# The 'dark' side of normative argumentation – The case of counterterrorism policy

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**Abstract:** After 9/11 state actors in different parts of the world and to various degrees decided to give security and counterterrorism measures priority over human rights and fundamental freedoms. In order to legitimize their policy choices, governmental actors used normative argumentation to redefine what is 'appropriate' to ensure security. We argue that, in the long run, this may lead to a setback dynamic hollowing out established human and civil rights norms. In this article, we develop a theoretical and analytical framework, oriented along the model of the life cycle of norms, in order to trace 'bad' norm dynamics in the field of counterterrorism. We conceptualize the norm erosion process, particularly focusing on arguments such as speech acts put forward by governmental norm challengers and their attempts to create new meaning and understanding. We also draw on convergence theory and argue that when a coalition of norm challengers develops, using the same or similar patterns of arguments, established international normative orders protecting human rights and civil liberties might be weakened over time and a more fundamental process of norm erosion may take place.

**Keywords:** normative argumentation; counterterrorism; human rights; norm erosion; argumentative convergence

## Introduction

As a result of the terrorist attacks in New York and Washington in September 2001 many governments around the world developed new counterterrorism strategies and policies to address the new threat of so-called 'jihadist' terrorism. They introduced numerous measures, with and without a given suspicion,[1] inducing a significant modification or reduction of established constraints to political (executive) action. With respect to counterterrorist measures without suspicion, in the USA and Europe, for example, provisions on the protection of privacy were loosened in order to simplify home searches.

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[1] Measures applied with suspicion are directed at alleged criminals only, while measures without suspicion affect all citizens.

Other state interventions such as seizure and rendition as well as dragnet investigations of suspects and controls were made easier. Moreover, authorities widened surveillance of telecommunication and the internet as well as the control of financial transactions (e.g. via SWIFT[2]). Biometric control devices were introduced in personal identification documents, and databases for the capturing of specific groups, such as asylum seekers, were expanded (e.g. Poleine *et al.* 2009; Crelinsten 2009). In Russia, the counterterrorism policy of the Putin government also curtailed the rights of non-commercial and non-governmental organizations (Riskin 2004) and led to restrictions on civil liberties such as political participation (Babaeva and Bovt 2004; Kostjukov 2004) and media freedom (Siegert 2003; Panfilov 2005: 21–7).

Measures with a given suspicion were generally even more drastic. In the USA, for example, provisions on arbitrary arrest were altered and controversial practices were induced, e.g. targeted killings, the use of torture-like and other physical and non-physical assaults against suspects (as has been widely discussed with respect to the Guantanamo Bay camp) or the kidnapping of terrorist suspects in order to conduct inquiries in states that use torture, circumventing, in this way, the due process demanded in such cases.[3] In Europe, reports from the Council of Europe revealed that governmental agents from EU-countries participated in inquiries of kidnapped persons suspected of terrorism (Council of Europe 2006; Wade and Maljevic 2010). With the justification of effectively fighting terrorism in Chechnya, the Russian government expanded the prosecution competences of the national security services (Stykow 2004; Plater-Zyberk 2005; Shumilov and Safonov 2005). According to human rights organizations, this led to an increase in extralegal forms of counterterrorism practices, for example killings of terrorist suspects, executed by special task forces operating in the North Caucasian republic or so-called 'counter-capture' as a means of information retrieval and enforcing concessions (Golts 2004; Soldatov and Borogan 2005; Omelicheva 2007).

