

RESEARCH ARTICLE

# Enough is enough: the UK Prevent Strategy and normative invalidation

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(Received 13 September 2017; revised 18 May 2018; accepted 8 June 2018; First published online 3 August 2018)

## Abstract

The clash between national security and civil rights comprises one of the most controversial aspects of counter-radicalisation strategy. Analysts present this as a conflict between the need for restrictive security measures (for example, surveillance) and the need to uphold civil liberties (for example, privacy and freedom of speech). In responding to this dilemma, the article examines how this binary normative struggle impacts on the rhetorical presentation of counter-radicalisation policies – in particular, the UK Prevent Strategy and the rhetoric employed by UK Prime Minister and former Home Secretary, Theresa May. It argues that the normative environment has obliged May to construct rhetoric within the context of, what is termed here, normative invalidation. In facing two comparably compelling and related norms of action, May is necessarily required to invalidate or neutralise any norm not adhered to as an essential characteristic of rhetorical strategy. This is discussed in relation to the Strategic Narratives paradigm.

**Keywords:** Counter-Radicalisation, Prevent; Theresa May; Normative Theory; Strategic Narratives; Terrorism

## Introduction

How do we prevent terrorism? This is the million-dollar question of the age. It is also a highly controversial one. Not only is there dispute over which methods are most effective – such as the debate between the relative merits of counterterrorism and counter-radicalisation – but this issue is also embroiled in wider conflicts between national security and human rights. Liberal democracies are supposedly committed to upholding the civil liberties and freedom of their citizens. This protection, however, can clash with the claim that stringent, restrictive, and invasive measures are necessary to ensure those same citizens' security from terrorist attack. This conflict is manifest in the UK Prevent Strategy. Embracing a policy of counter-radicalisation, Prevent has been plagued by criticisms that its policies undermine civil liberties in preference to national security, especially where this relates to increased surveillance. This censure is exacerbated by media publicity detailing the strategy's extremes. In one example, nursery staff threatened to refer a four-year-old child for deradicalisation after he drew a picture of his father making a bomb.<sup>1</sup> The child had actually drawn his father cooking – the 'device' was not a bomb, but a knife being used to cut up a cucumber. This example reflects fears that government preferences for upholding national security were eroding core rights.

Of course, some would look at this story and argue that this is a necessary requirement of a world with terrorists in it. If terrorists do not play by the rules, then – realistically – neither can

<sup>1</sup>Ben Quinn, 'Nursery "raised fears of radicalisation over boy's cucumber drawing"', *The Guardian* (11 March 2016), available at: {<https://www.theguardian.com/uk-news/2016/mar/11/nursery-radicalisation-fears-boys-cucumber-drawing-cooker-bomb>} accessed 16 May 2018.

those who seek to stop them, at the risk of being put at strategic disadvantage. This binary and antagonistic relationship between security and liberty creates a normative dilemma (using the model of dilemma proposed by Martha Finnemore):<sup>2</sup> rights or protection? In terms of understanding how this dilemma is resolved, current analysis has focused on ascertaining how an actor chooses between, or balances, two competing interests. How do politicians select between multiple options when all options are comparatively compelling in respect of normative expectation? Yet this approach neglects to address a key aspect of coping with dilemma: the *rhetorical construction* of decision. Regardless of the motivation behind a specific policy, what happens when that decision is communicated to political and public audiences? Existing debate focuses only on the content of policy, overlooking how binary norms influence the ‘selling’ of it. To the extent discussion does refer to rhetoric, this tends to assume that language is merely a direct reflection of the normative dilemma in question and does not consider that politicians may manipulate their language in order to secure support for their political ambitions. Consequently, there exists a significant gap in the study of conflicting norms.

Resolving this gap, this article establishes an original model of rhetorical construction in respect to binary norms. Specifically, decision-making within a contradictory normative context demands that actors develop rhetorical strategies that support the policy they wish to pursue, but also explicitly reject any ‘alternative’ approach associated with conflicting policy norms. Actors necessarily engage in a process of, what is termed here, *normative invalidation*. Where an actor is subject to multiple significant norms (in this case, security and rights), simply selecting one over the other is insufficient to remove any normative expectation surrounding the rejected norm. The actor, therefore, must construct rhetoric in ways that actively invalidate and neutralise the relevance and/or meaning of the rejected norm, where this constitutes a vital aspect of their rhetoric. Critically, this is not the claim that actors balance or trade-off competing norms (as per existing assumptions), but that they actively use rhetoric to invalidate one or more of those norms as a means of selling policy. As such, this article makes an important contribution to the debate concerning how actors deal with normative dilemmas. Comprehending this model of normative invalidation is critical as it plays into ideas as to how politicians promote policies, especially in a contentious environment. Identifying the ways in which actors manipulate and exploit rhetoric, particularly to undermine incompatible points of view, is critical to understanding policy success, the relationships between political and public actors, as well as the function of democratic politics.

This article explains normative invalidation via the constructivist paradigm of Strategic Narratives (SN), which explains how actors create persuasive rhetoric. The theoretical model proposed here, however, comprises a controversial expansion on this approach, and constructivist approaches to language more generally. Specifically, the article puts forward an agency-centric interpretation of rhetoric that conflicts with accepted understandings of language as a restriction on actor behaviour and rhetorical development. Constructivist approaches tend to assume that language is set; actors cannot construct linguistic and normative meaning themselves. And indeed, the idea of normative invalidation buys into this framework to a certain extent whereby it demonstrates that norms cannot be disregarded in respect to the expression of political language. Yet within this understanding of restraint, this article shows there is also significant opportunity for actors to redefine, reproblematised, and redescribe norms as part of a rhetorical strategy – both in terms of promoting and invalidating normative expectations. Consequently, this article makes a second original contribution to the debate on political language. The article demonstrates that actors possess substantial agency – explicitly, more agency than previously assumed – in addressing and responding to norms, and explicitly normative dilemma. This provides a much deeper, complex, and sophisticated understanding of how political actors construct language.

<sup>2</sup>Martha Finnemore, ‘Paradoxes in humanitarian intervention’, in Richard Price (ed.), *Moral Limit and World Politics* (Cambridge: Cambridge University Press: 2008), p. 198.

In providing empirical evidence of normative invalidation, this article applies this theory to Prevent and the rhetoric of British Prime Minister and former Home Secretary Theresa May.<sup>3</sup> Prevent comprises a good choice of case study as it embodies a key normative dilemma. The strategy is also compelling because it is controversial. Prevent's success was called into question during the first half of 2017 following terrorist attacks at Westminster, Manchester, and London Bridge.<sup>4</sup> In response to these strikes, May's prize policy was denounced as ineffectual, especially after it was revealed that one of the London Bridge terrorists had been involved in the programme.<sup>5</sup> May has, however, remained unwaveringly committed to a hardline stance on counter-radicalisation that prioritises national security. Does this mean her rhetoric is as fierce as her policy stance? This analysis says yes – but only when accompanied by rhetorical devices that undermine and normatively invalidate corresponding norms upholding civil rights. Tough talk on national security is more successful when it simultaneously neutralises opposing claims to rights *before* those claims can be utilised by critics against the constructing actor. Importantly, the trends of normative invalidation identified here are not limited to one specific type of audience, but underpin May's rhetorical interaction with a range of political and public spheres – indeed, with any audience expected to be aware of the normative dilemma identified here. Obviously different audiences generate different shades of rhetoric; the way May speaks to her Cabinet is very different to speaking to Muslim populations. Despite the difference in audience, however, this article demonstrates that the same basic trend of normative invalidation applies. Moreover, it is recognised that this 'case study' approach comprises only one example of a much wider rhetorical trend, with all the obvious research limitations attached to this. In demonstrating the theoretical approach proposed here, however, a single case study provides an effective method of proving the analytical point, especially where this permits an in-depth investigation of different layers of rhetorical construction. This method should not be seen to suggest that normative invalidation is inapplicable to other scenarios/actors. This article asserts that the model outlined here comprises a transferable framework that can be employed in other cases of normative dilemma. By demonstrating how normative invalidation works in relation to Prevent, so this provides a guide for how this functions elsewhere in the world of political rhetoric.

### Security vs rights: the Prevent Strategy

Prevent comprises the counter-radicalisation strand of the UK's four-pronged strategy to confront terrorism, CONTEST (alongside Pursue, Protect, and Prepare).<sup>6</sup> As well as being described as the

<sup>3</sup>To clarify, this article is concerned with the rhetorical construction of Prevent; it is not intended as a judgement on the appropriateness of that policy, although it is acknowledged that this policy is highly controversial and subject to intense criticism. Furthermore, this is not a discussion that relates to judging the appropriateness of policies on other issues of security/rights within UK policy, such as asylum seekers.

