

Parallels with the hate speech debate: the pros and cons of criminalising harmful securitising requests

Rita Floyd*

Birmingham Fellow in Conflict and Security, University of Birmingham

Abstract

This article argues that public expressions of Islamophobia are best understood as *securitising requests* (that is, calls on powerful figures/bodies to treat an issue in security mode so that extraordinary measures can be used to combat it), especially in those cases where Muslims are feared and disliked because of the perception that Islamic people are prone to terrorism. This article argues that harmful and derogatory securitising requests targeting racial, ethnic, or religious minorities are on par with hate speech and it highlights the fact that many contemporary societies are now seeking legal protections against such security speech (expressed most notably in the desire to ban Islamophobia). It is from this perspective that this article poses an important research question: With a view to protecting those adversely affected, are legal protections against harmful and offensive securitising requests justified? The research question can be answered by drawing parallels to the existing hate speech debate in legal and political theory. The research reveals that, although the case against legal protections of harmful and defamatory security speech is ultimately more convincing, security speech alone can be so damaging that it should be informed by a number of ethical considerations. This article goes on to suggest three criteria for governing the ethics of requesting securitisation. As such this article fills a lacuna in the ‘positive/negative debate’ on the ethics of security that has engaged with securitisation, but that has failed to consider the ethics of speaking security.

Keywords

Securitisation; Hate Speech; PEGIDA; Muhammad Cartoon Crisis; Harm; Islamophobia; Positive/Negative Debate; Security

Introduction

One consequence of the terrorist attacks in France, Brussels, Nice, and Germany in 2015 and 2016 and the ongoing migrant crisis is the rise of populist right-wing movements and parties across the European continent. These groups have used the recent terrorist attacks to increasingly portray refugees and migrants (especially those of Muslim origin), as threats to security. In Germany, the leader of the Alternative for Germany (Alternative für Deutschland or AfD) Frauke Petry, for instance, requests that the German government secures Germany’s external border and has recommended that police and border guards should not rule out using firearms against illegal refugees if they do not respect the sovereignty of territorial borders.¹ Her suggestion was backed by

* Correspondence to: Dr Rita Floyd, Department of Political Science and International Studies, University of Birmingham, Muirhead Tower, Edgbaston, B15 2TT, UK. Author’s email: r.floyd@bham.ac.uk

¹ Zeit online, ‘AfD will Flüchtlinge notfalls mit Waffengewalt stoppen’ (2016), available at: (<http://www.zeit.de/politik/deutschland/2016-01/frauke-petry-afd-grenzschutz-auf-fluechtlinge-schiessen>) accessed 3 March 2016.

several high-ranking AFD politicians, including, initially at least, Petry's deputy Betrix von Storch and AFD MEP Marcus Pretzell.²

In a similar vein, after the initial (and later dismissed as false) speculation that the perpetrators of the November 2015 Paris attacks were refugees, and that 'terrorist-refugees' were planning similar attacks in Munich. Lutz Bachman, leader of the PEGIDA (Patriotic Europeans Against the Islamisation of the West), movement spoke (on Twitter) of 'RefugeeISIS' – not refugees.³ Likewise after the 2015 New Year's Eve events in Cologne, where approximately eighty women were sexually assaulted and/or mugged by up to a thousand young men with migrant backgrounds, and consecutive similar incidents in numerous public swimming pools and discotheques, Bachman (during a Facebook video post) was wearing a T-shirt with the slogan 'Rapefugees not welcome', seemingly declaring that all refugees are security threats to (German) women wherever they go.⁴ Bachman uses these crass expressions to underline PEGIDA's request to German politicians that they secure borders and also German identity. In his own words: 'we [PEGIDA] demand here today, the creation of tougher immigration laws ... modelled on the example of Canada or Switzerland. Deportation ... of Islamists and religious fanatics. More means for national security [Innere Sicherheit] ... to deal with new threats and challenges.'⁵

The social and political construction – in language and lately also in visual depiction – of security threats has been a major concern for critical security studies for many years, evinced by the popularity of the Copenhagen School's securitisation theory.⁶ In security studies, securitisation refers to the process by which an issue is removed from the ordinary democratic process and placed in the realm of the high politics of security, where conventional rules no longer apply and where extraordinary means may be used to address the issue.⁷ For many scholars in the field, a case of successful securitisation consists of both a securitising move (a speech act that declares an entity as threatening) coupled with audience acceptance and palpable, usually extraordinary, security action;⁸ it does not refer to security measures that successfully avert a (perceived) threat. This article argues that Bachmann and Petry's remarks are best understood as *securitising requests*, which is to say rhetorical moves aimed at persuading others (usually more powerful actors) to securitise, but that are not in and of themselves successful securitisation. The scholar Juha Vuori puts the logic of these sorts of securitising speech acts in more technical terms:

The perlocutionary effect intended by [securitising requests], is to convince decision makers of the urgency of a threat, so that they will agree to raise the issue onto their agenda and effect the suggested measures. The illocutionary point ... is directive, as the point is to try to get other

² Stern, 'AfD-Vize von Storch: Schusswaffen-Äußerung war Fehler' (2016), available at: {<http://www.stern.de/politik/deutschland/afd-vize-von-storch-schusswaffen-aeusserung-war-fehler-6692738.html>} accessed 3 March 2016.

³ L. Harding, 'Pegida Leader Criticised for Linking Munich Terror Plot to Refugee Intake' (2016), available at: {<http://www.theguardian.com/world/2016/jan/01/pegida-leader-lutz-bachmann-linking-munich-terror-plot-with-refugee-intake>} accessed 3 March 2016.

⁴ Die Welt/N24, 'Grüner zeigt Bachmann wegen Volksverhetzung an' (2016), available at: {<https://www.welt.de/politik/deutschland/article150828327/Gruener-zeigt-Bachmann-wegen-Volksverhetzung-an.html>} accessed 10 July 2017.

⁵ L. Bachmann, 'Rede von Lutz Bachman auf der Pegida – Demonstration am 12 January 2015 in Dresden' (2015), available at: {<http://www.menschen-in-dresden.de/wp-content/uploads/2015/01/Pegida-Rede-Lutz-Bachmann-12.-Januar-2015.pdf>}, my translation.

⁶ B. Buzan, O. Wæver, and J. de Wilde, *Security: A New Framework for Analysis* (Boulder, CO: Lynne Rienner, 1998).

⁷ Ibid.

⁸ Ibid.; T. Balzacq (ed.), *Securitization Theory: How Security Problems Emerge and Dissolve* (Abingdon: Routledge, 2011).

people to do things, to get the hearer to carry out the course of action as represented by the propositional content e.g., to do X in order to repel threat Y.⁹

The concept of securitising requests is important because it theoretically captures that securitising actors and their securitising moves do not exist in a political vacuum; rather they are influenced by a variety of actors including political advisors, opposition politicians, public intellectuals, newspaper editors, and ordinary people. In other words, by actors whose intention in speaking security is not to announce, or seek legitimation for the use of potentially extraordinary measures, but rather by actors who seek for others – more powerful actors – to securitise. In Western liberal democracies, the media (specifically tabloid newspapers) serve as perhaps the most important entities in requesting securitisation. In the United Kingdom, for example, the *Daily Mail* has for years requested the securitisation of migration,¹⁰ and as such influenced the BREXIT referendum; both the initial decision to hold a referendum as well as its outcome.¹¹ Although the logic of securitising requests is implicitly recognised by many scholars, it is common practice to refer to all instances of security speech as securitising moves. In other words, this article is also an opportunity to clear up this conceptual oversight within securitisation studies.

While the concept of securitising requests is important in its own right (notably how precisely they influence securitising actors), this article is primarily concerned with ethics of speaking security. Securitising requests are important in this context. Not only do they highlight that by speaking security actors do distinct things (that is, advance towards securitisation or else request that other actors securitise), but also a focus on securitising requests enables a focus on a much larger group of people than attention to securitising actors and their securitising moves would allow. Nonetheless, since both securitising requests and securitising moves are forms of speaking security, any recommendations concerning the ethics of security speech following this analysis apply to both forms of security speech.

In order to probe the ethics of speaking security this article starts by suggesting that securitising requests that are harmful and derogatory to racial, ethnic, or religious minorities are best understood as expressions tantamount to hate speech. Specifically, it is suggested that even in cases where the securitising request is not expressed using overtly offensive language; the identification of a minority as threatening simply because of *who* they are changes the minority's standing in society and its effects are thus on a par with those of hate speech.

The equation of certain forms of security speech with hate speech is an important one. It draws attention to the fact that the existing hate speech debate, which is focused primarily on racism, downplays the concept that harmful speech can also be motivated by genuine fear.¹² PEGIDA, for instance fears not only the threat posed from terrorist migrants/refugees but also the loss of German

⁹ J. A. Vuori, 'How to do Security with Words: A Grammar of Securitization in the People's Republic of China' (unpublished manuscript, University of Turku, Finland, 2011), p. 197.

¹⁰ V. Squire, *The Exclusionary Politics of Asylum* (Basingstoke: Palgrave, 2009), p. 85; see also E. W. Said, *Covering Islam: How the Media and the Experts Determine How we see the Rest of the World* (London: Vintage Books, 1997).

