? The fact that a policy was formed so quickly (and one which the government had previously rejected) is consistent with the idea of a security threat which needs to be tackled urgently by any means necessary. What is perhaps interesting for studies of securitisation is that while the theory seems to point towards the potential acceptance of new and radical ideas, in the end the solution developed was based strongly on existing practices in other areas: both appeals processes created to deal with immigration, and technologies created to give non-custodial sentences to offenders. Furthermore, consistent with the way the problem was formed, it is worth noting that the idea of the policy was not so much to provide security per se, but rather to provide a type of security that was *legitimate* in the eyes of the court. Just as the Chahal ruling had pushed ACTSA into detention rather than deportation, the 2004 ruling now transformed detention into a sort of semi-permanent house arrest.

Policy Adoption

The adoption of the 2005 Prevention of Terrorism Act was highly controversial. The government presented the case in exactly the way the theory of securitization would lead us to expect, arguing “that the potentially catastrophic scale of a modern terrorist attack pointed inexorably towards the need for pre-emption” (Nellis 2007, 267). This line of argument was however not wholly successful. Although the bill passed, it attracted strong opposition from within the Labour party, from opposition parties, and from human rights groups such as Justice, Liberty and Amnesty International, and the eventual vote was won by a very small margin.

Beyond the obvious debate about whether the bill as a whole was necessary, two important sub-debates developed which are interesting for securitization. Firstly, there was the extent to which the bill should work within the confines of the British justice system, in particular the extent to which the powers granted to the Home Secretary to enact control orders should be conditioned by judicial review. The control orders legislation as eventually passed allowed the Home Secretary to

³ See House of Commons Hansard debates for 28 Feb 2005, pt21, Column 691

⁴ The 2005 Prevention of Terrorism Act did also include provisions for a second type of “derogating” control order, which would include greater restrictions and would violate article 5 rights. For the purposes of clarity, however, I have omitted derogating orders from this discussion, as to date no such order has been made (Lord Carlile of Berriew 2010, 6).

make control orders himself (see Walker 2007, 1415). Charles Clarke, Home Secretary at the time, expressed the matter as follows:

In either case, whether it is done by the Home Secretary or a judge, the people of the United Kingdom will be better protected if we have a regime of control orders that deals with the people in question...the question that then arises is whether a Minister—the Home Secretary, in this case—is in a better position to make that assessment [whether a control order should be enacted] than a judge. I argue that the Minister would be in a better position to make the assessment...because, by definition, someone from the Executive would have access to all the information in a way that a judge would not. However, I also accept the argument that, in the case of deprivation of liberty, the penalty is so great that judicial involvement is required. That is the basis of the argument that I make.⁵

This argument is interesting for securitization, for two reasons. The first is the crucial position of “intelligence”. The argument being made is that (repeating a claim I made in the introduction) that security is pursued not by power but by accurate judgement. Locating this decision on whether the individual's rights should be suspended at the executive rather than the judiciary, according to Clarke, means more access to information, and hence better decisions. However (if decisions were just objectively better), there would be no reason to include a judge at all. Above access to information, therefore, there is the expectation that the executive will act in a precautionary way, more likely to suspend an individual's rights than to guarantee their liberty. The “balance” between these two forces can then be changed by moving the locus of decision making.

The second is the connection between penalty and procedure. Clarke's argument is essentially that a subject's rights to due process could be reduced if the penalty against him was also reduced. Security, in this sense, is balanced not against liberty per se but against the particular part of the justice system which supposedly guards against miscarriages of justice. Or, to put it another way, the more liberty you have, the less justice. The opposition, of course, argued vociferously against this distinction

The second “sub plot” was the procedural means used by the government in their presentation of the bill, in particular the way in which very limited time was allowed for debate. The limited debating time, called “grotesque” by shadow Attorney General Dominic Grieve⁶ was seen of particular importance given the nature of the bill. As Menzies Campbell of the Liberal Democrats put it:

All legislation is important, but surely no legislation is more important than legislation that might have the effect of depriving the individual citizen of his or her liberty.⁷