<sup>4</sup>Tim Farron, 'Theresa May can't be trusted to get it right on counter-terrorism policy', *The Guardian* (5 June 2017), available at: <https://www.theguardian.com/commentisfree/2017/jun/05/theresa-may-trusted-counter-terrorism-policy> accessed 16 May 2018; Andrew Grice, 'Theresa May cuts a reassuring figure – but her anti-terrorism plans for the future leave a lot to be desired', *The Independent* (24 May 2017), available at: <http://www.independent.co.uk/voices/manchester-attack-salman-abedi-terrorism-prevent-muslims-theresa-may-response-wrong-a7753496.html> accessed 16 May 2018; Jack Maidment, 'Government's anti-terror Prevent programme must be strengthened after Manchester attack, says former terror watchdog', *The Telegraph* (24 May 2017), available at: <http://www.telegraph.co.uk/news/2017/05/24/governments-anti-terror-prevent-programme-must-strengthened/> accessed 16 May 2018.

<sup>5</sup>Sewell Chan and Steven Erlanger, 'Questions on U.K. policing mount as 3<sup>rd</sup> London attacker is identified', *The New York Times* (6 June 2017), available at: [https://www.nytimes.com/2017/06/06/world/europe/london-attack-uk.html?\\_r=0](https://www.nytimes.com/2017/06/06/world/europe/london-attack-uk.html?_r=0) accessed 16 May 2018.

<sup>6</sup>Counter-radicalisation policy is not exclusive to the UK. For excellent accounts comparing British policies to that in France and also within the EU, see Anastassia Tsoukala, 'Democracy against security: the debates about counterterrorism in the European Parliament, September 2001–June 2003', *Alternatives*, 29:4 (2004), pp. 417–39; Anastassia Tsoukala,

most important aspect of CONTEST,<sup>7</sup> Prevent has also been named the most controversial, explicitly for prioritising national security at the expense of civil liberties.<sup>8</sup> This concern relates largely to surveillance. The strategy is accused of spying on Muslim communities,<sup>9</sup> to the extent that Britain has been described as a ‘police state’<sup>10</sup> and Prevent compared to a ‘witch hunt’.<sup>11</sup> For example, Prevent now involves an unprecedented surveillance of education in schools and universities,<sup>12</sup> as well as the National Health Service (NHS), where medical staffs are trained to spot signs of radicalisation in their patients.<sup>13</sup> While the scheme has undergone numerous strategic amendments since its development in 2003 that partially address some of these concerns, including a major review in 2011, criticisms persist. The contentious concept of surveillance is made more controversial by the way Prevent effectively endorses a very fluid conception of future action, securitising precursor activity (such as immigration violations, fraud, and engagement with so-called extremists) regardless of whether this actually leads to terrorist activity.<sup>14</sup> While this pre-criminal conceptualisation of space has changed,<sup>15</sup> this remains a major ethical concern in that ‘potential’ terrorists are discriminated against and denied ‘the rights of full citizenship’.<sup>16</sup> This approach is also liable to identify ‘false positives’, in which suspects are identified with no clear proof as to their guilt.<sup>17</sup> This is not just ethically questionable, but it also undermines community relations that are essential to the success of Prevent. Baroness Sayeeda Warsi says the way in which surveillance is currently carried out means Prevent is ‘toxic’ to community-based engagement.<sup>18</sup>

This clash between security and rights is nothing new. While the conflict has been dismissed as a false dichotomy,<sup>19</sup> the debate is conventionally constructed as a standoff between two

‘Democracy in the light of security: British and French political discourses on domestic counter-terrorism policies’, *Political Studies*, 54:3 (2006), pp. 607–27.

<sup>7</sup>Rachel Briggs, ‘Community engagement for counterterrorism: Lessons from the United Kingdom’, *International Affairs*, 86:4 (2010), p. 971; Krzysztof Feliks Sliwinski, ‘Counter-terrorism – a comprehensive approach: Social mobilisation and civilisation: the case of the United Kingdom’, *European Security*, 22:3 (2013), p. 292.

<sup>8</sup>Gwen Griffith-Dickson, Andrew Dickson, and Ivermee Robert, ‘Counter-extremism and de-radicalisation in the UK: a contemporary overview’, *Journal for Deradicalization*, winter (2014/15), p. 27; John Gearson and Hugo Rosemont, ‘CONTEST as strategy: Reassessing Britain’s counterterrorism approach’, *Studies in Conflict and Terrorism*, 38:12 (2015), p. 1049.

<sup>9</sup>Arun Kundnani, *A Decade Lost: Rethinking Radicalisation and Extremism* (London: Claysstone, 2015); Paul Thomas, ‘Prevent and community cohesion in Britain: the worst of all possible worlds?’, in Christopher Baker-Beall, Charlotte Heath-Kelly, and Lee Jarvis (eds), *Counter-Radicalisation: Critical Perspectives* (London: Routledge, 2015), pp. 36–53.

<sup>10</sup>Michael Jacobs, ‘Civil liberties in Britain’, *Economic and Political Weekly*, 20:15 (1985), p. 634.

<sup>11</sup>Charlotte Heath-Kelly, ‘Can we laugh yet? Reading Post-9/11 counterterrorism policy as magical realism and opening a third-space of resistance’, *European Journal of Criminal Policy Research*, 18 (2012), pp. 343–69.

<sup>12</sup>Charlotte Chadderton, ‘UK secondary schools under surveillance: What are the implications for race? A critical race and Butlerian analysis’, *Journal for Critical Education Policy Studies*, 10:1 (2012), pp. 76–92; Ian Cram, ‘The “war on terror” on campus: Some free speech issues around anti-radicalization law and policy in the United Kingdom’, *Journal for the Study of Radicalism*, 6:1 (2012), pp. 1–34.

<sup>13</sup>Charlotte Heath-Kelly, ‘Algorithmic autoimmunity in the NHS: Radicalisation and the clinic’, *Security Dialogue*, 48:1 (2016), pp. 29–45; Derek Summerfield, ‘Mandating doctors to attend counter-terrorism workshops is medically unethical’, *British Journal of Psychology Bulletin*, 40 (2016), pp. 87–8.

<sup>14</sup>Jude McCulloch and Sharon Pickering, ‘Pre-crime and counter-terrorism: Imagining future crime in the “war on terror”’, *The British Journal of Criminology*, 49:5 (2009), pp. 628–45; Kevin A. O’Brien, ‘Managing national security and law enforcement intelligence in a globalised world’, *Review of International Studies*, 35:4 (2009), p. 905; Raffaello Pantucci, ‘A contest to democracy? How the UK has responded to the current terrorist threat’, *Democratization*, 17:2 (2010), p. 259; Gabe Mythen, ‘“No one speaks for us”: Security policy, suspected communities and the problem of voice’, *Critical Studies on Terrorism*, 5:3 (2002), p. 410.

<sup>15</sup>Charlotte Heath-Kelly, ‘The geography of pre-criminal space: Epidemiological imaginations of radicalization risk in the UK Prevent Strategy, 2007–17’, *Critical Studies on Terrorism*, 10:2 (2017), pp. 297–319.

<sup>16</sup>Aislinn O’Donnell, ‘Contagious ideas: Vulnerability, epistemic justice and counter-terrorism in education’, *Educational Philosophy and Theory*, 50:10 (2016), p. 12.

<sup>17</sup>Charlotte Heath-Kelly, ‘Reinventing prevention or exposing the gap? False positives in UK terrorism governance and the quest for pre-emption’, *Critical Studies on Terrorism*, 5:1 (2010), pp. 69–87.

<sup>18</sup>In Grice, ‘Theresa May cuts a reassuring figure’.

<sup>19</sup>Anthony D. Romero, ‘In defense of liberty at a time of national emergency’, *Human Rights*, 29:1 (2002), pp. 16–17, 24–5.

normative positions. In clarifying what is meant here by the reference to norms: 'Norms are regarded as standards of behaviour, defined in terms of rights and obligations. In this sense norms are general prescriptions of behaviour that regulate intentions and effects.'<sup>20</sup> Such behaviour can be comprehended within the terms of Peter Katzenstein's well-used conception of 'the proper behaviour of actors within a given identity'.<sup>21</sup> Critically, however, the employment of 'norms' here is understood within the context of actual policymaking. While the ideas of security and rights can be comprehended in the more abstract sense of appropriate behaviour, the way in which these concepts are discussed within a specific context of real policy decisions cannot be overlooked. Both the issues of security and rights do embrace and express core ideals. Within the context of their political application, however, this is inevitably also a question of policy. Consequently, this article employs a somewhat qualified notion of a norm as relating not only to actor behaviour, but also explicitly to the adoption of specific policies associated with a given normative position. The informal phrase 'policy norm' is used here to reflect this. This approach is specifically designed to complement the work of Anastassia Tsoukala<sup>22</sup> and also (more generally) Michel Foucault's notion of problematisation,<sup>23</sup> in viewing policy norms as the reflection not only of standards of behaviour, but also as an expression of how to solve societal and political problems.

Returning to the conflict between security and rights, choosing between the two is seen as the 'cardinal question' of security,<sup>24</sup> and 'a seemingly inescapable predicament'.<sup>25</sup> While it is argued that the two are not necessarily incompatible,<sup>26</sup> this is conventionally presented as a choice. On one hand, securing rights is considered detrimental to the provision of national security, especially in times of emergency.<sup>27</sup> Demanding that all rights be respected is dismissed as 'alarmist' and of 'tying the hands of security agencies in disrupting and preventing terrorists'. William Stuntz states: 'Privacy and transparency are the diseases. We need to find a vaccine, and soon.'<sup>28</sup> This view has gained political traction since 9/11, following which 'exceptional' security measures have been normalised.<sup>29</sup> In the wake of the attacks on New York and Washington, DC, security is prioritised – what Colm O'Cinneide wonderfully describes as responding to 'the siren song of

<sup>20</sup>Annika Bjorkdahl, 'Norms in international relations: Some conceptual and methodological reflections', *Cambridge Review of International Affairs*, 15:1 (2002), p. 13.