¹¹ Cf. F. Vultee, 'Securitization as a media frame: What happens when the media "speak security"', in Balzacq (ed.), *Securitization Theory*, pp. 77–93; S. Croft, *Securitising Islam* (Cambridge: Cambridge University Press, 2012), p. 213.

¹² In the context of the Muhammad cartoon crisis, for example one popular argument was 'that equating Islam with terrorism, violence, and death is ... racism'. E. Bleich, 'On democratic integration and free speech: Response to Tariq Modood and Randall Hansen', *International Migration*, 44:5 (2006), pp. 17–22 (p. 17).

identity due to Islamisation.¹³ Hence the issue is not whether or not one has the right to express racist views, but instead, whether or not one may express fear even in the starkest possible terms. The link between security speech and hate speech also shows – as will be argued later – that harmful or derogatory security speech can cause retaliation by those offended, leading to real insecurity for societies in which the security speakers reside, while it can also stimulate hate crimes against minorities.

Most importantly – for the purposes of this article – the link between hate speech and some forms of security speech highlights the fact that legal protections are increasingly being sought against specific kinds of harmful and offensive securitising requests. For the most part this takes the form of politicians, organisations, and parties seeking the elevation of public expressions of Islamophobia¹⁴ to a criminal act. Before I can provide details, it is important to stress at this point that Islamophobia is ill defined and its meaning contested.¹⁵ The Runneymede Report, *Islamophobia: A Challenge for Us All* from 1997, which has been instrumental in establishing the term in popular debate, defines Islamophobia as ‘the dread, hatred and hostility towards Islam and Muslims perpetrated by a series of closed views that imply and attribute negative and derogatory stereotypes and beliefs to Muslims’.¹⁶ Strictly speaking, and as Chris Allen has convincingly argued, the conceptual ‘phenomenon’ of Islamophobia¹⁷ denotes a hatred of Islam, while ‘expressions’ of Islamophobia ‘target religious or theological tenants of Islam’.¹⁸ For the most part, however, as Fred Halliday notes ‘expressions of Islamophobia are ‘anti-Muslim’ rather than ‘anti-Islamic’. The rhetoric is against people, not religion’,¹⁹ and the term Islamophobia etymologically incorrect. Consequently many analysts now think that what is generally referred to as Islamophobia is really racism, specifically (cultural) racism and racialisation.²⁰ In addition to the fact that racism here is a problematic label, because ‘Muslims are not a “race”’,²¹ an exclusive focus on racism obscures that – for all its problems – Islamophobia is also about fear. Attributing ‘fear’ and ‘phobia’, however, runs the risk of exonerating the person having the phobia because a phobia is an ‘illness’.²² Consequently, if as I do here, one wishes to highlight the fear element in Islamophobia, it is important to recognise that some of this might be caused by already existing racism, while racism itself might also be caused by fear.

¹³ L. Bachmann, ‘Eröffnungsrede Lutz Bachmann’, PEGIDA, Dresden (1 December 2014), p. 3, available at: http://www.nachdenkenseiten.de/upload/pdf/141219_pegida_mitschrift.pdf, accessed 10 July 2017.

¹⁴ It should be noted that not all expressions of anti-religious or blasphemous speech are hate speech. Tariq Modood suggests, for example, that the Danish newspaper’s intention in publishing the cartoon was to ‘bring Muslims in line’ and ‘to teach Muslims a lesson’. T. Modood, ‘The liberal dilemma: Integration or vilification?’, *International Migration*, 44:5 (2006), pp. 4–7 (p. 5); see also J. Carens, ‘Free speech and democratic norms in the Danish cartoons controversy’, *International Migration*, 44:5 (2006), pp. 33–44 (p. 34).

¹⁵ See, for example, C. Allen, *Islamophobia* (Abingdon: Routledge, 2010); S. Sayyid and A. Vakil, *Thinking through Islamophobia: Global Perspectives* (London: Hurst & Company, 2010); and J. L. Esposito and I. Kalin (eds), *Islamophobia: The Challenge of Pluralism in the 21st Century* (Oxford: Oxford University Press, 2011).

¹⁶ Cited in J. L. Esposito, ‘Introduction’, in Esposito and Kalin (eds), *Islamophobia*, pp. xxi–xxxv (p. xxiii).

¹⁷ The threshold for what sort of thing counts as Islamophobia is different for different people because – it is widely acknowledged – that some people (mainly Muslim leaders) use it to knock down legitimate criticisms of Islam. Allen, *Islamophobia*, p. 3.

¹⁸ *Ibid.*, pp. 15, 36.

¹⁹ Cited in *ibid.*, p. 135.

²⁰ N. Meer and T. Modood, ‘Refutations of racism in the “Muslim question”’, *Patterns of Prejudice*, 43:3–4 (2009), pp. 335–54; N. Meer, ‘Racialization and religion: Race, culture and difference in the study of anti-Semitism and Islamophobia’, *Ethnic and Racial Studies*, 36:3 (2013), pp. 385–98.

²¹ Sayyid and Vakil, *Thinking through Islamophobia*, p. 13.

²² *Ibid.*, p. 12; Allen, *Islamophobia*, p. 136.

With this in mind, let me now turn to the empirical examples demonstrating the increased desire to criminalise Islamophobia. In the United Kingdom for example, the former Labour leader Ed Miliband – in the run up to the 2015 election – vowed to make Islamophobia illegal.²³ Meanwhile the Subcommittee on the Constitution and Civil Justice within the United States House of Representatives is currently discussing a bill (Resolution 569, sponsored by Donald S. Beyer Jr of the Democratic party) that seeks to condemn ‘violence, bigotry, and hateful rhetoric against Muslims in the United States’;²⁴ (even though the US constitution does not include hate speech protections. In Germany, Section 130 of the German Criminal Code ‘incitement to hatred’, which has its origin in Germany’s holocaust, has been amended twice in recent years and the law now prohibits ‘defaming segments of the population’ in speech and/or written materials.²⁵ Moreover, since the fatal shooting at the French satirical magazine *Charlie Hebdo* and the terrorist attacks in Paris in November 2015, non-state actors and individuals are urging the European Union (EU) to consider a Europe-wide ban on Islamophobia,²⁶ as such events – like the London 7/7 bombings and similarly-motivated terror attacks – have led to an increase in hate speech and hate crimes against Muslims. Finally, in response to the Danish cartoon crisis, the United Nations General Assembly and its Human Rights Commission (UNHRC) passed a special resolution (on 26 March 2009) ‘condemning the “defamation of religion” as a human rights violation’.²⁷

In light of these empirical developments, the principal research question addressed in this article is this: With a view to protecting those adversely affected, are legal protections against specific kinds of harmful and offensive securitising requests justified? In order to answer the research question, this article draws parallels to the longstanding debate on hate speech protections in legal and political theory that arose in the context of such provisions in some states (most European states) but not others (notably the United States). The key issue is whether utterers of securitising requests should be allowed to ‘say’²⁸ what they like in line with the right to free speech as is (most prominently) stated in the US Constitution’s first amendment, or should the language and visuals of such securitising requests be curtailed in the way hate speech is in many European countries under various statutes, most commonly criminal codes.²⁹

Analysing security requests using this lens, reveals that security speech, as opposed to securitisation (here: successful/satisfied only after policy change has occurred), merely causes indirect harm (that is, it leaves people feeling insecure and/or offended), while criminalisation is a proportionate response only to direct harm. Instead of advocating criminalisation, this article suggests that people

²³ H. Chapman, ‘Labour would outlaw Islamophobia, says Miliband in an exclusive interview’, *The Muslim News* (24 April 2015).

²⁴ See {<https://www.congress.gov/bill/114th-congress/house-resolution/569/all-info>}.

²⁵ German Criminal Code, ‘Section 130: Incitement to Hatred’ (2015), available at: {http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p1241} accessed 3 March 2016. Bachman was charged for ‘Volksverhetzung’ for ‘Rapefugees not welcome’ under this amended law in May 2016. Petry, who had been reported separately to the authorities for the firearm remark, was not followed up by the prosecutor in Mannheim in February 2016, as the remark was deemed in line with freedom of speech. Noteworthy is that Petry had done much to downplay and ameliorate the remark immediately after it was made.

²⁶ L. Cerulus, ‘It’s Time to Take Action Against Islamophobia in Europe’ (2016), available at: {<http://www.euractiv.com/section/languages-culture/opinion/its-time-to-take-action-against-islamophobia-in-europe/>} accessed 7 March 2016.

²⁷ J. Waldron, *The Harm in Hate Speech* (Cambridge, MA: Harvard University Press, 2012), p. 124.

²⁸ In inverted commas here, because it technically also includes visuals.

²⁹ The Legal Project, ‘European Hate Speech Law’ (2015), available at: {<http://www.legal-project.org/issues/european-hate-speech-laws>} accessed 22 April 2015.

ought to act in a socially and politically responsible manner and consequently, request securitisation ethically.