In other words, while the securitized nature of the bill provided plausible grounds for haste, it also provided equally plausible grounds to complain about that haste – the nature of the bill, whilst pertaining to security, also altered the very structure of the legal system in the country. The complaints about debating time were therefore less about the complexity of the bill per se, than its potential ramifications. Edward Leigh of the Conservatives put it as follows:

Surely it is a question not just of the number and complexity of the amendments

⁵ See House of Commons Hansard debates for 28 Feb 2005, pt21, Column 691

⁶ See House of Commons Hansard debates for 28 Feb 2005, pt8, Column 650

⁷ See House of Commons Hansard debates for 28 Feb 2005, pt8, Column 653

*but of the principle involved. We are talking about 800 years of legal precedent. I understand that that leaves us one hour [of debating time] for every 100 years of legal precedent.*⁸

The prediction that a securitized policy will be *adopted* faster than the reference “normal” policy is therefore not fulfilled in this instance. Though the difference here is a matter of hours, it is nevertheless significant that the parliamentary debate took up all the time it was allowed in the commons, whilst the House of Lords held one of its longest ever sessions (Walker 2007, 1408 footnote 86). Normal pieces of legislation, not being so controversial, do not take up nearly as much time, and are frequently adopted without a formal vote. One might however hesitantly suggest that a securitized policy could be adopted faster than other *controversial* pieces of legislation, which perhaps remain locked in debate, but further research would be needed to support this comparison.

Policy Implementation

The implementation of control orders is worth examining for two reasons. Firstly, the way the powers have developed highlights how technological and institutional capacities are vital to the way in which a securitized policy eventually manifests itself. This type of control order simply would not have been possible without electronic tagging technology, which itself was introduced due to largely unrelated dynamics in the British penal system. Yet the presence of this technology, combined with the fact that subjects must seek permission to perform almost any act of day to day life has given the Home Secretary a meticulous, fine grained control not only over what they do, but what they can become. In one particularly striking example, a control order subject known as AE was refused permission to attend a local regional college to follow AS-level courses in either biology or chemistry (a high school level course normally taken by students between the ages of 16 and 18). AE's stated aim was to begin studies which would allow him to attend medical school. Permission was refused on the grounds that:

*Attendances of AS level courses in Chemistry and Human Biology would present national security concerns relating to access to materials and opportunities to develop understanding and knowledge in areas that could be used for terrorist-related activities*⁹

The control being exercised here is of a very particular type: over one potential future of one particular individual. Taking the qualification would lead AE down a path where both medical school and terrorism were possibilities. The risk of terrorism meant that medicine was closed off to him (he was later given permission to attend an AS Level English class). This type of control is interesting precisely because of how nuanced it is – not the blunt instrument of prison, but a particular encircling, a closing down of certain paths. Furthermore, it is worth noting that this type of educational restriction was not precisely foreseen by the act, but rather developed through use. Presented with the technological capacity to apparently exercise control over the future of the individual, the government extended a security logic into the training he could take and the type of person he could become.

However, set against this notion of advanced control are the number of notable problems with the orders. The most obvious of these is that, of the 45 individuals placed under a control order, seven successfully absconded. Other detainees have gone to lengths to demonstrate the ease with which they could escape (see e.g. The Guardian 2005). It is also clear from documentaries made about the orders that unauthorised visitors can also come and go relatively unimpeded. Behind the apparent technical sophistication, in other words, lies a reality of extremely patchy

⁸ See House of Commons Hansard debates for 28 Feb 2005, pt7, Column 649

⁹ AE vs Secretary of State for the Home Department - [2008] EWHC 1743 (Admin)

control.