<sup>21</sup>Peter Katzenstein, 'Introduction: Alternative perspectives on national security', in Peter Katzenstein (ed.), *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996), p. 5. The concept of 'proper' behaviour is also employed by Martha Finnemore and Kathryn Sikkink, 'International norm dynamics and political change', *International Organization*, 52:4 (1998), p. 891.

<sup>22</sup>Tsoukala, 'Light of security'.

<sup>23</sup>Michel Foucault, 'The concern for truth', in Kriztman Lawrence (ed.), *Politics, Philosophy, Culture: Interviews and Other Writings 1977–1984* (London: Routledge, 1988), pp. 255–70.

<sup>24</sup>Solon Solomon, 'From the barrier to refugee law: National security's transformation from a balancing right to a background element in the realms of Israeli constitutionalism', *The International Journal of Human Rights*, 19:4 (2015), p. 447.

<sup>25</sup>Sliwinski, 'Counter-terrorism', p. 288.

<sup>26</sup>Leonard B. Weinberg, William L. Eubank, and Elizabeth A. Francis, 'The cost of terrorism: the relationship between international terrorism and democratic governance', *Terrorism and Political Violence*, 20:2 (2008), pp. 257–70; James A. Piazza and James I. Walsh, 'Transnational terror and human rights', *International Studies Quarterly*, 53:1 (2009), pp. 125–48; Axel Dreher, Martin Gassebner, and Lars-H. Simers, 'Does terrorism threaten human rights? Evidence from panel data', *The Journal of Law & Economics*, 53:1 (2010), pp. 65–93.

<sup>27</sup>Tsoukala, 'Light of security'; Anastassia Tsoukala, 'Defining the terrorist threat in the post-September 11 era', in Didier Bigo and Anastassia Tsoukala (eds), *Terror, Insecurity and Liberty: Illiberal Practices of Liberal Regimes after 9/11* (London: Routledge, 2008), pp. 49–99; Dora Kostakopoulou, 'How to do things with security post 9/11', *Oxford Journal of Legal Studies*, 28:2 (2008), p. 319; Peter Rogers, 'Contesting and preventing terrorism: On the development of UK strategic policy on radicalisation and community resilience', *Journal of Policing, Intelligence and Counter Terrorism*, 3:2 (2008), p. 38.

<sup>28</sup>William Stuntz, 'Secret service: the liberal case against individual privacy and government transparency', *The New Republic* (17 April 2006), p. 12.

<sup>29</sup>Tsoukala, 'Democracy against security'; Tsoukala, 'Light of security'; Stefano Bonino, 'Preventing-ing Muslimness in Britain: the normalisation of exceptional measures to combat terrorism', *Journal of Muslim Minority Affairs*, 33:3 (2013), pp. 385–400.

dreadful necessity'.<sup>30</sup> On the other hand, scholars oppose sacrificing rights.<sup>31</sup> M. V. Naidu calls national security the 'greatest attack on civil liberty'.<sup>32</sup> This situation is especially damning given that terrorists may actively want and approve of such disruption to democratic life.<sup>33</sup> Consequently, a normative dilemma emerges: should politicians prioritise national security, especially in times of extreme threat? Or should human rights be respected at all costs?

Resolving this dilemma is frequently presented as a need for balance and compromise.<sup>34</sup> Within this context, human rights are no longer considered absolute, but subject to a trade-off with limited security measures. The ideal of rights is supposedly transformed from an abstract conception to a pragmatic norm characterised by the realities of actual policymaking<sup>35</sup> – however 'unpleasant' this may be.<sup>36</sup> Balance has comprised a key feature of the post-9/11 discourse on terrorism, whereby an increased focus on national security is portrayed as necessitating a 'new balance',<sup>37</sup> 'rebalancing',<sup>38</sup> or 'recalibrating the balance'<sup>39</sup> between rights and security. Others, however, describe this approach as a 'Faustian Pact'<sup>40</sup> or reject the concept of balance altogether.<sup>41</sup> In reference to the latter, Dan Squires QC states that security and liberty are not conceptually equal and subsequently cannot be offset, to the extent that 'it is not clear that we are involved in a meaningful exercise at all' in trying to achieve compromise.<sup>42</sup> Furthermore, balance is criticised as a loaded metaphor that assumes 'that liberty can make no positive contribution to security'.<sup>43</sup> While balance engenders positive

<sup>30</sup>Colm O'Cinneide, 'Strapped to the mast: the Siren Song of dreadful necessity, the United Kingdom, Human Rights Act and the terrorist threat', in Miriam Gani and Penelope Mathew (eds), *Fresh Perspectives on the 'War on Terror'* (Canberra: ANU Press, 2008), pp. 327–60.

<sup>31</sup>M. Shamsul Haque, 'Government responses to terrorism: Critical views of their impacts on people and public administration', *Public Administration Review*, 62 (2002), p. 178.

<sup>32</sup>M. V. Naidu, 'National security and civil liberties: Definitions and delimitations in theory and practice', *Peace Research*, 23:2/3 (1991), p. 1.

<sup>33</sup>Robert H. Kupperman, 'On terror and civil liberties', *Harvard International Review*, 7:6 (1985), p. 16; Karima Bennouna, "'To respect and to ensure": Reconciling international human rights obligations in a time of terror', *Proceedings of the Annual Meeting (American Society of International Law)*, 97 (2003), p. 23.

<sup>34</sup>Brian Levin, 'Precarious balance between civil liberties and national security: a historical perspective', *Humboldt Journal of Social Relations*, 27:2 (2003), p. 18; Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton: Princeton University Press, 2004); Volker Roben, 'The role of international conventional and general international law in the fight against international terrorism', in Christian Walter, Silja Voneky, Volker Roben, and Frank Schorkopf (eds), *Terrorism as a Challenge for National and International Law: Security versus Liberty?* (Berlin: Springer, 2004), p. 821; Michelle Louise Atkin, *Balancing Liberty and Security: An Ethical Study of U.S. Foreign Intelligence Surveillance 2001–2009* (New York: Rowman and Littlefield, 2013).

<sup>35</sup>James L. Gibson and Richard D. Bingham, *Civil Liberties and Nazis: The Skokie Free Speech Controversy* (New York: Praeger, 1985), pp. 108–09; A. G. Noorani, 'Terrorism and human rights', *Economic and Political Weekly*, 25:30 (1990), p. 1621; Andrew W. Neal, *Exceptionalism and the Politics of Counter-Terrorism: Liberty, Security and the War on Terror* (London: Routledge, 2010), p. 1; Conor Gearty, *Liberty and Security* (Cambridge: Polity Press, 2013), p. 2.

<sup>36</sup>Darren W. Davis, *Negative Liberty: Public Opinion and the Terrorist Attacks on America* (New York: Russell Sage, 2007), p. 31.

<sup>37</sup>Ian Leigh, 'Changing the rules of the game: Some necessary legal reforms to United Kingdom intelligence', *Review of International Studies*, 35:4 (2009), p. 943.

<sup>38</sup>Daniel J. Solove, 'Data mining and the security-liberty debate', *The University of Chicago Law Review*, 75:1 (2008), p. 345.

<sup>39</sup>Stuart S. Taylor, 'Rights, liberties, and security: Recalibrating the balance after September 11', *The Brookings Review*, 21:1 (2003), pp. 25–31.

<sup>40</sup>Ivor J. Goddard, 'Editorial: Liberty and security: the Faustian Pact', *Journal of the Royal Statistical Society*, 173:2 (2010), pp. 279–81.

<sup>41</sup>David Luban, 'Eight fallacies about liberty and security', in Richard Ashby Wilson (ed.), *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press, 2005), p. 242; Tsoukala, 'Light of security'; Mark Neocleous, *Critique of Security* (Edinburgh: Edinburgh University Press, 2008), p. 12; Myriam Feinberg, 'International counterterrorism – national security and human rights: Conflicts of norms or checks and balances', *The International Journal of Human Rights*, 19:4 (2015), pp. 388–407.

<sup>42</sup>Dan Squires, 'Terrorism and pre-emptive civil processes', *The International Journal of Human Rights*, 20:5 (2016), p. 685.

<sup>43</sup>Stephen Holmes, 'In case of emergency: Misunderstanding tradeoffs in the war on terror', *California Law Review*, 97:2 (2009), p. 313. See also Nancy V. Baker, 'National security versus civil liberties', *Presidential Studies Quarterly*, 33:3 (2003), p. 547; Claudia Aradau, 'Forget equality? Security and liberty in the "war on terror"', *Alternatives*, 33:3 (2008), p. 293.

images of scales and justice – which promote the idea that any compromise is fair and equalised – this framework may actually perpetuate a negative assumption against the value of rights. This debate against balance as a workable conception, however, does not undermine the way people still view the situation as a dilemma between two modes of policymaking. Even where analysts disagree with balance as an appropriate way forward, norms concerning what policy *should* do in respect of counterterrorism and counter-radicalisation still exist and influence actors, both at the public and political levels. This contradictory normative environment is problematic for policymakers in that any proposed policy seems destined to upset someone. Political actors, therefore, face a challenge: how do you win support for a decision that will inevitably be controversial?