This article sketches out three substantive criteria governing the ethics of requesting securitisation. The criteria advanced concern when to request securitisation and how to do so, and utilise existing research on ‘just securitisation’.³⁰ As such, this article also seeks to be an important contribution to the ‘positive-negative’ debate on security/securitisation featured primarily in the *Review of International Relations*,³¹ that has made much of the ethics of securitisation, but that hitherto failed to engage with the ethics of speaking security.

This article is structured as follows: Section I advances the concept of securitising requests as distinct from securitising moves and securitisation. Section II examines the case for advocating legal protections against harmful security speech utilising key insights from the hate speech debate found in legal and political theory. Section III outlines the case against such protections following the same method. Section IV sets forth three criteria governing the ethics of requesting securitisation. The conclusion summarises the argument advanced.

I. What are securitising requests and how are they distinct from securitising moves and successful securitisation?

The concept of securitisation originates from the work of the Copenhagen School, and specifically from that of one of its key members, Ole Wæver. After the Cold War, security policy both widened and deepened to include non-traditional security issues (for example, environmental degradation, economic decline, and migration) and referent objects of security policy other than the state (for example, the environment, large banks).³² Securitisation theory is able to capture analytically many of these new forms of security because it holds that security is a social and political construction, whereby issues become security threats only when they are considered to be that by relevant actors. In other words, it does not matter as such whether threats are objectively present (that is, real).

Today, securitisation scholarship comprises a number of competing strands of securitisation, many of which have extended, refined, and clarified important aspects of the Copenhagen School’s original theory.³³ In part, this theoretical work is driven by numerous inconsistencies and even contradictions in the Copenhagen School and/or Wæver’s work. For purposes of this article, it is important to note

³⁰ R. Floyd, ‘Can securitization theory be used in normative analysis? Towards a just securitization theory’, *Security Dialogue*, 42:4–5 (2011), pp. 427–39; R. Floyd, ‘Just and unjust desecuritization’, in T. Balzacq (ed.), *Contesting Security* (Abingdon: Routledge, 2015), pp. 122–38; R. Floyd, ‘The promise of just securitization theories’, in Jonna Nyman and Anthony Burke (eds), *Ethical Security Studies: A New Research Agenda* (London: Routledge, 2016).

³¹ See, for example, R. Floyd, ‘Towards a consequentialist evaluation of security: Bringing together the Copenhagen School and the Welsh School of security studies’, *Review of International Studies*, 33:2 (2007), pp. 327–50; P. Roe, ‘The “value” of positive security’, *Review of International Studies*, 34 (2008), pp. 777–94; G. Hoogensen Gjørsv, ‘Security by any other name: Negative security, positive security, and a multi-actor approach’, *Review of International Studies*, 38:4 (2012), pp. 835–59; and J. Nyman, ‘What is the value of security? Contextualising the negative/positive debate’, *Review of International Studies*, 92:5 (2016), pp. 821–39.

³² B. Buzan and L. Hansen, *The Evolution of International Security Studies* (Cambridge University Press, 2009).

³³ See, for example, various in Balzacq (ed.), *Securitization Theory*; M. C. Williams, ‘Words, images, enemies: Securitization and international politics’, *International Studies Quarterly*, 47 (2003), pp. 511–31; L. Hansen,

that there is some confusion over when securitisation ‘succeeds’. The Copenhagen School appears to vacillate between tying the success of securitisation to the acceptance of the securitising move by an audience (for example, in the case of terrorism in the United Kingdom, when the general public has accepted that there is a terrorist threat) and the adoption of extraordinary measures and/or exceptional means (for example, in the UK terrorism case when exceptional policy change occurred). Thus, on the one hand, they argue that securitisation is defined by ‘three components (or steps): existential threats, emergency action, and effects on interunit relations by breaking free of rules’,³⁴ suggesting that extraordinary emergency measures are a necessary part of securitisation because rules are tantamount to ‘the normal way’.³⁵ On the other hand, some passages of the seminal Buzan et al.’s *Security: A New Framework for Analysis* suggest that securitisation is not decided by the use of extraordinary emergency measures in that same way. Instead, it argues that ‘we do not push the demand so high as to say that an emergency measure has to be adopted, only that the existential threat has to be argued’;³⁶ while in his single authored work, Wæver has repeatedly stated that “‘security” [is] a speech act’.³⁷

As a consequence, some scholars have argued that if the linguistic speech act element, which is seemingly so central to original securitisation theory is taken seriously, then securitisation succeeds at the point of audience acceptance (for example, in the case of the securitisation of terrorism in the United Kingdom, securitisation succeeds when the general public accepts arguments put forward by the executive that there is a terrorist threat), and adoption of security measures does not come into it. Vuori, for example, writes that ‘security measures and their public securitisation are theoretically and at times even practically separate from each other, and thereby the application of security practices cannot be a sufficient criterion for the success of securitisation’.³⁸ In this vein he goes on to identify five types of ‘securitisation’: ‘(1) securitisation for raising an issue on the agenda; (2) securitisation for deterrence; (3) securitisation for legitimating past acts or for reproducing the security status of an issue; and (4) securitisation for control’ in addition to (5) ‘securitisation for legitimating future acts’, which he attributes to Wæver.³⁹ Vuori overlooks, however, that the Copenhagen School actually differentiates between securitisations that, we may say (merely) exist (that is, at the point of audience acceptance) and those that are successful (meaning when, in addition to a relevant audience accepting a securitising request, security measures are adopted).⁴⁰ In the case of UK terrorism, for example, this refers to the various new laws and police powers that came after. The reason why the school draws this distinction is that the former leaves one unable to sort the ‘important cases [of securitisation] from the less important ones’, because ‘many actions can take [the securitisation form] on a small scale’.⁴¹

In successful securitisation, then, at least for the Copenhagen School, securitisation and security measures are not separate processes at all, while the securitising move is a part of securitisation

‘The Little Mermaid’s silent dilemma and the absence of gender in the Copenhagen School’, *Millennium*, 29:2 (2000), pp. 285–306.

³⁴ Buzan, Wæver, and de Wilde, *Security*.

³⁵ *Ibid.*

³⁶ *Ibid.*, p. 25.

³⁷ O. Wæver, ‘Securitization and desecuritization’, in Ronnie D. Lipschutz (ed.), *On Security* (New York: Columbia University Press, 1995), p. 55.

³⁸ Vuori, ‘How to do Security with Words’, fn. 98.

³⁹ J. A. Vuori, ‘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 (2008), p. 76.

⁴⁰ A. Collins, ‘Securitization, Frankenstein’s Monster and Malaysian education’, *Pacific Review*, 18:4 (2005), pp. 567–88.

⁴¹ Buzan, Wæver, and de Wilde, *Security*.

(successful or otherwise). Moreover, in successful securitisations, utterers of securitising moves and securitising actors are one and the same; indeed, securitising actors use language to – in Vuori’s terms – legitimate past or present action, to deter and to control, in ways that they then act on. Or, as I have argued elsewhere, *bona fide* securitising actors⁴² use language either to warn off an ‘aggressor’ (loosely: any agent at the source of a threat) or to promise protection to a referent object, or, in some cases, to do both.⁴³ This said, however, it is possible for other actors to speak security. Securitising actors (mostly) speak security in order to move or advance further in the direction of securitisation,⁴⁴ for example, by seeking acceptance from a designated audience for the necessary policy change.⁴⁵ Other speakers of security, however, have neither the intention nor the capabilities to perform securitisation.⁴⁶ Instead, their purpose in speaking security is to *request* securitisation from another – usually more powerful – entity.⁴⁷ Vuori refers to this as agenda-setting ‘securitisation’, but he is an exception, most other scholars indiscriminately use the term securitising move for all instances of speaking security, even if many, at least implicitly, recognise different logics informing security speech.⁴⁸ It is reasonable to suggest that this conceptual oversight stems from the fact that for many scholars securitisation is satisfied/succeeds at the point of audience acceptance, regardless what follows on from this. If, however, we accept that successful securitisation involves policy change we can see that security speech serves different purposes. Securitising requests are separate from securitising moves because they are not uttered with the intention to legitimate, explain, or announce behaviour that will follow or that has gone before; instead, they are addressed to those in a position to conduct successful securitisation (for example, to those that can enact policy change).⁴⁹

⁴² Without going into excessive detail, it can be argued that securitisation scholarship ought to be more consistent with regards to terminology. It is misleading to label anyone who can utter a securitising speech act a securitising actor; instead the securitising *actor* is the one who either *acts* on the threat, or who is in a position of power to instruct others to *act* (but of course this holds only if one believes that successful securitisation involves policy change).

⁴³ R. Floyd, *Security and the Environment* (Cambridge: Cambridge University Press, 2010); R. Floyd, ‘Extraordinary or ordinary emergency measures: What, and who, defines the “success” of securitization?’, *Cambridge Review of International Affairs*, 29:2 (2016), pp. 677–94.

⁴⁴ This qualifier mostly is necessary because securitising actors may not be truthful in their intention (cf. Floyd, *Security and the Environment*).

⁴⁵ P. Roe, ‘Actor, audience(s) and emergency measures: Securitization and the UK’s decision to invade Iraq’, *Security Dialogue*, 39:6 (2008), pp. 615–35.

⁴⁶ Notably the Copenhagen School denies individual persons the capability to securitise outright.