Overall, it seems that under the threat of terrorism the responsibility felt by decision makers to maintain security and order has, in many cases and to various degrees, come into conflict with guarantees to civil and political rights.[4] The latter, however, are recognized by the international community

[2] Society for Worldwide Interbank Financial Telecommunication.
[3] See for instance: Bowden 2003; Danner 2004; Hersh 2004; Johnston and Risen 2004; Lewis 2004; Greenberg and Dratel 2005; Jehl 2005; Lelyveld 2005; Lewis and Schmitt 2005; Mayer 2005a, 2005b; Hoge 2006; Nowak 2006; Roth 2006; Slater 2006; Paust 2007; Evangelista 2008; Greenberg 2008; Jaffer and Singh 2009; Amnesty International 2005, 2008: 317–21; Human Rights Watch 2005, 2006, 2008; OSCE Parliamentary Assembly 2005, 2007.
[4] There are varying definitions of what civil and political rights mean; sometimes their meanings also overlap. In order to make the two groups of rights more operable for our

and guaranteed in different international human rights protection documents. As such they are inviolable by law, internationally and nationally binding, and have a deeper constitutive character (Ruggie 1998: 871) – at least in Western societies.[5] Governmental actors, therefore, have attempted to persuade their constituencies of the necessity and usefulness of the counterterrorism measures they have taken. To a significant extent, these actors have used *normative argumentation* as a discursive and rhetorical tool to legitimize the introduction or use of contested policy measures or even the breach of taboos (e.g. Bush and Nordlinger 2003; Wolfe 2008; Jarvis 2009). In public statements they have presented terrorism as an 'existential threat', 'trivialized' or 're-contextualized' counterterrorism practices in order to circumvent accusations that the state uses unlawful measures, with strategies varying from denial, to justification, to actual attempts to redefine the content and sphere of application of certain norms (Liese 2009: 30f.).

Public justification and legitimization are not trivial. Norms retain their validity even when actors continue to violate them. Therefore, in order to maintain or enlarge room for action in the long run, norm violators have to establish a new sense of what is appropriate under certain circumstances and within certain contexts. This means that over the course of time they must try to see to it that public beliefs are changed or replaced by other considerations of what is appropriate and legitimate. It has been noted in the literature that the imperative to legitimize invasive security measures is not only valid for democratic communities (Liese 2009), but also for

purpose, we define civil rights as those rights which protect the individual from arbitrary interference by the state (with direct applicability). Civil rights include the right of life and the protection of a person's physical integrity, the prohibition of torture, the right of individual freedom and safety, substantive due process and equality before the courts, secrecy of post as well as the freedom of thought, religion and opinion. Political rights in our understanding constitute a group of rights which enable citizens to actively participate in and influence public affairs. Such rights include the freedom of association, the right to vote and the right to join a political party or other societal groups. In this definition, civil and political rights represent the so-called 'rights of the first generation' which are part of the more comprehensive international human rights catalogue guaranteed in the United Nations International Covenant on Civil and Political Rights (ICCPR) of 1966.

[5] The system of international protection of these rights includes the Universal Declaration of Human Rights of 1948 proclaimed by the United Nations General Assembly (as a resolution with non-binding character, but recognized as constituting customary international law), Art. 3 of the Geneva Convention, the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, the ICCPR (1966), the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), and in a regional context also the European Convention for the Protection of Human Rights (ECHR) and Fundamental Freedoms of 1950 as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987).

authoritarian regimes (Holm 2004; Vuori 2008: 68). This again underlines the cardinal importance of public justification of contentious practices. The observation that '[i]f the practice changes so will the meaning of the norm', put forward by Wiener (2004: 192), can thus be sharpened in the sense that normative change is not only a consequence of changing practices, but that those who change their practices also *actively* try to trim the meaning of certain inhibiting norms to these practices. Thus, when using normative argumentation, state actors have often tried to contest existing norms by presenting new interpretations and potential policy solutions to the problem of terrorism. Sometimes they have also tried to create entirely new understandings, thus, de- or re-constructing given meanings of how certain things should be or work. The 'ticking-bomb' scenario is a good illustration: A moral dilemma is constructed in which one norm (security, i.e. the physical integrity of a large number of possible victims) is pitted against another (the prohibition of torture). The intention is to demonstrate that under certain circumstances, torture may be an appropriate means: one has to do 'bad' things in order to avert something even worse (McKeown 2009: 16).