A further problem is with the initial (and always contentious) claim that a non-derogating control order was somehow less of a punishment than prison. Interviews with those who have undergone the orders (Newsnight, 2010) highlight the psychological impact of being controlled in such a way, unable to meet people, unaware of the charges against you, and unconscious of how much longer the condition might persist for (regardless of the fact this confinement occurred in the home or not). There is also the crucial issue of the family of the accused who, occupying the same premises, in a sense suffer the same fate (e.g. regular searches, restrictions on guests). In this sense, it is obvious that while a right to liberty has prevailed in a certain technical, legal sense, the way these individuals experience their lives has not – and in fact may well have got worse. Cerie Bullivant, an individual placed under a control order which has since been quashed, highlights the impossibility of living any type of normal life in that sort of situation:

*one of the liaison officers said that he felt that it would have been good for me to get out and go and get a job doing something else as the control order completely dominated my life. The irony is that I could not get a job without Home Office permission and I would have to find an employer who would not mind the Home Office calling him and asking if he knew I was a terrorist.
(CagePrisoners 2009, 53)*

A final point worth making is that both subjects and their friends quickly “learnt” (in a sort of Foucauldian sense) to regulate their behaviour in a way that could not be deemed suspicious. As control orders could be made on flimsy pieces of evidence such as associations, people unsurprisingly became less willing to associate with the accused. A judgement from a 2009 court decision on a control order is telling:

Continuing social isolation resulted not from obligations imposed by the order but by the unwillingness of friends/ family to seek HO approval to visit. (Lord Carlile of Berriew 2010, 9).

Policy Evaluation

Finally, we come to the stage of evaluation. Three mechanisms of policy evaluation act on control orders in ways which could, and in some instances have, changed the system. Most obviously, control orders are subject to yearly parliamentary approval, but as yet this approval has not been nearly as controversial as the initial passage of the bill. So far the system remains in place. The legislation also called for yearly reports of an independent reviewer (Walker 2007, 1443). The post is currently occupied by Lord Carlile, and the most recent report was released in February 2010. He also continues to support the system (Lord Carlile of Berriew 2010)

More significant perhaps have been the continual judicial challenges to the system, mounted by lawyers of the various men involved. In a particularly significant case in June 2009, which took its lead from a February 2009 decision of the European Court of Human Rights on a number of separate SIAC procedures, the Law Lords ruled that control orders breached article 6 of the ECHR (right to a fair trial), in particular because those subject to control orders were not allowed to know the allegations against them. From this point on, all control orders would require disclosure “sufficient information about the allegations against him to enable him to give effective instructions to the special advocate” (though any evidence lending support to the allegations could still be kept secret – see JUSTICE 2009). This led to the revocation of two control orders, after the government decided that it would rather release the detainees than disclose the necessary information (Lord Carlile of Berriew 2010, 7).

Finally, it is important to note that a change of government, which represents a kind of wholesale evaluation of every policy of the previous administration, has not changed the regime, despite bringing the Liberal Democrats (once fierce critics of the legislation) into power as a junior coalition partner. In fact less than a month after coming into power, the new government issued a further two new control orders. They have ordered their own review of the scheme, whose results are not available at the time of writing; however it appears that the problem of terrorists too dangerous to release but impossible to charge is one that the present government considers real as well, and one with no other obvious solution.

Here then perhaps there is evidence of “path-dependence” (Garud and Karnøe 2001) in security policy. A series of pragmatic decisions can lead policy down a path to an end result which can persist even under a government that pretends to abhor it. Just as security can provide a strong motivating factor for change, it can provide an equally strong barrier against change.

Conclusion

What conclusions can be drawn for the concept of securitized policy from the empirical story outlined above? Firstly, the story of control orders fits well into the concept of securitized policy in a number of ways. The policy arose in response to a security threat, both in terms of a general problem area (terrorism), and a specific sub-problem of that area (the need to restrict the movements of individuals which the justice system cannot charge and the immigration system cannot deport). The policy was drafted quickly, and in a way that favoured risk based, preventative action. It breached a number of fundamental legal rules of the polity, but was nevertheless made into law. The principle argument made for breaching these rules was precisely the justification of an imminent security threat posed by these individuals. In other words, control orders relied heavily on the legitimating function of securitization, which appears the most relevant to the policy context. There was little application of the motivating or unifying functions.

However, there are also a number of areas within which the claims of securitisation must be somewhat nuanced. Firstly, the relevance of existing legal structures is high, and in particular existing systems of rules, not all of which apparently carry equal weight. The system of control orders was born partly out of the government's desire to respect the 2004 Law Lords ruling on ACTSA and the 1997 ruling in the Chahal case. The system constructed does not therefore represent a total suspension of the detainee's rights, but rather a careful selection: rights under articles 8 and 11 are suspended, whilst article 5 is (supposedly) preserved. An important part of the calculation is therefore which rights are easiest to suspend. A system of law may break under a security situation, but perhaps only at the weakest points.