⁴⁷ Often, but not necessarily the state.

⁴⁸ Take for example, Claire (now Cai) Wilkinson’s work on securitisation in Kyrgyzstan prior to the ousting of President Akaev, which has done much to question the linear logic of process in securitisation. In the article, Wilkinson identifies ‘an initial securitizing move ... at the local level by a number of candidates’. C. Wilkinson, ‘The Copenhagen School on tour in Kyrgyzstan: Is securitization theory useable outside Europe?’, *Security Dialogue*, 38:1 (2007), pp. 5–25 (p. 17), opposing the ruling government, aiming to organise the fractured opposition from its supporters. Wilkinson further argues that this same initial securitising move together with counter-securitisation by the ruling government informed, indeed constructed the securitising actor, insofar as opposition leaders came together, and began echoing the initial securitising move in their own rhetoric (ibid., p. 19). Given this, Wilkinson observes: ‘securitizing moves do not exist in isolation and may be simultaneously or subsequently linked to other securitizing moves that in total contribute to a securitization even if they are individually unsuccessful’ (ibid., p. 20). My point here is not that Wilkinson is incorrect, but simply that conceptually it makes more sense to describe Wilkinson’s initial securitising move as a securitising request, while the Opposition’s speech act was the securitising move.

⁴⁹ Who this is precisely varies for different theorists as it depends on one’s understanding of what sort of measures count as security measures (that is, only extraordinary ones, or also more ordinary ones) (cf. Floyd, ‘Extraordinary or ordinary emergency measures’).

It is difficult to say at what point a securitising request succeeds. At least three options present themselves, one is at the point of audience acceptance (that is, when the request has been heard), arguably, however, the request is only granted when the designated securitising actor securitises, ergo securitising requests succeed at the point of securitisation. This logic, however, implies that only securitisation could remedy the problem identified in the initial securitising request, when it is possible that politicisation by the targeted actor might solve the problem. All the same, securitising requests and the conceptual separation off from securitising move, enables us to see that securitising moves can be influenced by these primary speech acts. Indeed, an important issue to observe is that while securitising actors need to be in a position of power to perform successful securitisation, anyone can utter a securitising request. That does not mean that everyone has access to the same platforms, or that everyone will be heard equally well, but simply that anyone who has a voice, or who can write, can in principle utter a securitising request.⁵⁰ Anyone, that is, possessing the physical capability to speak or write and is not silenced by structural constraints, including fear.⁵¹ This inclusiveness is the reason why this study on the ethics of speaking security commences from a focus on securitising requests as opposed to securitising moves by securitising actors. A holistic ethics of speaking security recognises that ordinary people can – in principle – facilitate securitisation. This said, any general rules regarding the ethics of speaking security generated by such a study also apply for securitising moves, as both securitising requests and securitising moves are forms of speaking security, neither do securitising actors have special rights exempting them from all possible ethical standards.

This article now turns to the question of whether anything goes; that is, should people be permitted to say or write what they want, or whether there should be protections, that is to say legislation that criminalises *some* kinds of securitising requests, notably those that target or single out racial, religious, or ethnic minorities?⁵² In other words, and given the empirical context against which this article is set, are laws banning public expressions of Islamophobia justified?

Before this article dives into the discussion, a word on the meaning of criminalisation is necessary as there is some debate over the proportionality of certain punitive measures (especially non-pecuniary ones, such as imprisonment) for using denigrating speech.⁵³ Although this article does not start from the premise that securitising requests should be criminalised, it does not engage with the debate over what type of punitive measure is most appropriate (despite the fact that this could sway one's thinking either way). Instead, the research starts from the lowest common denominator, namely, it considers the issue criminalised if it is written into criminal law regardless of the nature of the punitive measures adopted.

II. The case for protections against harmful and offensive securitising requests

Lest there be any doubt, it is important to be clear that when contemplating protections against security speech, this article is not concerned with legislating against all possible kinds of securitising requests but merely against a few select types. Freedom of speech is an essential value in liberal

⁵⁰ See D. van Mill, 'Freedom of Speech', in Edward N. Zalta (ed.), *The Stanford Encyclopedia of Philosophy* (2015), available at: {<http://plato.stanford.edu/archives/spr2015/entries/freedom-speech/>} accessed 1 April 2015.

⁵¹ See Hansen, 'The Little Mermaid's silent dilemma'.

⁵² These speech acts are related to the criminalisation of minorities such as asylum seekers who have been identified not only as deviant or criminal but also as threats to the welfare state system in the UK and other European Union member states. See, for example, J. Banks, 'The criminalization of asylum seekers and asylum policy', *Prison Service Journal*, 175 (2008), pp. 43-9; J. Huysmans, 'The European Union and the securitization of migration', *Journal of Common Market Studies*, 38:5 (2000), pp. 751-77.

⁵³ See, for example, D. J. Baker and L. X. Zhao, 'The normativity of using prison to control hate speech: the hollowness of Waldron's harm theory', *New Criminal Law Review: An International and Interdisciplinary Journal*, 16:4 (2013), pp. 621-56.

democracies; among many other things we can see the value of free speech on matters of security in the fact that everyone's potential ability to put important issues on the agenda can have positive consequences. Thus, quite regardless of whether or not they result in successful securitisation, once phrased in security terms issues are often more likely to be heard, discussed, and acted on. As a case in point, consider the recent warnings from scientists that the widespread overuse of antibiotics (especially broad-spectrum ones) is considered a threat to global health security, public health and – in some countries (notably the United States) – to national security, because it leads to antibiotic and microbial resistance. In England these warnings have led to new guidelines for general medical practitioners concerning the frequency of prescriptions for antibiotics.⁵⁴ So, in contemplating protections against securitising requests, this article is concerned only with a specific type of such requests, namely ones that single out or target racial, ethnic, or religious minorities. This article distinguishes between two different ways of doing so: (1) in plain, but not offensive securitising language; or (2) in an overtly offensive way, for example, by using dehumanising language (for example, by comparing people to animals or diseases), or by employing racially or culturally motivated slurs, including ridicule.⁵⁵ An example of the first kind comes from the United Kingdom after the 7/7 London bombings, when Muslims were repeatedly identified as threatening because they were considered likely to become radicalised and engage in terrorist acts.⁵⁶ As Stuart Croft notes, the connections between 'Islam and terrorism; sharia law and barbarism; sharia law, Islam and a threat to British values' were primarily made by 'powerful social actors [and] major media organizations'.⁵⁷ For example, by polling Londoners' comfort levels when sitting next to Muslims on public transport in case they might blow themselves up.⁵⁸ Precisely through such means, the relevant actors requested government to get tough on Muslims, and for example, not build a new mosque near the 2012 Olympic Park, to disallow Muslim faith-based schools, and instead to create a Britain based on British values.⁵⁹

An example of the second way of making security requests was mentioned with Bachman's neologisms of 'Rapefugees' and 'RefugeISIS' in the introduction, and PEGIDA's request for elected politicians to protect Germany and Germans from such threats. For a further example, consider the case of British media personality and *Sun* newspaper columnist Katie Hopkins who, during the ongoing migrant crisis in Europe, called illegal migrants 'cockroaches', 'a plague of feral humans', 'spreading like norovirus on a cruise ship', and requested that the British government and EU governments needed to adopt Australian-style security measures. In her own words:

It's time to get Australian. Australians are like British people but with balls of steel, can-do brains, tiny hearts and whacking great gunships. Their approach to migrant boats is the sort of

⁵⁴ NICE, 'Antibiotic Prescribing – Especially Broad Spectrum Antibiotics' (2015), available at: <https://www.nice.org.uk/advice/ktt9/resources/non-guidance-antibiotic-prescribing-especially-broad-spectrum-antibiotics-pdf> accessed 27 April 2015.

⁵⁵ At this point it is worthwhile to remind ourselves that within securitisation theory it is not necessary that the word security is spoken. Wæver argues as follows: 'In practice it is not necessary that the *word* security is spoken. There can be occasions where the word is used without this particular logic at play, and situations where it is metaphorically at play without being pronounced. We are dealing with a specific logic which usually appears under the name security, and this logic constitutes the core meaning of the concept security, a meaning which has been found through the study of actual discourse with the use of the *word* security, but in the further investigation, it is the specificity of the rhetorical structure which is the criterion – not the occurrence of a particular word.' Wæver, 'Securitization and desecuritization', p. 49, fn. 15.

⁵⁶ See C. Pantakis and S. Pemberton, 'Reconfiguring security and liberty: Political discourses and public opinion in the new century', *British Journal of Criminology*, 52 (2009), pp. 651–67; Croft, *Securitising Islam*.

⁵⁷ *Ibid.*, p. 212.

⁵⁸ *Ibid.*, p. 213.