### Normative invalidation

The resolution of normative dilemma remains an under-analysed issue. There is a tendency to assume that conflicting policy norms essentially ‘battle it out’, with one eventually taking precedence over the other or some form of balance being concluded. In terms of how resolution occurs, this is typically attributed to one of two explanations. First, this is a measure of normative strength. One norm is hierarchically stronger and more pervasive, leading to its adoption.<sup>44</sup> Second, it is argued that the priority selection of one norm is the product of self-interest, where actors choose the norm that best serves their own policy ambitions.<sup>45</sup> Normative employment, therefore, is ultimately a combination of realist behaviour and normative pressure, within which self-interest has the upper hand.<sup>46</sup> Both these approaches oversimplify the character of conflicting norms; specifically, that each conceptualisation of normative dilemma relies on the same intrinsic assumption that the ‘unused’ norm – once rejected, or partially rejected in the case of balance – is no longer of consequence. This is not the case. While a rejected norm may no longer be of consequence to an actor in respect of the content of their policy (in that they have made their decision), this norm is still relevant to the communication of policy to others. In failing to consider this aspect of policy construction, the debate creates a major gap in our comprehension of normative dilemma. This gap occurs because the current debate ignores an entire stage of policymaking (communication) and overlooks a key political space in which norms influence (the rhetorical). It is in this space that both norms retain full relevance, despite the actor’s policy ambitions, *until* that actor can rhetorically persuade an audience one way or another. Regardless of the motivating factors behind a decision between two norms, this decision continues to exist within a binary normative environment in which both norms are accepted as valid. Selecting one policy approach does not automatically negate the other, especially where failing to do so potentially provides a platform to critics (and where that criticism also plays into a strong and pre-existing normative framework). The actor cannot adopt only part of a binary debate; indeed, that not addressing the debate in its entirety risks undermining the political strategy pursued. Consequently, this opens up an original and crucial question: how does an actor communicate policy when this is constructed within a binary normative environment?

<sup>44</sup>Myron Weiner, ‘The clash of norms: Dilemmas in refugee policies’, *Journal of Refugee Studies*, 11:4 (1998), pp. 433–53; Vaughn P. Shannon, ‘Norms are what states make of them: the political psychology of norm violation’, *International Studies Quarterly*, 44:2 (2000), pp. 293–316.

<sup>45</sup>Marshall Cohen, ‘Moral skepticism and international relations’, *Philosophy and Public Affairs*, 13:4 (1984), pp. 299–346; Paul Dixon, ‘“There is nothing politically right that is morally wrong”? Beyond realism and idealism in the Northern Ireland peace process’, *Irish Political Studies*, 29:2 (2004), pp. 236–57; Jannika Brostrom, ‘Morality and the national interest: Towards a “moral realist” research agenda’, *Cambridge Review of International Affairs*, 29:4 (2015).

<sup>46</sup>Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999); Luke Glanville, ‘Norms, interests and humanitarian intervention’, *Global Change, Peace & Security*, 18:3 (2006), p. 158.

This solution proposed here is the concept of *normative invalidation*.<sup>47</sup> This is the claim that rhetorical strategy must outline a justification as to why any rejected or partial policy norm does not apply within a given scenario. For example, if an actor promotes the maintenance of rights in relation to counter-radicalisation, they must additionally create a perception that this policy will not detrimentally impact the provision and assurance of national security against a major threat; simply invoking the need for human rights is insufficient. The reverse is also true. As this article will establish, even the most hardline policy commitment to national security must still answer to the rights cause. By identifying acts of rhetorical justification – where these specifically appeal to a contested norm – this article demonstrates the presence and substance of normative invalidation. Specifically, this process is not merely a case of setting one norm against the other or creating a balance between the two (as the debate currently tends to construct the situation), but the construction of rhetoric that communicates a clear rationalisation for invalidation and the contextual removal of any normative expectation associated with this. Rejected norms must be removed from consideration in order for the rhetorical strategy to be successful with an audience. Critically, invalidation does not mean the end of a norm. Contextually undermining the relevance of a norm does not require its elimination, only that it is shown not to apply in relation to a specific set of circumstances. Furthermore, invalidation does not necessitate that the constructing actor abandon any genuine conviction for the norm. The actor can still believe the normative expectation they reject, as long as they do not make that evident in the rhetoric they communicate. Similarly, it does not rule out the possibility that the same actor can employ the rejected norm in future rhetorical strategies (albeit at the risk of being labelled a hypocrite). Invalidation is, therefore, a *rhetorical* process, limited to context.

### Strategic norms

Normative invalidation could imply that norms dictate rhetorical strategy. Actors cannot sidestep the normative dilemma; therefore, a pre-existing framework of understanding binds them and what they can achieve in terms of rhetoric construction. This assumption reflects existing theories as to how language works. Constructivists view language as a restraint.<sup>48</sup> Language is not something actors create, but something they adhere to – if only because actors would be incomprehensible if they started making language up.<sup>49</sup> This constructivist approach is reflected in much of the critical literature on terrorism and the political language used to express the threat.<sup>50</sup> This article, however, proposes an alternative means of conceptualising normative use, one more open to the influence of actor agency. An actor's ability to choose between competing norms already suggests a more extensive capacity for agency than many strong constructivist approaches would allow for. Consequently, it is argued that there exists scope for an actor to shape the construction and expression of norms within a specific rhetorical strategy.

<sup>47</sup>Michelle Bentley, 'The intervention taboo(s): Strategy and normative invalidation', *Review of International Studies* 43:3 (2017), pp. 557–80.

<sup>48</sup>Roxanne Lynn Doty, *Imperial Encounters: The Politics of Representation in North-South Relations* (Minneapolis: University of Minnesota Press, 1996); Jennifer Milliken, 'The study of discourse in International Relations: a critique of research and methods', *European Journal of International Relations*, 5:2 (1999), pp. 225–54; Lene Hansen, *Security as Practice: Discourse Analysis and the Bosnian War* (London: Routledge, 2006); Charlotte Epstein, *The Power of Words in International Relations: Birth of an Anti-Whaling Discourse* (Cambridge, MA: MIT Press, 2008); Charlotte Epstein, 'Theorizing agency in Hobbes' wake: the rational actor, the self, or the speaking subject?', *International Organization*, 67:2 (2013), pp. 287–316; Ron R. Krebs, *Narrative and the Making of US National Security* (Cambridge: Cambridge University Press, 2015).

<sup>49</sup>Ron R. Krebs and Patrick Thaddeus Jackson, 'Twisting tongues and twisting arms: the power of political rhetoric', *European Journal of International Relations*, 13:1 (2007), pp. 35–66.

<sup>50</sup>See, for example, Richard Jackson, *Writing the War on Terrorism: Language, Politics and Counter-Terrorism* (Manchester: Manchester University Press, 2005); Adam Hodges and Chad Nilep (eds), *Discourse, War and Terrorism* (Amsterdam: John Benjamins Publishing Company, 2007); Adam Hodges, *The 'War on Terror' Narrative: Discourse and Intertextuality in the Construction and Contestation of Sociopolitical Reality* (Oxford: Oxford University Press, 2011).



This alternative perspective is conceptualised here with reference to SN. SN theorises how strategic rhetorical construction takes place, whereby these narratives constitute:

[A] means for political actors to construct a shared meaning of the past, present, and future of international politics to shape the behaviour of domestic and international actors. Strategic narratives provide a tool for political actors to extend their influence, manage expectations, and change the discursive environment in which they operate ... The point of strategic narratives is to influence the behaviour of others.<sup>51</sup>

Narratives are the words, speech, and actions allowing actors to present politics in specific ways. Explicitly, they are the ‘compelling storylines’ by which actors strategically utilise rhetoric to craft and enact certain perceptions of a political issue, in order to shape audience opinion in line with their own interests.<sup>52</sup> Actors use narratives to create a description of the world – an understanding of what politics looks like and entails – whereby they ‘force’ their audience into adopting certain interpretations and pathways of logic that complement those interests. More than mere spin or framing, actors use rhetoric to influence how politics is carried out, and where such narratives hold together the necessary networks of communication and information required to make this popular.<sup>53</sup> Unsurprisingly then, parallels have been drawn with Joseph Nye’s soft power<sup>54</sup> and the concept of speech acts,<sup>55</sup> where these also appeal to the idea that language can be taken advantage of for such means. Critically, this is an intrinsically deliberate behaviour. The strategic narrative is a conscious product, operationalised to secure a specified political purpose or benefit. While this is not to state that every act of linguistic employment is deliberate (actors do not premeditatedly construct every word or idea they employ), the opportunity exists for the planned and persuasive expression of rhetoric, specifically via narrative structures.