Secondly, the notion that security prompts immediate or uncritical adoption of security policies (if ever believed) can be rejected. Quite the contrary: though control orders were adopted, the debate was fierce, and the eventual margin of votes was low. Furthermore, it was precisely because the policy was a securitized one that involved breaching rules that the debate was so fierce. Whilst security is still a key factor in the passage of a securitized policy, therefore, of equal importance appears to be liberty, and the extent to which the bill violates laws (it is worth noting that the same Labour government lost a vote on another piece of terrorist legislation later the same year).

Thirdly, existing institutional capacities (or, more accurately, perceptions of those capacities) was a key factor. The idea that article 5 liberty could be preserved whilst nevertheless guaranteeing that the subject would be under control relied on the capacity of the police to implement electronic tagging schemes, whilst the legal procedure developed for hearing control orders claims was based largely on that developed by SIAC, a court initially developed for essentially unrelated immigration matters. Many of the initial assumptions on which the scheme was based were proved faulty: several subjects escaped, whilst those that remained, whilst technically free, nevertheless an intense kind of virtual prison, the suffering of which has been evident.

Fourthly, it is interesting to note the changing positions of securitizing actor and audience

over time. These roles, clearly, are defined not only by the type of securitization in play, but by the stage which the policy is at. At the stage of adoption, for instance, society at large, through the proxy of the legislature, is drawn into a debate over whether these individuals constitute a threat, and if so what response is appropriate. But at the stage of implementation, these actors fade into the background: the actor in a sense becomes the threat itself, petitioning the Home Office to take a particular qualification, arguing against their own categorisation as a threat, whilst the former securitizing actor is now the audience of these petitions, with the power to decide exactly which aspects of life cause threat.

Finally, despite these apparently negative results, the scheme has persisted, even (so far) surviving the arrival of a new government which had opposed the scheme in opposition. Perhaps mirroring Barack Obama's inability to close Guantanamo Bay, control orders have survived simply because no-one has been able to come up with a better way of resolving both the security and liberty issues bound up in the case. Here, security becomes one part in a complex path of decisions which are currently preserving a manifestly illogical status quo, where those cooperating with the orders live in misery, whilst those wishing to escape are able to easily do so.

All of the above highlights the importance of the concept developed in this paper. Securitized policy extends the securitization framework by allowing focus to fall on the construction of security, which in the case of many contemporary security threats will involve the creation and implementation of policy. As Buzan and Waever argue, there is nothing about the characteristics of a situation that can be used to determine objectively if it is a security situation. But, equally, there is nothing about the way it is discursively constructed that leads automatically to policy implementation. As the complexity of the situation increases, the range of actors who shape the outcome grows, and the process as a whole may end up producing quite contradictory results.