⁵⁹ *Ibid.*

approach we need in the Med. They threaten them with violence until they bugger off, throwing cans of Castlemaine in an Aussie version of sharia stoning. And their approach is working. Migrant boats have halved in number since Australian Prime Minister Tony Abbott got tough. We don't need another rescue project. The now defunct £7million-a-month Mare Nostrum – Italy's navy search and rescue operation – was paid for (in part) by British taxpayers. And we don't need a campaign from Save the Children to encourage more migrants to take the journey. What we need are gunships sending these boats back to their own country.⁶⁰

Although the boundaries between these two kinds of securitising requests are somewhat fluid – and clearly offence may be taken whatever the language – there are good analytical reasons for differentiating between the two. In particular, arguments for permitting securitising requests of the first kind do not preclude the need for banning securitising requests of the second kind. The primary reason for why one might want to prohibit both kinds of securitising requests is because of the probable consequences they may have for those that are the subject of security speech (that is, the minorities in question). Thus, those identified as security threats (meaning, the relevant minority) might feel increasingly insecure in society, fearing vigilante attacks. In the UK, the Tell MAMA (Measuring Anti-Muslim Attacks) project not only reports a '200 percent' increase in anti-Muslim hate crime in 2015, but identifies 'the misrepresentation of Muslims in Britain from certain media sources, politicians and public figures' as a primary cause.⁶¹ Although securitising requests do not necessarily lead to securitisation or hate crime, they can nevertheless instil change in society. In particular, the securitising requests that concern us here may render society as a whole more xenophobic and racist. Xenophobia and racism, in turn, are harmful because they – to use Didier Bigo's apt phrase – further 'insecuritise' minorities within society.⁶²

The linkage between speech and insecurity is also stressed by Jeremy Waldron in his 2012 book *The Harm in Hate Speech* on the need for protections against hate speech. Waldron argues that hate speech deprives people of security because it erodes what John Rawls referred to as 'well-ordered societies',⁶³ by denying certain groups the fundamentals of such societies, namely 'that all are equally human, and have the dignity of humanity, that all have an elementary entitlement to justice, and that all deserve protection from the most egregious forms of violence, exclusion, indignity, and subordination'.⁶⁴ In Waldron's view, one important measure in assuring these fundamentals – and thus maintaining and even creating well-ordered societies – is by legislating against hate speech and defamation.⁶⁵ '[H]ate speech laws aim not only to protect the public good of dignity-based

⁶⁰ K. Hopkins, 'Hopkins: Rescue boats? I'd use gunships to stop illegal migrants', *SunNation* (2015), available at: <http://www.sunnation.co.uk/hopkins-rescue-boats-id-use-gunships-to-stop-illegal-migrants/> accessed 3 September 2015.

⁶¹ Tell MAMA, *The Geography of Anti-Muslim Hatred: Tell MAMA Annual Report 2015* (Faith Matters: London, 2016), pp. 6, 11; see also Said, *Covering Islam*.

⁶² D. Bigo, 'When two become one: Internal and external securitisations in Europe', in Morton Kelstrup and Michael C. Williams (eds), *International Relations Theory and the Politics of European Integration* (London: Routledge, 2000), pp. 171–204.

⁶³ For Rawls a well-ordered society is 'a formal ideal of a perfectly just society implicit in Rawls's contractarianism. It is a society where (a) all citizens agree on the same conception of justice and this is public knowledge; moreover, (b) society enacts this conception in its laws and institutions; and (c) citizens have a sense of justice and willingness to comply with these terms.' S. Freeman, *Rawls* (London: Routledge, 2007). For discussion of how this idea [well-ordered society] fits in within Rawls's wider commitments, see J. Floyd, 'Rawls' methodological blueprint', *European Journal of Political Theory* (2015), doi: 1474885115605260.

⁶⁴ Waldron, *The Harm in Hate Speech*, pp. 82–3.

⁶⁵ *Ibid.*, p. 81.

assurance, but also to block the construction of this rival public good that the racists and Islamophobes are seeking to construct among themselves.⁶⁶

All these are important points; they are relevant here because they show that securitising requests of the first kind closely resemble hate speech. Accordingly, while securitising requests of the first kind do not use offensive language, the use of the language of security (that is, the identification of a minority as a ‘security threat’ because of *who* they are) alone is degrading. The use of security language changes, indeed reduces, the standing of affected minorities in society. Securitising requests of the first kind also reveal that ‘hate speech’ can be motivated by something other than hatred, or in other words, by something other than racism and xenophobia. Instead ‘hate speech’, or better ‘harmful speech’, can be motivated by fear, specifically fear of the minority posing a security risk. Of course, if such fears are entirely unwarranted (that is, because no credible empirical precedent involving the minority exists) it becomes inseparable from racism, while it is also the case that securitising requests motivated by fear often end up producing racism and xenophobia. Nevertheless we ought to recognise that expressions of harmful speech, including Islamophobia are based not exclusively on hatred but also on fear.

It should be obvious that if all of the above reasons on why there should be protections against harmful securitising speech hold for securitising requests of the first kind, then they also hold for securitising requests of the second kind, as the latter are a more serious case of the former. That said, there are additional reasons for curtailing securitising requests that use offensive language when they single out or target racial, ethnic, or religious minorities. Yet, it is not always easy to know when something is offensive. In hate speech legislation, offending is seen as a step down from instilling hate and is not generally covered.⁶⁷ One reason for this is the extremely subjective nature of offence. Specifically, thresholds for when offence is taken differ widely with age, culture, religion, and also with who the speaker is. Plus, it is possible to offend without intending to do so. For example, the Caucasian Oscar-nominated actor Benedict Cumberbatch had to apologise profusely for causing offence when he referred to black actors as ‘coloured’ in an interview with a US broadcaster.⁶⁸ The comments were made in the context of Cumberbatch bemoaning the absence of equal opportunities in the industry.

With offence hard to capture, it is important to recognise that it might be extremely difficult to provide legislation criminalising securitising requests that use offensive language.⁶⁹ However, in the interest of (national) security, the case for criminalising these is strong, because they are doubly dangerous. Not only do they ‘insecuritise’ minorities, erode well-ordered society and potentially lead to hate crime, they also run the risk of rendering the general population insecure because offence (especially against religious beliefs) may cause retaliation. Conversely, if offending in this way is punishable by law, the offence is less likely to cause retaliation and/or to occur in the first place.

⁶⁶ *Ibid.*, p. 95.

⁶⁷ However, many states’ efforts to widen hate speech legislation means that legislation increasingly includes mere offending, especially as states are trying to regulate trolling and expressions of hate speech in social media. See, for example, the above-mentioned Section 130 of the German Criminal Code, or Section 127 of the Communications Act 2003 in England.

⁶⁸ L. Bakare, ‘Benedict Cumberbatch apologises after calling black actors “coloured”’, *The Guardian* (26 January 2015), available at: {<http://www.theguardian.com/culture/2015/jan/26/benedict-cumberbatch-apologises-after-calling-black-actors-coloured>} accessed 22 April 2015.

⁶⁹ Notably some courts (specifically US courts) arbitrate successfully on similar matters with high subjectivity, including by using legal tests for establishing what is pornography or the way some courts apply the ‘reasonable person’ standard.

In recent years we have seen revenge attacks in response to securitising requests of the second kind (that is, those that use offensive language or visuals) in the aftermath of the so-called Muhammad cartoon crisis. Lene Hansen has argued that especially in the age of the Internet, images are prolific and influential and ought to be included into a theory of securitisation.⁷⁰ This is because ‘to constitute something as a matter of security is to make a political intervention’⁷¹ and images (especially iconic images) can have political implications.⁷² This political intervention can take a number of forms. Hansen suggests that images can very readily depict ‘the Other as demonic, barbaric, evil, and menacing’ while they can also be used to belittle the Other ‘constituting him/her/it as insignificant, weak, small, cowardly, backward, or feminine, as someone “to be laughed at rather than hated or feared”’.⁷³ ‘A depiction through demonization’, Hansen further argues, ‘constitutes a threat to be conquered while a strategy of belittling makes the threat manageable’.⁷⁴ Either way, images, like words, may thus be utilised to call on powerful actors to securitise any given issue or (perceived) threat.

Hansen nevertheless holds that images ‘securitise’ usually in conjunction with spoken or written words that give a specific meaning to the image. Words are necessary because the image itself can convey multiple meanings. For example, ‘the lit turban-bomb, the bushy eyebrows, and the piercing eyes [of Kurt Westergaard’s (in)famous bomb-turban cartoon] evoke on the one hand a violent, possibly terrorist-suicidal subject; on the other this is a disembodied face, devoid of spatial and temporal location with no other subjects present’.⁷⁵ She further argues, however, that clear meaning was given to the cartoons, which were obviously belittling, in the context of several accompanying editorials in Danish newspapers which identified the West as existentially threatened ‘from “Muslim” imams as well as from the wider “Islamic worldview”’ and requested that ‘Western society’ and ‘Muslims’ deter this threat.⁷⁶ One way of resisting the narrative suggested in securitising requests is through counter-securitisation.⁷⁷

Many Muslims were greatly offended by the cartoons and how they were being contextualised in Denmark and abroad with many media outlets republishing the cartoons. Their publication led to widespread violent protests (including in Pakistan, Afghanistan, and North Africa), terrorist attacks (besides *Charlie Hebdo* also deadly shootings in Copenhagen in February 2015) and arguably a deepening (or indeed the initial creation) of a ‘clash of civilisations’.⁷⁸ Given the climate in which these cartoons were published (that is, during the global war on terror) these consequences were not only probable but also foreseeable. Since individual newspapers clearly do not have that foresight

⁷⁰ L. Hansen, ‘Theorizing the image for security studies: Visual securitization and the Muhammad cartoon crisis’, *European Journal of International Relations*, 17:1 (2011), pp. 51–74.