The SN approach does not necessarily conflict with constructivist interpretations of normative and linguistic theory already identified. Elsewhere, however, a more expansive form of narrative construction has been proposed. This comprises a more agency-centric interpretation based on the work of political theorist Quentin Skinner.<sup>56</sup> It is claimed that actors exert considerable agency over the construction of rhetoric. This does not preclude the idea that norms express pre-existing meanings that constrain the actor. Skinner accepts the idea of convention and that language articulates meanings that limit actor innovation.<sup>57</sup> What this article does assert, however, is that there exists greater flexibility surrounding policy norm usage within rhetoric than currently assumed. While actors cannot ignore normative expectations, they still possess significant control over how norms are rhetorically applied, specifically where this deliberate application is designed to realise their own interests. While norms by their very nature prohibit behaviour, these are also rhetorical tools to be exploited. Actors

<sup>51</sup>Alister Miskimmon, Ben O’Loughlin, and Laura Roselle, *Strategic Narratives: Communication Power and the New World Order* (New York: Routledge, 2013), p. 2.

<sup>52</sup>Lawrence Freedman, ‘The transformation of strategic affairs’, *The Adelphi Papers*, 45:379 (2006), p. 2.

<sup>53</sup>John Arquilla and David Rondfeldt, ‘What next for networks and netwars’, in John Arquilla and David Rondfeldt (eds), *Networks and Netwars: The Future of Terror, Crime and Militancy* (Santa Monica, CA: RAND, 2001), p. 328.

<sup>54</sup>Miskimmon, O’Loughlin, and Roselle, *Strategic Narratives*, p. 3.

<sup>55</sup>Per M. Norheim-Martinsen, ‘EU strategic culture: When the means becomes the end’, *Contemporary Security Policy*, 32:3 (2011), p. 521.

<sup>56</sup>Michelle Bentley, *Weapons of Mass Destruction and US Foreign Policy: The Strategic Use of a Concept* (London: Routledge, 2014); Michelle Bentley, *Syria and the Chemical Weapons Taboo: Exploiting the Forbidden* (Manchester: Manchester University Press, 2016).

<sup>57</sup>Quentin Skinner, ‘Meaning and understanding in the history of ideas’, *History and Theory*, 8:1 (1969), p. 49; Quentin Skinner, ‘Conventions and the understanding of speech acts’, *The Philosophical Quarterly*, 20:79 (1970), pp. 118–38; Quentin Skinner, ‘Hermeneutics and the role of history’, *New Literary History*, 7:1 (1975), p. 226; Quentin Skinner, ‘Introduction: Seeing things their way’, in Quentin Skinner (ed.), *Visions of Politics, Volume 1* (Cambridge: Cambridge University Press, 2002), p 7.

engage strategically with the norms that also restrain them, including where this relates to normative meaning. Invalidation must take place for this to be achieved, but actors still exert significant agency over the ideas they both use and reject. Critically, this original approach constitutes a potentially controversial deviation from existing understandings of normative theory. As already noted, the idea that actors possess even the limited agency suggested here is debatable. It will, however, now be demonstrated through an empirical analysis that this agency-centric perspective must be recognised if analysis is to have a full understanding of how norms apply to the development of political rhetoric – especially on such a major issue as terrorism.

### Theresa May and narratives of security

Theresa May has never been shy of tough law and order on terrorism – an approach that explicitly sidelines rights in pursuit of stringent security measures.<sup>58</sup> May's doctrine is based primarily on an opposition to extremism and she is invested heavily in Prevent, specifically as a hardline measure to control the spread and influence of extremist thinking. The key word is 'hardline'. Prevent is not constructed as a soft approach, but as an aggressive policy of deradicalisation that should not be mitigated by any significant recourse to civil liberties. It is, therefore, unsurprising that May finds herself on the security side of the security-rights debate. Not least where many civil liberties concern the freedom of speech, rights to democratic representation, and cultural respect – all conducive to the spread of ideas, extremist or otherwise – the protection of rights lies at odds with May's policy stance. This policy stance was evident during the last days of the 2017 General Election. As part of her 'enough is enough' strategy announced after seven were killed in the London Bridge terrorist attack,<sup>59</sup> May declared her willingness to abandon rights where these came into opposition with security provisions: 'And if human rights laws stop us from doing it [increasing security measures], we will change those laws so we can do it'.<sup>60</sup> Specifically, this situation was portrayed as a need to be stronger on extremism, whereby Britain was 'too tolerant' of the 'evil ideology of Islamist extremism'.<sup>61</sup> As part of this, May announced her new pet project – the Commission on Countering Extremism, which advises as to what legal provisions would be appropriate in prioritising British values over extremist Islamic views.

Admittedly, these announcements were made at a time when May was under pressure to look strong. After two terrorist attacks during the election campaign, she was facing criticism that, as Home Secretary, she had authorised police cuts that had made the UK more vulnerable to terrorism.<sup>62</sup> The attacks were also cited as evidence that the Prevent Strategy was ineffective. Running for election on a 'strong and stable' platform, May needed to re-establish her

<sup>58</sup>Karma Nabulsi, 'Theresa May's Prevent bill is extremism in the name of security', *openDemocracy UK* (9 February 2015), available at: <https://www.opendemocracy.net/ourkingdom/karma-nabulsi/theresa-may%e2%80%99s-prevent-bill-is-extremism-in-name-of-security> accessed 16 May 2018; Fiona De Londras, 'Tearing up human rights law won't protect us from terrorism', *The Conversation* (7 June 2017), available at: <https://theconversation.com/tearing-up-human-rights-law-wont-protect-us-from-terrorism-79044> accessed 16 May 2018.

<sup>59</sup>Theresa May, 'Terrorism: Home Secretary's CONTEST speech', *gov.uk* (12 July 2011), available at: <https://www.gov.uk/government/speeches/terrorism-home-secretarys-contest-speech> accessed 16 May 2018.

<sup>60</sup>Theresa May, as quoted in Rowena Mason and Vikram Dodd, 'May: I'll rip up human rights laws that impede new terror legislation', *The Guardian* (6 June 2017), available at: <https://www.theguardian.com/politics/2017/jun/06/theresa-may-rip-up-human-rights-laws-impede-new-terror-legislation> accessed 16 May 2018.

<sup>61</sup>Jon Stone, 'Theresa May: London terror attack shows Britain too tolerant of extremism', *The Independent* (4 June 2017), available at: <http://www.independent.co.uk/news/uk/politics/london-bridge-terror-attack-theresa-may-tolerance-of-extremism-terrorism-islam-a7771836.html> accessed 16 May 2018.

<sup>62</sup>George Eaton, 'Theresa May's police cuts have returned to haunt her', *New Statesman* (5 June 2017), available at: <http://www.newstatesman.com/politics/june2017/2017/06/theresa-mays-police-cuts-have-returned-haunt-her> accessed 16 May 2018.

credentials.<sup>63</sup> The defiance in her speech, however, is consistent with her wider rhetoric, and specifically in relation to Prevent as a barrier against extremism (as will be detailed below). In rigidly promoting security over rights, however, May has additionally needed to address expectations concerning the latter, as an act of normative invalidation. May does not balance security/civil liberties, but actively undermines the civil liberties norm via her rhetoric. Indeed, her direct attack on human rights law detailed here can be interpreted as an acknowledgment that she could potentially be criticised on the grounds of diminishing rights and subsequently presented policy in a manner that negated the claim to civil liberties before anyone could make that argument against her.

In identifying further examples of normative invalidation within May's rhetoric, data has been sourced from a variety of publications, including Hansard, UK newspapers and online news outlets, as well as the Conservative Party website. This plurality of data allows for a comparative analysis across different speeches, made at different times, and in relation to different audiences (for example, political elites, security organisations, businesses, various media, and general speeches to the public). As well as demonstrating that May achieves normative invalidation in diverse ways, this data also shows that the prime minister employs the same tactics of normative invalidation regardless of audience. While discourse analysis assumes that rhetoric changes according to audience, here there is consistency. Admittedly, all the audiences within the data analysed are: (a) public, that is, not carried out behind closed doors; and (b) likely conscious of the normative dilemma between security and rights. Within this context, it is possible that May constructs rhetoric differently in terms of audiences not covered by this data, for example, within a more private context. It would not be theoretically uncontroversial to suggest that May speaks differently in public to how she talks, say, to her Cabinet. Where this article is explicitly focused on public rhetoric, however, this is not a problem. Moreover, this consistency is unsurprising. Given the extent to which Prevent has influenced everyday life – from what you say to your doctor, to education in schools – even non-expert audiences can grasp what the curtailment of civil liberties means, and more specifically what this means in relation to the horrific terror attacks they see reported in the news. May's consistency, therefore, is a reflection of the community-based nature of the issue and her problematisation of extremism.

### ***Security as an achievement; rights as a failure***

May presents increased security measures as a success. She rhetorically constructs both the introduction of new security provisions and the outcomes of existing ones as wholly positive and good. She boasts of her success in removing 'citizenship from naturalised Britons who pose a threat to our country'<sup>64</sup> and that she has 'kicked a few of them out'.<sup>65</sup> 'Since coming to power, I have already excluded 44 individuals from the UK either because of unacceptable behaviour or for national security reasons.'<sup>66</sup> Contrasting herself to Labour's policy towards extremists, under which she says Muslim preachers were 'embraced on stage', May has 'excluded more foreign hate preachers than any Home Secretary before me'.<sup>67</sup> Moreover, her commitment to Prevent has

<sup>63</sup>Will Gore, 'Theresa May's "strong and stable" mantra looks weaker than ever in face of an MI5 security review', *The Independent* (29 May 2017), available at: {<http://www.independent.co.uk/voices/mi5-security-review-manchester-attack-salman-abedi-terrorism-theresa-may-strong-and-stable-a7761921.html>} accessed 16 May 2018.