So far, the erosion processes evoked by normative argumentation in the field of counterterrorism policy, particularly when considering their consequences on conflicting civil and political rights norms, have not been adequately accounted for in academic research. The effect of normative argumentation has been conceptualized particularly in the context of the global spread and diffusion of principled ideas and international norms (as socially constructed entities of collective orientation) which restrict state behavior.[6] The constructivist – or reflectivist – literature has taught us much about how norms and the respective expectations are constructed, propagated and finally diffuse to the international level where they can turn into dominant, behavior-structuring global scripts (Powell and DiMaggio 1991; Finnemore 1996; Meyer *et al.* 1997; Finnemore and Sikkink 1998; Keck and Sikkink 1998; Risse 1999; Risse *et al.* 1999). Scholars have tried to explain why human rights, and as part of them, civil and political rights, have gained increasing acceptance since the last quarter of the 20th century over time and regions and created a noticeable social and political impact. Most prominent within the multitude of works that try to explain this process of human rights diffusion is the 'human rights spiral', put forward by Risse *et al.* (1999), where normative argumentation pursued by 'norm entrepreneurs' and the establishment of new rhetorical arrangements in a social community are seen as preconditions for the realization of human rights.

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[6] Diffusion here means the socially mediated incremental permeation of international norms to the domestic level (Risse 2003: 119).

Much less has been written on whether, how and why such dominant global normative scripts erode, let alone on a comprehensive theoretical model that could capture these processes and its consequences in detail. What is needed to hollow out established human rights norms, to create acceptance for contested policies? Notwithstanding the effects of political processes and differentiated political cultures on threat perceptions and policy making as such, by reason of our specific research focus, we draw on scholarship dealing with normative language and the construction of meaning. Some theories and research strands provide useful building blocks and links, among them the literature on the breach of taboos (Daase 2003; Rosert and Schirmbeck 2007), norm contestation (e.g. Wiener 2004; Liese 2009), also first works on norm regress (McKeown 2009), critical terrorism studies (Krebs and Jackson 2007; Chowdhury and Krebs 2010) and, not least, securitization theory (Buzan *et al.* 1998).

Our article aims at bringing together ideas from these various theoretical strands and merging them in a theoretical and analytical framework, structured along the 'life circle' theory of norm development as put forward by Finnemore and Sikkink (1998). We determine that the paths of norm transformation in counterterrorism are the same, but under opposing signs. Normative argumentation in counterterrorism enhances the emergence and salience of 'bad' norms, meaning behavioral norms and practices which conflict with the norms protecting civil and political rights and are outlawed by international human rights treaties – e.g. torture, arbitrary arrest and unfair treatment before the courts, cut-down in political freedoms and rights. We identify the three main determinants of inverse norm development – trigger, agents of change, and 'tipping point' for diffusion – in the field of counterterrorism as well. The consequences of argumentation directed towards 'bad' norms are not only to allow governmental actors temporary room for maneuver for certain contested policy measures. In the long run, altering normative expectations may set in motion a negative spiral of normative change, a setback with respect to the international human rights regime. In our conclusions, we summarize our main assumptions and make a number of suggestions, also with respect to the method for further investigation of the subject matter.

## Theorizing norm erosion in the field of counterterrorism

How can we analytically capture the processes and consequences of normative argumentation in the field of counterterrorism? Our theoretical approach is based on the notion that the validity of a norm must continuously be stabilized through rhetorical arrangements and, conversely, that when these rhetorical arrangements change, the value of a norm in society can change as well.