Bibliography

- Austin, John.** 1972. *How to Do Things with Words*. Oxford: Oxford University Press.
- Anderson, James E.** 1975. *Public Policy-Making*. New York: Praeger.
- Andreas, Peter.** (2003) Redrawing the Line: Borders and Security in the 21st Century. *International Security*, 28:2, 78-111.
- Balzacq, Thierry.** 2005. The Three Faces of Securitization: Political Agency, Audience and Context. *European Journal of International Relations*, 11:2, 171-201
- Bhatwal-Datta, Monika.** 2009. Securitising Threats without the State: A case study of misgovernance as a security threat in Bangladesh. *Review of International Studies*. 35, 277-300.
- Boswell, Christina.** 2007. Migration Control in Europe After 9/11: Explaining the Absence of Securitization. *Journal of Common Market Studies*. 45:3, 589-610.
- Buzan, Barry, Ole Waever and Jaap de Wilde.** 1998. *Security: A New Framework for Analysis*. London: Lynne Rienner.
- Buzan, Barry and Ole Waever.** 2003. *Regions and Powers: The Structure of International Security*. Cambridge: Cambridge University Press
- Buzan, Barry and Ole Waever.** 2009. Macrosecuritization and security constellations: reconsidering scale in securitization theory. *Review of International Studies* 25, 253-276
- Buzan, Barry.** 1991. *People, States and Fear: An Agenda For International Security Studies In The Post-Cold War Era*. London: Harvester Wheatsheaf.
- Buzan, Barry.** 2006. Will the 'global war on terrorism' be the new Cold War? *International Affairs*, 82:6, 1101-1118
- Buzan, Barry and Lene Hansen.** 2009. *The Evolution of International Security Studies*. Cambridge: Cambridge University Press.
- CagePrisoners.** 2009. *Detention Immorality. The impact of UK domestic counter-terrorism policies on those detained in the war on terror*. London: CagePrisoners
- Castells, Manuel.** (2010) *The Information Age: Economy, Society, and Culture*. Oxford: Wiley-Blackwell.
- Ciuta, Felix.** 2009. Security and the problem of context: a hermeneutical critique of securitisation theory. *Review of International Studies*. 35, 301-326.
- Collins, Alan.** 2005. Securitization, Frankenstein's Monster, and Malaysian Education. *The Pacific Review* 18:4, 567-588
- Constitutional Affairs Committee.** 2005. *The operation of the Special Immigration Appeals Commission (SIAC) and the use of Special Advocates*. London: The Stationery Office.
- deLeon, Peter.** 1999. The Stages Approach to the Policy Process: What Has it Done? Where is it Going? In: *Theories of policy Process*, ed. Paul A. Sabatier, Boulder: Westview Press.

Dunn Cavelty, Myriam. 2005. Securing the Information Age: The Twin-Forces of Complexity and Change and IR Theory. *Paper presented at the annual meeting of the International Studies Association, Le Centre Sheraton Hotel, Montreal, Quebec, Canada.*

Dunn Cavelty, Myriam, Victor Mauer and Sai Felicia Krishna-Hensel. Eds. 2007. *Power and Security in the Information Age.* Aldershot: Ashgate.

Dyzenahus, David. 2006. *The Constitution of Law: Legality in a Time of Emergency.* Cambridge: Cambridge University Press.

Elbe, Stefan. 2006. Should HIV/AIDS be Securitized? The Ethical Dilemmas of Linking HIV/AIDS and Security. *International Studies Quarterly*, 50: 1

Elhefnawy, Nader. 2004. Societal Complexity and Diminishing Returns in Security. *International Security* 29:1, 152-174

Feaver, Peter. 1998. Blowback: Information warfare and the dynamics of coercion. *Security Studies*, 7:4, 88-102.

Floyd, Rita. 2007. Towards a consequentialist evaluation of security: bringing together the Copenhagen and the Welsh Schools of security studies. *Review of International Studies* 33, 327-350

Garud, Raghu and Peter Karnøe, eds. 2001. *Path Dependence and Creation.* Mahwah: Lawrence Erlbaum.

The Guardian. 2005. Control orders flaws exposed. Thursday, 24 March. Available from: <http://www.guardian.co.uk/politics/2005/mar/24/uk.terrorism>

Hammes, Thomas. 2006. *The Sling and the Stone.* St. Paul: Zenith

Hansen, Lene. 2000. The Little Mermaid's Silent Security Dilemma and the Absence of Gender in the Copenhagen School. *Millenium – Journal of International Studies* 29:2, 285-306.

Hansen, Lene and Helen Nissenbaum. 2009. Digital Disaster, Cyber Security, and the Copenhagen School. *International Studies Quarterly* 53, 1155-1175

Home Office. 2004. Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society: A Discussion Paper. London: The Stationery Office.

Huysmans, Jef. 2006. *The Politics of Insecurity: Fear, migration and asylum in the EU.* London: Routledge.

Joint Committee on Human Rights. 2004. Anti-terrorism, Crime and Security Act 2001: Statutory Review and Continuance of Part 4. London: The Stationery Office.