⁷¹ *Ibid.*, p. 53.

⁷² L. Hansen, ‘How images make world politics: International icons and the Case of Abu Ghraib’, *Review of International Studies*, 41:2 (2015), pp. 263–88; see also Croft, *Securitising Islam*, pp. 104–6.

⁷³ Hansen, ‘Theorizing the image for security studies’, p. 59.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*, p. 63.

⁷⁶ L. Hansen, ‘The politics of securitization and the Muhammad cartoon crisis: a poststructuralist perspective’, *Security Dialogue*, 42:4–5 (2011), pp. 357–69 (p. 364).

⁷⁷ In securitisation studies resistance is usually considered a form of desecuritisation (i.e. the act of resisting securitisation) (see, for example, Juha A. Vuori, *Critical Security and Chinese Politics* (Abingdon: Routledge, 2014)), but there is no reason why resistance cannot also take the form of ‘counter-securitisation’ (that is, resisting someone else’s security speech through one’s own security speech and action), or indeed we can say that securitisation is motivated by wishing to resist a (perceived) threat.

⁷⁸ J. Burke, L. Harding, A. Duval Smith, and P. Beaumont, ‘How cartoons fanned flames of Muslim rage’, *The Guardian* (5 February 2006), available at: {<https://www.theguardian.com/media/2006/feb/05/pressandpublishing.religion>}.

and may very well be motivated by agendas (especially financial or political) other than one of greater overall security, it is reasonable to suggest that legislators should intervene and curtail the spreading of unnecessarily offensive securitising requests (in this case offensive images accompanied by offensive editorials) by criminalising such security speech. This suggestion is made on the basis of empirical evidence. Researchers have found that civil hate speech protections have a positive effect on ‘mediated outlets’ because the staff is trained to be sensitive to hate speech legislation.⁷⁹ Indeed, the effects of what Gelber and McNamara call ‘the “laws” educative role’⁸⁰ is such that it is reasonable to suggest that had unduly offensive securitising requests been controlled by legislation (that is, criminalised), it is a serious possibility that the massacre at the French satirical magazine *Charlie Hebdo* in which 12 staff were killed by 2 Islamist gunmen might have been avoided. At a minimum, it is likely that the magazine would have abstained from publishing the images and the accompanying editorial.

III. The case against protections of securitising requests whatever their nature

The case against protections of any kind of securitising request starts from the assumption that free speech is a fundamental value of liberal democratic societies that ought not to be curtailed. Most advocates of free speech believe that hate speech legislation is unwarranted and that the only things that ought to be curtailed are pornography involving minors and extreme libel.⁸¹ When it comes to security we can see the value of free speech quite clearly; thus in Western liberal democracies anyone is allowed to criticise their government for making people (feel) insecure, whether by misguided foreign policy, exaggerating the terror threat, monitoring populations through technologies including surveillance, or for not providing adequate military hardware for armed forces in combat situations. If we start to curtail some kinds of securitising requests by legislation then where does it stop? In times of crisis, when unanimity is key and often assured,⁸² might not the legislator be tempted to prohibit criticism of executives’ policies or indeed ‘desecuritising requests’? In the United States, for example, criticism of the official governmental line in response to the terrorist attacks of 9/11 was considered deeply unpatriotic.⁸³ At the time, the prevailing mood was captured in George W. Bush’s often used phrase: ‘Either you are with us, or you are with the terrorists’,⁸⁴ while at the same time, the PATRIOT Act and subsequent counter-terrorist activities, which allowed the extended surveillance of suspected terrorists by the newly-created Department of Homeland Security were widely regarded as reminiscent of McCarthyism.⁸⁵

A second deontological argument against protections is that securitisation theory tells us that insecurity is a matter of perception and politics.⁸⁶ Surely if one is scared of something or someone, one

⁷⁹ K. Gelber and L. McNamara, ‘The effects of civil hate speech laws: Lessons from Australia’, *Law & Society Review*, 49:3 (2015), pp. 631–64 (p. 649).

⁸⁰ *Ibid.*, p. 650.

⁸¹ See Waldron, *The Harm in Hate Speech*, p. 145.

⁸² A. Neal, ‘Normalization and legislative exceptionalism: Counterterrorist lawmaking and the changing times of security emergencies’, *International Political Sociology*, 6 (2012), pp. 260–76.

⁸³ M. Evangelista, *Law, Ethics, and the War on Terror* (Cambridge: Polity, 2008), p. 60; S. Croft, *Culture, Crisis and America’s War on Terror* (Cambridge: Cambridge University Press, 2006).

⁸⁴ G. W. Bush (2001) ‘Address to the Joint Session of the 107th Congress United States Capitol, Washington, DC, 20 September 2001, in Selected President George W. Bush (2001–8), p. 69, available at: (https://georgewbush-whitehouse.archives.gov/infocus/bushrecord/documents/selected_speeches_george_w_bush.pdf) accessed 10 July 2017.

⁸⁵ M. Edwards, ‘McCarthyism’, in R. Chapman and J. Ciment (eds), *Culture Wars: An Encyclopaedia of Issues, Viewpoints and Voices* (London: Routledge, 2015), p. 409.

⁸⁶ U. P. Gad and K. L. Petersen, ‘Concepts of politics in securitization studies’, *Security Dialogue*, 42:4–5 (2011), pp. 315–28; R. Taureck, ‘Securitisation theory and securitisation studies’, *Journal of International Relations and Development*, 9:1 (2006), pp. 53–61.

should have the right to say it, regardless of the consequences. This is particularly important in light of the fact that fear can be a direct result of governmental policy. For example, one may believe that the UK government has with its counter-terrorist policies created a ‘suspect Muslim community’,⁸⁷ and thus driven hitherto moderate Muslims into radicalisation with the result that they now pose a concrete threat to oneself and other British people. The right to voice one’s opinion in this case is essentially the late Ronald Dworkin’s legitimacy argument in favour of free speech.⁸⁸ Much simplified, he argues that in a democracy everyone is forced to live by some laws that they do not agree with (he has in mind laws about positive discrimination), because of the consequences of those laws (that is, admittance to jobs, etc.); if one is not allowed to voice one’s discontent against the law in question, then the legislator is illegitimate because – in a democracy – legitimacy arises from everyone having a voice. In his own words:

Fair democracy requires ... that each citizen have not just a vote but a *voice*: a majority decision is not fair unless everyone has had a fair opportunity to express his or her attitudes or opinions or *fears* or tastes or presuppositions or prejudices or ideals, not just in the hope of influencing others (though that hope is crucially important), but also just to confirm his or her standing as a responsible agent in, rather than a passive victim of, collective action.⁸⁹

A third argument against protections of securitising requests – whatever their nature – is that securitising requests can fail out in the open.⁹⁰ This is essentially an extrapolation of the argument by many opponents of hate speech protections that opinions are better out in the open than driven underground.⁹¹ Allowing securitising requests to fail democratically would render a stronger, well-ordered society. Notably, historical evidence suggests that a society whose citizens live according to governing principles that they believe in is bound to be stronger than one where universal values are enforced top-down by the legislator.⁹² Indeed, criminalisation of securitising requests can create further resentment against the feared group(s). Instead of being addressed, the issue could then be driven underground where it might gain momentum, perhaps in part, out of resentment against the legislator.⁹³

Finally, it is not clear in what sense securitising requests cause factual, direct harm. In a 2013 critical reply to Waldron’s *The Harm in Hate Speech*, Dennis Baker and Lucy Zhao argue that Waldron fails to distinguish between theoretical harm and factual harm. They argue that no factual harm is caused when putative victims simply *feel* that their dignity is compromised by denigrating speech.⁹⁴ They also remind us of what precisely states seek to prevent by means of hate speech legislation:

Incitement type offenses aim to prevent the harmful riot (as an example) from eventuating and thus criminalize the expression (means) used to encourage others to consummate the offense of rioting. D is not punished for the expression in itself, but for using expression to try to

⁸⁷ Pantazis and Pemberton, ‘Reconfiguring security and liberty’.

⁸⁸ R. Dworkin, ‘Foreword’, in I. Hare and J. Weinstein (ed.), *Extreme Speech and Democracy* (Oxford: Oxford University Press, 2009).

⁸⁹ Dworkin cited in Waldron, *The Harm in Hate Speech*, p. 175, emphasis added.

⁹⁰ Any definition of failure depends, of course, on one’s definition of success. Given the difficulties with that (see earlier), at a minimum level, however, we can perhaps say securitising requests fail when they are not picked up by the designated securitising actor.

⁹¹ E. Barendt, *Freedom of Speech* (Oxford: Oxford University Press, 2005); E. Barendt, ‘Threats to freedom of speech in the United Kingdom’, *University of New South Wales Law Journal*, 28 (2005), p. 895.

⁹² Cf. B. Buzan, *From International to World Society?* (Cambridge: Cambridge University Press, 2004), p. 253.

⁹³ Cf. Barendt, ‘Threats to freedom of speech’.