Norms are, according to Krebs and Jackson, 'inherently subject to challenge' and one should be 'reluctant to characterize any normative change as "lasting" in the sense of forestalling normative contestation over the long run' (Krebs and Jackson 2007: 41). The literature on norm contestation and the breech of taboos in international politics (e.g. Daase 2003; Wiener 2004; Liese 2009; McKeown 2009; Badescu and Weiss 2010) supports the claim that constitutive and identity-building norms and codes of conduct, which are laid down in international treaties and enforced by international institutions, can be rhetorically and argumentatively challenged – without necessarily changing the formal validity of the norm. For example, Rosert and Schirmbeck (2007) show how two internationally established norms, the torture ban and the 'nuclear taboo' (see also Daase 2003), were discursively challenged in the United States. Similarly, Liese (2009) and McKeown (2009) have shown how even the prohibition of torture and ill-treatment can become subject to contestation and reinterpretation through discourse. The contestation of taboo-like norms may not be the everyday course of events, but in our view no existing social norm is set in stone. Norms can erode even in political communities where they have been internalized for a long time, and, on top of this, this change can be actively promoted.

There are, however, different assumptions in the literature about the outcomes of processes of norm contestation. Some scholars assume that the 'state of exception', created through normative argumentation and rhetoric challenging, may over time in fact become the norm (Dillon 2007). There seem to be clear signs that particularly with regard to civil and political rights, norm regress is possible. For instance McKeown (2009) has shown that the torture norm is under 'regress', intentionally put under pressure, and may even 'die'. Panke and Petersohn (2011) equally argue that international norms can sometimes 'disappear', lose their prescriptive status and be replaced – either incrementally or instantly. While this camp of scholars anticipates the possibility of norm regress, it cannot be ruled out that under 'usual' contestation processes norms get only temporarily off balance and may ultimately lead to the reaffirmation of the established norm. A number of global reactions to U.S. counterterrorism policy under former U.S. President George W. Bush as well as domestic reactions to U.S. conduct under current President Barack Obama might have limited the momentum of the 'bad' norm cascade. Whether processes of norm contestation lead to the erosion *or* strengthening of a given norm is an empirical question and cannot be decided on purely conceptual grounds.

Building on the above insights on the vulnerability of norms under the influence of argumentative speech and its particular relevance in the field of counterterrorism, we proceed to conceptualizing a theoretical framework to capture norm contestation and its consequences somewhat

more systematically. We are particularly interested in understanding processes of norm erosion and regress and the mechanisms through which established norms may lose their prescriptive function. To this end, we rely on the normative 'life cycle' model developed by Finnemore and Sikkink (1998). According to this model, at least three conditions must be in place to bring new social (in this case human rights) norms into life or replace existing ones: *First*, there has to be a trigger for normative dynamics. *Second*, norms have to be promoted by 'principled' actors in the form of normative argumentation. *Third*, in order for these new social norms to spread beyond national boundaries, a 'tipping point' of resonance in other social contexts is needed. This model has been developed to explain the rise and spread of human rights norms – that is 'good' norms. It can, nevertheless be generalized and should therefore, in its basic assumptions, also be applicable to social norms other than human rights, as well as prove useful for the explanation of reverse processes – the establishment of 'bad' norms and norm erosion. In the field of counterterrorism, the direction and actors of normative change, as we will argue below, have been modified, so that overall a 'dark' version of the life cycle of social norms appears, where the logic of normative change is basically turned upside down.

## International terrorism as a trigger for 'bad' norm dynamics

As the life cycle model stipulates, the initial condition for a social norm to come into life is the existence of a trigger. This means that there must be specific circumstances allowing for new social ideas to enter the political agenda of an actor, a 'norm entrepreneur', who then starts promoting this new idea to others. Such 'windows of opportunity', according to Finnemore and Sikkink, can come through wars, revolutions, upheavals or other crisis situations. These, in turn, lead to shifts of power and/or interests and accelerate the acceptance and evolution of new ideas and norms among the population (Finnemore and Sikkink 1998).