<sup>64</sup>Theresa May, 'Home Secretary: We must work together to defeat terrorism', *gov.uk* (18 June 2015), available at: {<https://www.gov.uk/government/speeches/home-secretary-we-must-work-together-to-defeat-terrorism>} accessed 16 May 2018.

<sup>65</sup>Theresa May, 'Speech to the Conservative Party Conference 2014', *Conservatives.com* (30 September 2014), available at: {<http://press.conservatives.com/post/98799073410/theresa-may-speech-to-conservative-party>} accessed 16 May 2018

<sup>66</sup>Theresa May, 'Prevent Strategy', House of Commons, Hansard 529 (7 June 2011).

<sup>67</sup>Theresa May, 'Extremism', House of Commons, Hansard 582 (9 June 2014). See also Theresa May, 'Theresa May speech in full', *Politics* (3 November 2010), available at: {<http://www.politics.co.uk/comment-analysis/2010/11/3/theresa-may-speech-in-full>} accessed 16 May 2018; Theresa May, 'Home Secretary Theresa May on counter-terrorism', *gov.uk* (24 November 2014), available at: {<https://www.gov.uk/government/speeches/home-secretary-theresa-may-on-counter-terrorism>} accessed 16 May 2018; Theresa May in 'Terrorist Attacks (Paris)', House of Commons, Hansard 580 (14 January 2015).

provided ‘much greater effectiveness’ in tackling radicalisation.<sup>68</sup> What some may consider rights abuses, she pre-constructs as worthy of a gold star – where this comprises a tactic of normative invalidation. Security policy measures are presented as major wins, thereby negating claims that these may be morally contentious. How could these measures be inappropriate when they are something to be proud of?

The construction of security as achievement allows for the othering of the rights policy norm as a failure. May presents rights as exacerbating the risk from extremism and terrorism. For example, in relation to the European Convention on Human Rights (ECHR), May rejects the authority of this provision by stating that: ‘Court interpretations of the European Convention of Human Rights have sometimes prevented us from returning dangerous terrorists to their countries of origin.’<sup>69</sup> Consequently, the ECHR is presented as a barrier to achieving security via policy measures, especially in terms of the deportation of suspects/terrorists and specifically where this represents a failure that May has been *successful* in overcoming by amending policy.<sup>70</sup> Without her input and the imposition of restrictive security measures, the UK – it seems – would be overrun with terrorists. The strategic narrative argues that rights are the enemy; their safeguarding leaves the state more insecure. In contrast, security measures are to be celebrated and applauded. In this way, rights are normatively invalidated and the path left clear for further security measures in the future.

### **A necessary response**

The first duty of any government is to protect the British public.<sup>71</sup>

May also invalidates the idea that counter-radicalisation policy should uphold rights by emphasising the severity of the terrorist threat. Exploiting the claim that more threat justifies fewer rights, May negates the appeal to civil liberties by constructing a strategic narrative that the threat level is simply too extreme. She employed this tactic when presenting the revamped Prevent Strategy in 2011. Prior to outlining a range of potentially controversial new security measures, May pre-empted the rights argument by constructing the UK as facing ‘a serious and sustained threat from terrorism’.<sup>72</sup> She continued: ‘Osama bin Laden may be dead, but the threat from al-Qaeda-inspired terrorism is not.’ This rhetoric is specifically relevant to counter-radicalisation: ‘Al Qa’ida’s ideology may be discredited, but it can still be used to radicalise.’<sup>74</sup> In response, Prevent is presented as essential in order to ‘tackle that threat’ regardless of the impact on rights.<sup>73</sup> This strategic approach is further employed elsewhere for the same purposes of invalidation, where May repeatedly refers to the designation of the UK threat level as ‘severe’ and explicitly emphasises that this means a future attack is ‘highly likely’ or ‘imminent’.<sup>75</sup> Specifically,

<sup>68</sup>Theresa May, ‘Topical Questions’, House of Commons, Hansard 530 (27 June 2011).

<sup>69</sup>May, ‘CONTEST speech’.

<sup>70</sup>May, ‘Council on Foreign Relations’; May, ‘Home Secretary Theresa May on counter-terrorism’; May, ‘Speech to the Conservative Party Conference 2014’.

<sup>71</sup>May, ‘CONTEST speech’.

<sup>72</sup>May, ‘Prevent Strategy’.

<sup>74</sup>May, ‘Prevent Strategy’.

<sup>73</sup>May, ‘CONTEST speech’.

<sup>75</sup>*Ibid*; May, ‘Council on Foreign Relations’; May, ‘Home Secretary Theresa May on counter-terrorism’; May, ‘Speech to the Conservative Party Conference 2014’; Theresa May, ‘PM Commons Statement on Westminster Attack: 23 March 2017’, *gov.uk* (23 March 2017), available at: {<https://www.gov.uk/government/speeches/pm-commons-statement-on-westminster-attack-23-march-2017>} accessed 16 May 2018; Theresa May, ‘Prime Minister Theresa May gave a statement in Downing Street following the terrorist attack in Manchester’, *gov.uk* (23 May 2017), available at: {<https://www.gov.uk/government/speeches/pm-statement-following-terrorist-attack-in-manchester-23-may-2017>} accessed 16 May 2018; Theresa May, ‘PM Statement following second COBR meeting on Manchester attack: 23 May 2017’, *gov.uk* (23 May 2017), available at: {<https://www.gov.uk/government/speeches/pm-statement-following-second-cobr-meeting-on-manchester-attack-23-may-2017>} accessed 16 May 2018.

May asserts that this threat level demands ‘we must act’, that is, increase security provisions.<sup>76</sup> A security-centric policy is the only way to ‘keep us all safe’,<sup>77</sup> however ‘controversial’ the measures introduced in the name of Prevent are in terms of rights violations.<sup>78</sup> May further constructs a strategic narrative of the terrorist threat as one in which failing to introduce ‘vital’ new restrictions will exacerbate the identified insecurity.<sup>79</sup> In relation to the contentious Draft Communications Data Bill (which would increase monitoring of radicalisation and terrorist activity via phone and the Internet), May said:

Let me be absolutely clear: every day that passes without the proposals in the draft Communications Data Bill, the capabilities of the people who keep us safe diminish; and as those capabilities diminish, more people find themselves in danger and – yes ... innocent lives will be put at risk.<sup>80</sup>

There is also a patriotic element. May declares a need to make ‘Britain the most secure and safest country and strongest country in Europe.’<sup>81</sup> Security is linked to patriotism and national pride, which – as the pro-Brexit vote reveals – is a highly potent frame to draw upon in relation to a UK audience.

This approach has clear overtones of the idea of exception, as expressed by Tsoukala.<sup>82</sup> Rights are effectively ruled out as an inappropriate policy norm, at least within the current threat climate, and the engrained policy norm of exception means that May does not even have to explicitly state this for it to be accepted as valid. There is, however, something more complex here in that May uses the concept of exception to explain away rights and where this comprises only one of many strategies of invalidation. While May does unequivocally maintain that rights cannot be prioritised after London Bridge (direct normative invalidation), other forms of rhetoric are subtler and create a pathway of logic that necessarily concludes rights cannot be fully respected in the case of terrorism (indirect normative invalidation). In the case of building an exclusive focus around the level of threat, the strength of the security/rights dilemma means that the negation of civil liberties is (a) implied and (b) a logical consequence of rhetorically setting the scene in favour of a security-centric argument. May effectively tips the scales in favour of security before anything is even weighed. In another example, she declares counter-radicalisation is necessary as ‘we cannot allow this ideology the safe space it needs to breed’<sup>83</sup> She continues ‘While we have made significant progress in recent years, there is – to be frank – far too much tolerance of extremism in our country.’ Again, while there is no direct reference to rights, the indirect implication is clear: respecting rights creates extremism, which itself is equated with terrorism. Furthermore, May pre-empts support for the notion of toleration by negating it as a vehicle for extremism. May normatively invalidates the liberty argument by rhetorically constructing a strategic narrative in which rights simply do not apply; indeed, they are actively dangerous.

May also draws on previous terrorist attacks – particularly 7/7 – to ‘remind’ an audience of what failing to act against terrorism can look like.<sup>84</sup> Again, this comprises a method of drawing

<sup>76</sup>Theresa May in ‘Counter-Terrorism and Security Bill’, House of Commons, Hansard 589 (2 December 2015).

<sup>77</sup>May, ‘Second COBR meeting’.

<sup>78</sup>Theresa May, ‘Home Secretary: International action needed to tackle terrorism’, *gov.uk* (16 February 2016), available at: {<https://www.gov.uk/government/speeches/home-secretary-international-action-needed-to-tackle-terrorism>} accessed 16 May 2018.