JUSTICE. 2009. *AF and others v Secretary of State for the Home Department:* JUSTICE press briefing. London: JUSTICE

Lord Carlile of Berriew. 2010. Fifth Report of the Independent Reviewer Pursuant to Section 14(3) of the Prevention of Terrorism Act 2005. London: The Stationery Office.

Lutterbeck, Derek. 2005. Blurring the Dividing Line: The Convergence of Internal and External Security in Western Europe. *European Security*. 14:2, 231-253.

McDonald, Matt. Securitization and the Construction of Security. *European Journal of International Relations*, 14:4, 563-587

McSweeney, Bill. 1996. Identity and Security: Buzan and the Copenhagen School. *Review of International Studies*, 22:1, 81-93.

National Audit Office. 2006. The Electronic Monitoring of Adult Offenders. London: The Stationery Office.

Neal, Andrew. 2009. Securitization and Risk at the EU Border: The Origins of FRONTEX. *Journal of Common Market Studies*. 47:2, 333-356

Nellis, Mike. 2007. Electronic Monitoring and the Creation of Control Orders for Terrorist Suspects in Britain. In: *Islamic Political Radicalism: A European Perspective*, ed. Tahir Abbas, Edinburgh: Edinburgh University Press

Newsnight. 2010. Terror suspect speaks about life under “house arrest”. Wednesday, 16 June. Available from: <http://news.bbc.co.uk/2/hi/programmes/newsnight/8743947.stm>

Privy Counsellor Review Committee. 2003. Anti-terrorism, Crime and Security Act 2001 Review: Report. London: The Stationery Office.

Roe, Paul. 2008. Actor, Audience(s) and Emergency Measures: Securitization and the UK’s Decision To Invade Iraq. *Security Dialogue* 39:6, 615-635

Sabatier, Paul A. 1999. The Need for Better Theories. In: *Theories of policy Process*, ed. Paul A. Sabatier, Boulder: Westview Press.

Schmitt, Carl. 1985. Political Theology. Trans: George Schwab. Chicago: University of Chicago Press.

Strizel, Holger. 2007. Towards a theory of securitization: Copenhagen and beyond. *European Journal of International Relations*, 13:3, 357-383

Taureck, Rita. 2006. Securitization theory and securitization studies. *Journal of International Relations and Development* 9, 53-61

Thayer, Bradley. 2000. The Political Effects of Information Warfare: Why New Military Capabilities cause Old Political Dangers. *Security Studies* 10:1, 43-85

Tierney, Stephen. 2005. Determining the State of Exception: What role for parliament and the courts? *The Modern Law Review*, 68, 668-672

Ven Bruusgaard, Kristin, and Kristian Åtland. 2009. When Security Speech Acts Misfire: Russia and the Elektron Incident. *Security Dialogue* 40:3, 333-353.

Vaughan, Jocelyn. 2009. The Unlikely Securitizer: Humanitarian Organizations and the Securitization of Indistinctiveness. *Security Dialogue* 40:3, 263-285.

Vuori, Juha A. 2008. Illocutionary Logic and Strands of Securitization: Applying the Theory of

Securitization to the Study of Non-Democratic Political Orders. *European Journal of International Relations*, 14:1, 65-99

Walker, Clive. 2007. Keeping control of terrorists without losing control of constitutionalism. *Stanford Law Review*. Vol 59, 1395-1463.

Waever, Ole. 1995. Securitization and Desecuritization. In: Ronnie Lipschutz, *On Security*. New York: Columbia University Press.

Waever, Ole. 2003. Securitization: Taking stock of a research programme in security studies. Unpublished manuscript.

Werner, Wouter. 1998. Securitisation and Legal Theory. COPRI Working Paper no.27

Werner, Wouter. 2001. Securitization and Judicial Review: A Semiotic Perspective on the Relation Between the Security Council and International Judicial Bodies. *International Journal for the Semiotics of Law* 14:4, 345-366.

Williams, Michael C. 2003. Words, Images, Enemies: Securitization and International Politics. *International Studies Quarterly*. 47:4, 511-531.

Wilkinson, Claire. 2007. The Copenhagen School on Tour in Kyrgyzstan: Is Securitization Theory Usable Outside Europe? *Security Dialogue* 38:1, 5-25