⁹⁴ Baker and Zhao, ‘The normativity of using prison to control hate speech’, pp. 625, 627. See also D. J. Baker, *The Right Not to Be Criminalized: Demarcating Criminal Law’s Authority* (London: Ashgate, 2011).

encourage a harmful riot. The harm that the state is trying to prevent with such offenses is the riot, rather than the speech in itself.⁹⁵

In this context, it is important to recall that unlike with straightforward hate speech, the utterer of the securitising request does not want the ‘audience’ to do abhorrent and harmful things (that is, commit hate crimes). Instead they want the securitising actor (that is, the audience of the securitising request) to securitise the issue; and it is conceivable that – sometimes at least – abhorrent language is used primarily to stress the urgency of the matter and to get a powerful audience’s attention. In short, even overtly offensive securitising requests are not incitement to hatred, but rather requests for protection of valued referent objects driven by fear and hatred. This is important because it means that criminalisation is a disproportionate response because securitising requests (that is, security speech) does not in fact cause factual or direct harm, but merely theoretical or indirect harm, insofar as targeted groups perceive greater levels of insecurity or feel offended. Direct, factual harm is caused only when someone in the position to securitise follows up on the requests and securitises the issue. For example, it is well established that in the United Kingdom, Muslims were not only disproportionately affected by new terror legislation following the 7/7 bombing, but some of the measures (notably detention without trial) were directly harmful.⁹⁶ Arguably, however, the use of security measures that are directly harmful is unjustifiable only if the securitisation itself is unjust.⁹⁷ At most, we can thus debate whether unjust securitisation can or ought to be criminalised, while the criminalisation of securitising requests is always unjustified.

Direct harm is also caused when a counter-securitisation is launched (as is the case with revenge attacks), but these clearly are an unintended consequence of the initial securitising request and most certainly not the intention of those requesting securitisation. Finally, direct harm is caused when vigilante commit hate crime against minorities informed by the securitising request.

It is one thing to argue that we ought to be allowed to say what we want, but may we also say it in the way we want? In other words what possible arguments are there for not restricting securitising requests of the second kind (those that are overtly offensive to minorities)? Existing legislation on hate speech covers some but not all overtly offensive acts possible here, in spite of the fact that this legislation is growing. But there are problems with legislating against overtly offensive securitising requests. Waldron, for one, argues that ‘offense is not a proper object of legislative concern ... [unlike dignity it is not about] objective or social aspects of a person’s standing in society’ but rather, it is about ‘subjective aspects of feeling, including hurt, shock, and anger’.⁹⁸ At least three more arguments are relevant in this context, and all of them can be exemplified using the *Charlie Hebdo* case. The first is advanced as part of *Charlie Hebdo*’s editorial supporting publication of the cartoons, where it was argued that ‘the suggestion that you can laugh at everything, except certain aspects of Islam,

⁹⁵ Ibid., p. 626.

⁹⁶ For example, Pantakis and Pemberton, ‘Reconfiguring security and liberty’; Croft, *Securitising Islam*.

⁹⁷ With the ethics of security and securitisation only just emerging in security studies (see J. Nyman and T. Burke, *Ethics and Security* (London: Routledge, 2016); C. S. Browning and M. McDonald, ‘The future of critical security studies: Ethics and the politics of security’, *European Journal of International Relations*, 19:2 (2013), pp. 235–55), the precise meaning of unjust securitisation is not set in stone. Judging by the well-established literature on the morality of war (security’s closest relative), however, it is to be expected that just securitisation will have to involve considerations concerning proportionality, expected outcome, right intention and so on. Floyd, ‘Can securitization theory be used in normative analysis?’; Floyd, ‘Just and unjust desecuritization’; Floyd, ‘The promise of theories of just securitization’.

⁹⁸ Waldron, *The Harm in Hate Speech*, pp. 103, 106.

because Muslims are much more prickly than the rest of the population – what is that, if not discrimination?'.⁹⁹ In other words, all faiths are equally ridiculous, fanciful, and/or sacred, and if we are allowed to laugh at one of them, then by implication, we should be allowed to laugh at all of them.¹⁰⁰

Second, peace researchers have suggested that humour can not only be a conflict generator, but also a tool for peacebuilding.¹⁰¹ Recall Lene Hansen's point that the bomb-turban cartoon can be interpreted in different ways. Specifically, 'the cartoon relies upon a generic image of "the non-Western" as looking wilder, more rural, and less modern than a Western subject, yet with the possible exception of the turban, the imagery is not distinctly Muslim'.¹⁰² Precisely because it is not distinctly Muslim, it could have presented those Muslims who consider the views of radicalised 'Islamists' un-Islamic with a means to distance themselves from such people, and to strengthen a joint French, Danish, etc. identity with their fellow countrymen and women. Such togetherness and unity could help counteract radicalisation with fewer young Muslims being caught between different worlds. Indeed, in the United Kingdom, counter-terrorism police are already working together with a Muslim comedian to counter-act radicalisation in secondary schools.¹⁰³

Finally, it is fairly safe to assume that individuals who act in the abhorrent way that Saïd and Chérif Kouachi (the *Charlie Hebdo* gunmen) did in response to offensive and belittling cartoons would have done so anyway in revenge against foreign policy choices, etc. In the aftermath of the shooting it emerged that both individuals had become radicalised over a long period of time and one had previously been arrested on his way abroad to commit jihad; in other words, the ideological commitment was already there, the cartoons may have simply been the catalyst.

IV. Requesting securitisation ethically

While the arguments on both sides are strong, from the point of view of securitisation, one of them carries more weight than the others because it goes right to the heart of the difference between *simply* speaking security and securitisation proper (that is, security speech plus policy change). This is the argument that legal protections against harmful and derogatory security speech are a disproportionate response because the harm caused by such speech acts is indirect/theoretical, and accordingly, that only direct, factual harm, as that caused by securitisation may warrant criminalisation.¹⁰⁴ Yet, even if criminalising harmful securitising requests (including banning expressions of Islamophobia) is to be rejected on the grounds of proportionality, the analysis also suggests that mere security speech is or should not be free from ethical considerations. Not only because indirect harm is hurtful to the minorities in question, but also because it detracts from the fundamentals of a well-ordered society.

Given that everyone can speak security by requesting securitisation, we can say that principles governing the ethics of speaking security ethically apply to all persons, and not only to securitising

⁹⁹ Cited in 'Charlie Hebdo's Charb publishes posthumous book on Islam', *BBC News* (16 April 2015), available at: {<http://www.bbc.co.uk/news/world-europe-32325884>} accessed 27 April 2015.

¹⁰⁰ R. Hansen, 'The Danish cartoon controversy: a defence of liberal freedom', *International Migration*, 44:5 (2006), pp. 7–16 (p. 12).

¹⁰¹ C. Zelizer, 'Laughing our way to peace or war: Humour and peacebuilding', *Journal of Conflictology*, 1:2 (2010).

¹⁰² Hansen, 'Theorizing the image for security studies', p. 63.

¹⁰³ D. Talwar, 'Badman: Trying to prevent radicalisation with humour', *BBC Asian* (2015), available at: {<http://www.bbc.co.uk/news/magazine-31004012>} accessed 4 November 2016.

¹⁰⁴ This is not to suggest that unjust securitisation ought to be criminalised, merely that it could – in certain circumstances – be warranted.

actors when uttering securitising moves. The existing and growing literature on ethics and security/securitisation, sometimes known as the ‘positive/negative debate on security’, has so far failed to engage with the ethics of security speech. Ethical concerns over securitisation and hence the need for moral criteria governing securitisation arises largely from the ill effects of the exceptional measures legitimised by securitisation.¹⁰⁵ Or, in other words, the very issue of its ethics has arisen because securitisation causes direct harm and causing harm can supposedly only be justified if securitisation itself is just. Since securitisation theory is very much concerned with security speech, just securitisation research must consider also the ethics of security speech. An ethics of speaking security must start from the concept of securitising requests not only because securitising requests are much more inclusive than securitising moves, but also because securitising requests can influence securitising moves. This article proposes that two issues are important in this regard: *when* to request security and *how* to request security. In the following each is addressed in turn.

By drawing on the ‘just war’¹⁰⁶ tradition, I have argued elsewhere that the single most important criterion for just securitisation is the presence of a just reason, because exceptional measures can only be justified in the presence of a real threat.¹⁰⁷ Given that the use of exceptional measures is the objective of those requesting securitisation, we can reasonably require for persons requesting securitisation to be as certain as they can be that the issue (including the racial, ethnic, and religious minority) presents a real threat *before* they utter security speech. The connection between objectively present or real threats and ethics is made by a number of scholars writing on ethics and security, albeit usually not from the perspective of securitisation.¹⁰⁸ Indeed, the invocation of real threats seems antithetical to the very idea of security as a social and political construction. This said, it needs to be remembered that the Copenhagen School, or at least Ole Wæver, does not hold that there are no such thing as objective existential threats, but rather that ‘security threats’ are socially and politically constructed. In his own words: ‘Lots of real threats exist, but they do not come with the security label attached.’¹⁰⁹ With some notable exceptions,¹¹⁰ securitisation scholars tend to be only interested in how issues achieve security threat status; and some might deny the possibility of ascertaining threat status as it is impossible to know all the morally relevant facts about a situation. This assumption is not disputed here. Consequently, instead of requiring that relevant persons need to establish the objective presence of threats in a ‘fact-relative sense’,¹¹¹ a judgement about the status of a threat needs to be true in an evidence-relative sense. Evidence-relativity refers to the situation when the available evidence suggests decisive reasons that the beliefs people hold about a given situation are true.¹¹² In practice this means that persons intent on requesting securitisation must aim to gather evidence of the threat level of someone/-thing *approximating* the actual facts *before* requesting securitisation. In the case of the suspected link between refugees and migrants and

¹⁰⁵ Floyd, ‘Can securitization theory be used in normative analysis?’; Floyd, ‘The promise of just securitization theories’.