It can well be hypothesized that the emergence of the new 'jihadist' terrorism represents such a trigger. The 9/11 terrorist attacks came as a shock to politicians and citizens alike all around the globe. They clearly marked a shift in the international security environment and, as such, represent a crisis situation: *First*, they had significant repercussions on the definitions and perceptions of global (in)security. The threat represented by al-Qaeda and/or its affiliates was deemed to have taken on a new, global dimension. It was assumed that jihadist terrorist attacks could take place everywhere and anytime in the future. Surveys carried out shortly after the 9/11 attacks show that public awareness and fear of transnational terrorism increased dramatically, even in countries that had not had

traumatic experiences with terrorism on their territory before (e.g. for the European context see: European Commission 2002: 5).

*Second*, the 9/11 experience triggered an intensive – and still ongoing – debate on how security should be ensured in the face of the new terrorist threat (e.g. Burgess and Spence 2004). With the background of a perception that existing means are not appropriate anymore, decision makers put forward new policy-solutions for the maintenance of (domestic) security, in the course of which the normative reference point in public statements changed: The 'appropriateness' of a policy instrument applied in fighting terrorism is more likely, nowadays, to be legitimized along categories of supposed security effectiveness and not necessarily along its 'moral' compatibility with respect to civil and political rights.

Thus, 9/11 events can in the logic of the life cycle model be understood as a trigger for a normative setback dynamic to start, and the post 9/11 environment as a window of opportunity that opened the door to new agenda-setting. The effects are twofold: On the one hand, this produces irritation about the existing normative structure of a social system, making societies more receptive to new ideas while old ones are easier to contest. On the other hand, it allows (or if one may: places the burden on) state actors to actively widen the boundaries of the socially accepted. This way, political entrepreneurs are able to significantly influence and shape the political agenda (Kingdon 1994).

It is important here to make some observations on the meaning of the concept 'window of opportunity' as used in this article. The argument is not that governments 'use' terrorism and the terrorist threat instrumentally to (as part of a wider political strategy) domestically crack down on established freedom rights (although in some instances, this can also be the case). Terrorism is not necessarily a pretext for reinforced executive action, but rather a facilitating factor for it. As the risk of new terrorist attacks is seemingly hanging over the international society like the sword of Damocles, governments feel immense political pressure to find, often under time constraints, new and adequate policy solutions. Moreover, terrorism is essentially a communicative and symbolic enterprise, it is, as Jenkins (1975: 16) put it, 'open-air theater', in quest of gaining the attention of large audiences (Chowdhury and Krebs 2010: 133). Counterterrorism measures, in turn, are often intended to respond to this symbolism by carrying out immediate, strict and visible action intended to signal resolve to the public and the terrorists.

## Governmental actors as 'norm challengers'

The second basic assumption of the life cycle of social norms put forward by Finnemore and Sikkink (1998) is that a new norm, in order

to develop, must be actively promoted by actors who have an interest in it, the so-called 'principled agents' or 'norm entrepreneurs' (869). The basic mechanism behind this promotion normative argumentation has emerged as the coin of the constructivist realm (see among many others: Keck and Sikkink 1998; Risse *et al.* 1999; Risse 2000; Crawford 2002; Jackson 2007b). Constructivist research understands norms as ideas, 'social constructions – invented social categories that exist only because people believe and act as if they exist' (Schmitz and Sikkink 2002: 517). These norms, as ideational reality, are constructed and sustained through language. Language creates narratives about the world and defines how things work and what is socially acceptable and 'adequate' (March and Olsen 1998: 950).

The role of normative argumentation is to persuade and to achieve normative and, as one consequence, political change as well, by developing 'shared understandings' (Krebs 2006: 21). 'Normative claims', as Finnemore (1996: 141) asserts, 'become powerful and prevail by being persuasive' (see also: Payne 2001). Normative argumentation, thus, is a tool that can be used intentionally and strategically by an actor or a group. It is the 'means to an end, where the end is to persuade those addressed of the accuracy of a factual statement, the validity of a norm, or the fairness of a claim' (Crawford 2002: 14; Holzinger 2004: 199). The targets of persuasive rhetorical moves do not comply grudgingly, but rather sincerely internalize new beliefs and consequently adopt new identities and preferences. Through persuasion, 'agent action becomes social structure, ideas become norms, and the subjective becomes the intersubjective' (Finnemore and Sikkink 1998: 914).