<sup>79</sup>May, ‘CONTEST speech’; May in ‘Extremism’; May, ‘Council on Foreign Relations’; May, ‘Home Secretary Theresa May on counter-terrorism’; May, ‘Speech to the Conservative Party Conference 2014’; Theresa May, ‘Brussels Terrorist Attack’, House of Commons, Hansard 607 (23 March 2016); May, ‘Downing Street following the terrorist attack in Manchester’.

<sup>80</sup>May, ‘Terrorist Attacks (Paris)’.

<sup>81</sup>Theresa May, ‘Theresa May: Speech in Dudley 22<sup>nd</sup> April 2017’, *Conservatives.com* (22 April 2017), available at: {<http://press.conservatives.com/post/159865695365/theresa-may-speech-in-dudley-22nd-april-2017>} accessed 16 May 2018.

<sup>82</sup>Tsoukala, ‘Light of security’.

<sup>83</sup>May, ‘Downing Street following the terrorist attack in Manchester’.

<sup>84</sup>May, ‘CONTEST speech’.

upon an explicitly identified state of fear and anxiety to promote a security-centric approach; this time one already experienced, as opposed to the threat of future strikes. Specifically, May constructs these events as ‘murder’.<sup>85</sup> Lee Rigby was ‘brutally murdered’;<sup>86</sup> the Brussels bombings were ‘cold-blooded’ murder;<sup>87</sup> and Manchester involved the ‘murder of innocent citizens and the deliberate targeting of children’.<sup>88</sup> The characterisation of murder, as opposed to a military or political attack, is strategic. Murder is an inhuman and proscribed act for which there is no moral justification, or at least that it can be easily constructed as such.<sup>89</sup> This is not to say the charge of terrorism is not also effective, but that the emotional and moral impact of murder is significantly more difficult to justify from a rights perspective. Who could excuse any act that would mitigate or justify immoral and cold-hearted killing? As such, May once more invalidates the claim to rights. By creating a situation in which an audience effectively has to condone murder in order to support the safeguarding of rights, May strengthens her narrative case for a security-centric approach.

### **Qualified conception of human rights**

May further invalidates the rights policy norm by constructing a highly qualified account of what rights are. May’s rhetoric limits rights to the protection of ‘British values’ from terrorism<sup>90</sup> – where these values comprise the only rights that matter – as opposed to the rights subject to protection from the implementation of counter-radicalisation measures. May’s narrative is focused on protecting a certain ideology and way of life (as manifest in the Commission on Countering Extremism). Other freedoms that may be diminished by that process are not even rights, let alone rights to be respected. The ultimate right is to live your (‘British’) life as normal in spite of terrorism. May said after the Westminster attack:

As I speak millions will be boarding trains and aeroplanes to travel to London, and to see for themselves the greatest city on Earth. It is in these actions – millions of acts of normality – that we find the best response to terrorism. A response that denies our enemies their victory. That refuses to let them win. That shows we will never give in.<sup>91</sup>

Prevent exemplifies this sentiment where community financing is limited to associations that are clearly committed to ‘British values’;<sup>92</sup> and where groups who are not are dismissed as promoting ‘twisted narratives’ that conflict with and challenge ‘British’ freedoms.<sup>93</sup> Furthermore, May negates the rights of radicalised persons by dismissing their ideology as ‘not Islamic’<sup>94</sup> – that is, they have no legitimate religious and/or cultural grounds on which to lay a case for rights or representation – and by playing up alleged abuses within the Muslim community, such as the discriminatory treatment of women.<sup>95</sup> Consequently, this invalidates the rights argument as – while making it appear as though liberties are valued – May’s strategic narrative draws a highly selective line between those who possess rights and those who do not. It is worth noting that this

<sup>85</sup>May, ‘We must work together to defeat terrorism’.

<sup>86</sup>May, ‘Counter-Terrorism and Security Bill’. See also May, ‘Extremism’; May, ‘Speech to the Conservative Party Conference 2014’; May, ‘Terrorist Attacks (Paris)’; Theresa May, ‘A stronger Britain, built on our values’, *gov.uk* (23 March 2015), available at: {<https://www.gov.uk/government/speeches/a-stronger-britain-built-on-our-values>} accessed 16 May 2018.

<sup>87</sup>May, ‘Brussels Terrorist Attack’.

<sup>88</sup>Theresa May, ‘PM Statement at the G7 Summit in Sicily: 26 May 2017’, *gov.uk* (26 May 2017), available at: {<https://www.gov.uk/government/speeches/pm-statement-at-the-g7-summit-in-sicily-26-may-2017>} accessed 16 May 2018.

<sup>89</sup>Jeffrie G. Murphy, ‘The killing of the innocent’, *The Monist*, 57:4 (1973), p. 527.

<sup>90</sup>May, ‘A stronger Britain, built on our values’.

<sup>92</sup>Theresa May, ‘Terrorism’, House of Commons, Hansard 532 (12 September 2011).

<sup>92</sup>Theresa May, ‘Terrorism’, House of Commons, Hansard 532 (12 September 2011).

<sup>93</sup>May, ‘Brussels Terrorist Attack’.

<sup>94</sup>May, ‘Speech to the Conservative Party Conference 2014’.

<sup>95</sup>May, ‘A stronger Britain, built on our values’; May, ‘Brussels Terrorist Attack’.

invalidation of rights is exclusive to Muslim communities and does not take into account the far right. While the 2011 Prevent review committed the strategy to addressing far right extremism also, relatively little progress has been made in this area.<sup>96</sup>

As part of this narrative tactic, May ties the concept of ‘British’ values to democracy. Prevent, therefore, becomes a rhetorical bastion in the protection of the democratic system.<sup>97</sup> This rhetoric is ironic given that: (a) it has already been shown above that Prevent encourages alienation from the democratic system; and (b) diminishing rights undermines and opposes the very values of democratic representation May employs to justify her security-centric approach to counter-radicalisation.<sup>98</sup> Yet again, however, May presents an extremely qualified notion of what democracy constitutes, specifically in relation to the expression of rights:

The starting point of the new strategy is the emphatic rejection of the misconception that in a liberal democracy like Britain, ‘anything goes’, the belief that living in a society like ours means there aren’t really any fundamental rules or norms.<sup>99</sup>

Democracy then is not a commitment to representing all rights and opinions, but only some. Despite the promise of democratic representation, there are still rules as to how you should live your life and what ideals you should commit to; beyond that, you should not expect protection for your ideology or actions. In particular, the reference to ‘anything goes’ invalidates the safeguarding and toleration of any belief that falls outside the category of ‘British values’. This reference negates those very beliefs by othering them as inconsistent and even repugnant to the ‘British’ society.<sup>100</sup> Within this context, May presents this as a case in which Prevent cannot diminish rights on these grounds, as no rights exist in the first place. And to the extent that rights do occur in the form of ‘British values’, then restrictive security measures are necessitated as the only way to ensure those values are secured. It is a Catch 22: if you do not possess rights, then any security measure is justified against you; if you do possess rights, then any security measure is justified in ensuring they are upheld (even if this then reduces those rights in the process).

Critically, this situation is not simply a case in which certain rights are absent from the debate. If this were a situation of mere absence, then the normative invalidation argument could be accused of being little more than a straw man. While May dismisses certain rights, however, she does so in ways that effectively acknowledges the rights-based policy norm. Reducing rights to a qualified classification does absent certain forms of entitlement; yet this rejection is only rhetorically possible to the extent that it relies on a manipulated notion of pro-rights norms. Consequently, this is not simply a case of rejecting non-British values, but the utilisation of normative invalidation to detach them from debate. The presence of a rhetorical justification based on the acknowledgment of rights-based policy norms – as opposed to mere rejection – demonstrates that this comprises a more complex construction of language, that is, normative invalidation.

May’s tactic of qualification also appeals to the concept of balance. While she explicitly does not adopt a balanced approach in terms of actual policy, May exploits this narrative in order to further invalidate any commitment to the preservation of rights. In relation to Prevent, May states: ‘The freedom to exercise our rights depends fundamentally on our security. But likewise

<sup>96</sup>Michelle Bentley, ‘Recognition making response: Preventing far right extremism and radicalisation’, in Baker-Beall, Heath-Kelly, and Jarvis (eds), *Counter-Radicalisation*, pp. 102–22.

<sup>97</sup>May, ‘Prevent Strategy’. See also Theresa May, ‘Radical new Prevent Strategy launched’, *gov.uk* (8 June 2011), available at: {<https://www.gov.uk/government/news/radical-new-prevent-strategy-launched>} accessed 16 May 2018; May, ‘Extremism’; May, ‘Speech to the Conservative Party Conference 2014’; May, ‘Terrorist Attacks (Paris)’; May, ‘PM Commons Statement on Westminster Attack’; May, ‘Second COBR meeting’.

<sup>98</sup>Lionel K. McPherson, ‘The instability of “executive discretion”’, *Nomos*, 50 (2011), p. 144.

<sup>99</sup>May, ‘A stronger Britain, built on our values’.