¹⁰⁶ Especially, J. McMahan, *Killing in War* (Oxford: Oxford University Press, 2013).

¹⁰⁷ O. Wæver, ‘What exactly makes a continuous existential threat existential?’, in O. Barak and G. Sheffer (eds), *Existential Threats and Civil-Security Relations* (Lanham, MD: Lexington Books, 2009), reasons along similar lines when he argues that securitisation requires existential threats.

¹⁰⁸ See, for example, A. Burke, K. Lee-Koo, and M. McDonald, *Ethics and Global Security* (London: Routledge, 2014) and various in Nyman and Burke, *Ethics and Security*.

¹⁰⁹ O. Wæver ‘Politics, security, theory’, *Security Dialogue*, 42:4–5 (2011), pp. 465–80.

¹¹⁰ T. Balzacq, ‘A theory of securitization: Origins, core assumptions, and variants’, in Balzacq (ed.), *Securitization Theory*, p. 13.

¹¹¹ D. Parfit, *On What Matters, Volume I* (Oxford: Oxford University Press, 2011), pp. 150–64.

¹¹² *Ibid.*

terrorism, for example, the PEGIDA leadership should have checked the facts on migrant and refugee involvement in the Paris terror attacks, which was dismissed as false soon after the attacks.

Persons requesting securitisation intent to bring about securitising moves and securitisation. If this is so, then requesting securitisation ethically also means that persons requesting securitisation need to be as sure as they can be that the issue in question is ideally treated as a matter of security and not simply as a political matter. This requires them not only to anticipate the probable consequences of an ensuing successful securitisation, but to measure – as best as possible – these consequences against not securitising. Relevant in this context are both the likelihood of securitisation successfully averting the threat, and also the probabilities of securitisation not causing further insecurity by generating counter-securitisation or additional/new security threats. The securitisation of terrorism and the resulting treatment of Muslims in the UK after the 7/7 bombings, for example, led to an increase in homegrown radicalisation and recently the issue of the return of foreign fighters, throwing doubt onto the initial decision to securitise or – at least – about the way it was done.¹¹³ Importantly, even if there is a real threat, securitisation as opposed to politicisation is not always the best solution.

Moving on to the issue of how to request security ethically, it is helpful to consider Tariq Modood's argument (made in the context of the Muhammad cartoon): 'One relies on the sensitivity and responsibility of individuals and institutions to refrain from what is legal but *unacceptable*. Where these qualities are missing one relies on public debate and censure to provide standards and restraints'.¹¹⁴ That Modood is correct in identifying, what we might call 'a collective standard of communication' is apparent from the fact that the above cited securitising requests by Petry, Bachmann, and Hopkins require little in the way of explanation as being unacceptable; instead they rather speak for themselves. A decisive feature about securitisation is that it legitimises the use of exceptional measures, yet the examples suggest that requesting securitisation ethically means to observe the collective standard of communication. In other words, even a real threat does not legitimise exceptionally derogatory and defamatory speech.

Moreover, the examples discussed above also show that in the interest of peace and security it is not always wise to say or publish anything and everything at all times. The Muhammad cartoon crisis, for example, was made worse by newspaper and magazine editors' decision to exacerbate a sensitive issue by republishing the initial offending cartoons and by commissioning new, equally offensive ones. Waldron has a valid point when he argues: 'Often, the best that [newspaper editors] could say for [republishing the cartoons] was that they were upholding their right to publish them. But a right does not give a right-bearer a reason to exercise the right one way or another'.¹¹⁵ However, given that many politicians and security organisations (the police, border agencies, etc.) benefit from a politics of fear that often involves singling out minorities, it must be acknowledged that self-censorship faces many obstacles.¹¹⁶

¹¹³ K. Fierke, *Critical Approaches to International Security* (Cambridge: Polity Press, 2007).

¹¹⁴ Modood, 'The liberal dilemma', p. 6.

¹¹⁵ Waldron, *The Harm in Hate Speech*, p. 126.

¹¹⁶ See, for example, L. Wacquant, 'Marginality, ethnicity, and penalty: a Bourdieusian perspective on criminalization', in R. A. Duff et al. (eds), *Criminalization: The Political Morality of the Criminal Law* (Oxford: Oxford University Press, 2014), ch. 10; J. Huysmans, *The Politics of Insecurity: Fear, Migration and Asylum in the EU* (London: Routledge, 2006); J. Simon, 'Fear and loathing in late modernity: Reflections on the cultural sources of mass imprisonment in the United States', *Punishment and Society*, 3:1 (2001), pp. 21–33.

Although the principles of the ethics of speaking security have here been developed in the context of securitising requests, it goes without saying that these apply also to securitising actors and their securitising moves. There is simply no reason why securitising actors should be exempt from these basic rules of engagement. Rules that, if obeyed, could reduce the level of harm caused in society considerably.

In summary, we can now say that just security speech has three components: Speak/request security only when (1) there is a threat that is real in an evidence-relative sense; and (2) when securitisation is likely to be a better solution than politicisation or non-action whereby ‘better’ is measured in terms of the least amount of insecurity caused, as well as in terms of securitisation’s relative chances at successfully addressing the threat. Finally, when requesting/speaking security (3) observe existing collective standard of communication, and – in the interest of peace and security – exercise a degree of self-censorship.

Conclusion

In contemporary Europe and elsewhere there is a discernible trend towards either tightening existing hate speech legislation or introducing new legislation in order to curtail the defamation of migrants and refugees as security threats and/or terrorists. For the time being, this is most clearly expressed by an increased willingness to ban Islamophobia. In the context of these developments, this article has critically engaged with the justifiability of criminalising requests to securitise that are harmful or derogatory to racial, ethnic, or religious minorities in order to protect those adversely affected. It has done so by drawing parallels to the existing hate speech debate in legal and political theory. As part of the analysis offered, this article developed the novel analytical concept securitising requests, which captures security speech uttered not by securitising actors intent on securitisation, but rather security speech expressed by (ordinary) people intent on persuading powerful actors to securitise.

It was argued that even securitising requests that do not use overtly offensive language, but simply single out racial, ethnic, or religious minorities as security threats are tantamount to expressions of hate speech because the link to security due to *who* these groups are is in and of itself degrading. It was further argued that the recognition of securitising requests as expressions of hate speech reveals the important insight that harmful speech is based not only on hate, but also on fear. Conceived as such – from the point of view of security – the case against protections is more convincing. In part because one positive of liberal democracies is that citizens are allowed to express their security fears, including of government policy.

The analysis further revealed that, although criminalising harmful and offensive securitising speech can lead to an increase in security for affected groups and that it can pre-empt violent counter-securitisation, punitive measures are a disproportionate response because even offensive and derogatory security speech causes only indirect harm (that is, they leave members of minorities *feel* insecure, or they *offend* members of religious, etc. groups). This is in line with the rationale behind many state’s longstanding hate speech legislation which seeks to prevent primarily the consequences of hate speech (that is, hate crime, terrorism), and which recognises the adverse consequences for democratic process if offensive speech is criminalised. On the basis of these arguments this article concluded that laws banning public expressions of Islamophobia – at least in those cases where Muslims are feared and disliked because of the perception that Islamic people are prone to terrorism, as well as similar securitising requests – are not justified.

Far from negating the significance of indirect harm, however, this article went on to suggest that all persons ought to request security ethically. This article then outlined where the focus should be: when to

request security and how to do so. In so doing, this article filled a lacuna in the research on ethics and securitisation, which has hitherto failed to engage with the ethics of speaking security.

Acknowledgements

I am grateful to the three anonymous *RIS* reviewers for their helpful suggestions and comments. For written comments or conversations on earlier versions of this article, I would like to thank Adam Crawford, Jonathan Floyd, Steven Hutchinson, and Mark Webber. I am also grateful to Jonathan Herington for discussions on just securitisation. As ever, all mistakes and oversights are my own.

Biographical information

Dr Rita Floyd is Birmingham Fellow in Conflict and Security at the University of Birmingham. Her work on securitisation theory has been published widely, most recently in *The Cambridge Review of International Affairs* and in *Contesting Security: Strategies and Logics* (edited by Thierry Balzacq, Routledge, 2015). She has also published widely on environmental and climate security, most recently in *Conflict, Security & Development*. She also has an interest in the English School, with her work on the value of solidarism recently published in the *Journal of International Relations and Development*.