<sup>100</sup>This statement of othering draws on the work of Anastasia Tsoukala, ‘Boundary-creating processes and the social construction of threat’, *Alternatives*, 33:2 (2008), p. 143.

there is no value in security without liberty.<sup>101</sup> May employs the specific concept of balance identified above in which liberty is considered the more destructive partner.<sup>102</sup> Critically, however, not only can this model be used to demonstrate how balance is constructed, but also how the idea of compromise can be manipulated to skew debate while still giving the impression that balance is respected. In doing so, May additionally employs the idea that rights do not constitute an abstract ideal that can be subject to ‘academic’ debate, but an assessment of reality.<sup>103</sup> Once the debate became successfully based on concepts of pragmatic policymaking, May is able to again refer to high threat levels and the necessary prioritisation of security already identified: ‘All these threats and many more should remind us of an obvious old truth. The world is a dangerous place and the United Kingdom needs the capabilities to defend its interests and protect its citizens.’<sup>104</sup> May appears to be weighing all sides, but actually invalidates the rights debate by manipulating the definition of balance in favour of a security-centric conceptualisation of counter-radicalisation.

### **Denial of abuse**

Normative invalidation also occurs as an act of sheer denial. May refutes that civil liberties have been undermined by counter-radicalisation policies, specifically policies based on the security policy norm. In relation to Prevent, May has rejected all allegations of spying as ‘false’ and has repeatedly denied the existence of a mass surveillance programme:<sup>105</sup> ‘There is no surveillance state.’<sup>106</sup> She states outright that new and proposed surveillance laws are not about ‘letting the Government snoop on your e-mails’ or creating a ‘snooper’s charter’.<sup>107</sup> In addition, May asserts that she and the government have respected key civil liberties: the Conservatives rejected the controversial ID card scheme and May emphatically condemned the Labour party commitment to ‘stop and search’ at the 2014 Tory Conference. May’s justification for her stance on these policies, however, is less altruistic than this may first appear. May explained that the Tories opposed ID cards because they were ‘disproportionate, expensive and unnecessary’ – less a rights-driven commitment against surveillance and more an economic appeal to the public purse.<sup>108</sup> Similarly, she publicly opposed stop and search because it disproportionately affected black men. This claim can be criticised as hypocritical given that Prevent is seen to discriminately target Muslims and that May has continued to uphold stop and search powers against suspected terrorists (under Section 43 of the 2000 Terrorism Act). The decision to condemn Labour, however, was strategic – not only as a blow against the opposition, but also because May had been criticised after admitting that as many as 250,000 illegal stop and search procedures had been carried out the previous year.<sup>109</sup> Even taking into account May’s commitment to curbing certain forms of stop and search, she was attempting to rhetorically reassert her authority and credibility on a contentious issue.

In a further example, May commented after the 2015 Paris attacks: ‘Freedom of the press means that the press should be free to publish what it chooses within the law.’<sup>110</sup> The

<sup>101</sup>May, ‘Theresa May speech in full’.

<sup>102</sup>As per Holmes, Baker, and Aradau above.

<sup>103</sup>Theresa May, ‘Home Secretary’s defence and security lecture’, *gov.uk* (24 June 2014), available at: {<https://www.gov.uk/government/speeches/home-secretarys-defence-and-security-lecture>} accessed 16 May 2018.

<sup>104</sup>Ibid.

<sup>105</sup>May, ‘Prevent Strategy’.

<sup>106</sup>Theresa May, ‘Terrorism: Home Secretary’s speech to the Council on Foreign Relations’, *gov.uk* (16 September 2011), available at: {<https://www.gov.uk/government/speeches/terrorism-home-secretarys-speech-to-the-council-on-foreign-relations>} accessed 16 May 2018.

<sup>107</sup>May, ‘Terrorist Attacks (Paris)’.

<sup>108</sup>May, ‘Theresa May speech in full’.

<sup>109</sup>Alan Travis, ‘Theresa May announces reform of stop-and-search powers’, *The Guardian* (30 April 2014), available at: {<https://www.theguardian.com/law/2014/apr/30/theresa-may-reform-police-stop-and-search-powers>} accessed 16 May 2018.

<sup>110</sup>May, ‘Terrorist Attacks (Paris)’.



qualification of ‘within the law’ again comprises a form of normative invalidation in that it does not treat the freedom of the press as an ideal, but as applicable only in the context of what legal and security measures will allow. In this sense, no rights have been violated as the law has been respected. Yet the law is the product of the government and this itself can be seen as causing a diminishment of rights. May has overseen a number of changes to the law in order to facilitate the introduction of restrictive security policies. For example, the government amended the law ‘to make it clear to the courts that Article 8 of the European convention on human rights, the right to respect for a family life, is qualified and not an absolute right’, specifically as the facilitation of counterterrorism and counter-radicalisation strategies.<sup>111</sup> In conflating what is legal with what is moral, May invalidates the civil liberties policy norm by asserting that rights have not been affected – or at least not under the terms of consideration she rhetorically constructs.

This claim is supported by May’s refusal to commit to the freedoms of the press and of expression in the same speech following the terror events in Paris. In response to public protests held in France after the attacks, May notes that the marchers ‘expressed their support for all those who were standing for freedom of the press and the freedoms of our democracy’.<sup>112</sup> In itself, this is a highly convenient reference to rights and democratic representation at a time when she was accused of undermining such ideals in the UK. The comment, however, is indirect. May does not say *she* supports the call for freedom; she merely recognises that other people make the claim. Moreover, she makes no effort to suggest this is applicable to the UK: these are French protestors, making it easy to reject the relevance of such views to the British case. Consequently, this demonstrates that: (a) May did not communicate any genuine and/or personal belief in the freedoms of press or expression; and (b) that her references are indirect and strategic. May forms an illusion of her commitment in order to silence and invalidate the criticisms of those who support the rights policy norm, but this rhetoric is ‘all talk’ and belies exclusive policy faithfulness to the security-centric approach. Recognising this distinction is extremely important as it demonstrates that invalidation is not necessarily expressed as an outright rejection of a norm, not least where doing so could attract criticism. Normative rejection is a complex and sophisticated process that makes that rejection palatable to an audience, to the extent it may even appear that the actor continues to uphold the ideals of the invalidated norm. Clever logic and persuasive speech can give an impression on the surface that invalidation has not taken place in terms of actual policy, when in fact this is the very act that a selected rhetoric is designed to cover up. This situation is why it is so important to acknowledge the level of agency that actors possess in terms of rhetorical construction, as it is within this agency-driven rhetorical space that politically manipulative strategies are developed and communicated to key audiences.

## Conclusion

The truth about the way the privacy and security debate has been presented is that it creates myths that hide serious and pressing difficulties.<sup>113</sup>

Counter-radicalisation (as conventionally constructed) involves a decision between security and rights. To the extent that actors accept these two policy-based norms lie in conflict with each other, implementing a counter-radicalisation strategy that is necessarily intimate and invasive – in that it seeks to get into the very minds of the people it is aimed at – will necessitate controversial choices as to how those people are treated. Specifically, these decisions concern how far their rights will be respected in the face of the need to preclude terrorism. This issue is not just about the actual decision, however, but the rhetorical strategy employed to communicate it.

<sup>111</sup>May, ‘Counter-Terrorism and Security Bill’; May, ‘Home Secretary Theresa May on counter-terrorism’; May, ‘We must work together to defeat terrorism’.

<sup>112</sup>May, ‘Terrorist Attacks (Paris)’.

<sup>113</sup>May, ‘Brussels Terrorist Attack’.

Simply stating that one side of the security/rights policy debate does not apply in a specific case is insufficient for that rhetorical strategy to succeed. Instead, the rejected policy norm must be contextually invalidated and neutralised as a consideration. This is the concept of normative invalidation. Explicitly, this model comprises a deviation from existing understandings of normative dilemma (especially where this related to security/rights) as a balancing of two different policy viewpoints or of norms and self-interest. Actors do not pursue a rhetorical 'compromise', but eliminate a norm from consideration in the minds of their audience. This is a much more extensive and aggressive strategy than previously assumed.

Normative invalidation is evident in May's rhetoric on the Prevent Strategy. May has repeatedly employed strategic narratives to nullify the claim to rights as a rhetorical means of upholding a hardline security-centric approach. Critically, this article does not make any judgement on the appropriateness of that policy. Instead, this study is concerned with its rhetorical construction, specifically the most effective means by which to sell it. May achieves this in a variety of ways – from outright denial that rights have been violated, to the qualified construction of rights as relevant only to the preservation of 'British values'. Whatever the tactic, the intended result is the same: the invalidation of a competing norm in order to ensure the success of a political strategy based on the other. Rhetoric removes the potential criticism against a proposed course of action and makes policy as appealing to an audience as possible. The way in which invalidation is constructed in this way – that is, it is presented in ways designed to shape an audience's thinking – also demonstrates that actors are not entirely constrained by the policy norms characterising their political environment. Norms do dictate actor behaviour, including the rhetoric they employ to communicate that behaviour. Yet this is not the full story. Actors are also agency-driven agents, who can exploit pre-existing norms for their own interests. Crucially, in constructing this model, this article should not be considered as justifying or sanctioning the use of language in this way. In explaining why May has said what she has, this is no way a signal of support either of the content of that narrative or the idea that policymakers should exploit norms and language. The conclusion, however, remains the same. Actors may play by the rules, but this does not preclude that they can play with the rules also.

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