Who are the agents of change and how do they exert influence? In the logic of 'good' norm construction, these norm entrepreneurs are usually non-state actors (human rights NGOs or other human rights-promoting actors), who make use of discursive practices in order to push rule-violating governments towards a change in domestic politics. Their influence and power stems from the high degree of legitimacy as principled agents in the area of human rights. They rhetorically make use of pre-existing normative reference points, such as the prescriptions of the UN human rights conventions, in order to support their aims vis-à-vis a broader (international or national) audience. This way, these actors become the driving forces and 'agents of normative change' (Risse and Sikkink 1999: 5). For the case of our reverse life cycle, we have different actors, with different sources of legitimacy and different types of normative argumentation. Governments rather than non-state actors appear as the main generators of new ideas contesting established norms (see also: Liese 2009: 23) and they draw legitimacy from their competence in security issues; they are

'more influential' in the interpretation of threats than many other actors (Meyer 2009: 653). With respect to argumentation, they 'challenge' established norms rather than actively pushing for new ones in their urgency to find adequate reasons and arguments for the restriction of civil and political rights to justify this trade-off vis-à-vis the public. They do this by creating 'the initial ideational conditions of possible action, while simultaneously constructing the wider meaning structures or common sense that make those actions intelligible and legitimate' (Jackson 2007a: 234; see also: Jackson 2007b).

Obviously, when looking into public statements on counterterrorism from state officials, the 'necessity' logic is one of the recurring arguments for legitimizing questionable practices. For instance, then U.S. President George W. Bush argued in September 2006 on the capturing of terrorist suspects in Guantanamo Bay, Abu Ghraib and elsewhere that 'it has been *necessary [highlighted by the authors]* to move these individuals to an environment where they can be held secretly, questioned by experts, and – when appropriate – prosecuted for terrorist acts.'[7] Equally, White House Deputy Press Secretary Tony Fratto in February 2008 justified enhanced interrogation techniques used by the CIA in the fight against terrorism in the following way: '[…] any technique that you use, you use it under certain circumstance. It [enhanced interrogation techniques, *the authors*] was something that they [the CIA, *the authors*] felt at that time *necessary [highlighted by the authors]* […].'[8] Equally, in Russia governmental and state agency representatives have frequently, particularly after a terrorist attack – be it the Beslan hostage taking in 2004 or the Moscow metro bombings in 2010 – referred to the necessity *['neobkhodimost']* logic, in the Russian context with particular regard to the necessity to strengthen the competences of law enforcement and secret service agencies and introduce tougher control mechanisms and legal provisions.[9]

Beyond this more general 'necessity' argument, one can identify more complex justification and argumentation strategies. Liese (2009), for instance, has identified different types of arguments, according to which the Bush administration has tried to redefine and reinterpret the nature and scope

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[7] The White House: President Discusses Creation of Military Commission to Try Suspected Terrorists, Office of the Press Secretary, September 6, 2006: http://georgewbush-whitehouse.archives.gov/news/releases/2006/09/20060906-3.html.

[8] The White House: Press Briefing by Tony Fratto, Office of the Press Secretary, 6, February, 2008: http://georgewbush-whitehouse.archives.gov/news/releases/2008/02/20080206-3.html.

[9] See for instance: Nikolai Patrushev: A front against terrorism, in: *Rossiskaya Gazeta* 24.11.2005; also: V. V. Putin held a meeting on strengthening transport security, March 30, 2010, homepage of the Russian Government: http://premier.gov.ru/events/news/9976/.

of the torture ban norm both in domestic constitutional and international settings. The Bush administration attempted to rhetorically affect the meaning and implications of torture and ill-treatment through three patterns of arguments: first, the exception from the absoluteness of the prohibitions in cases of emergency, second, the trivialization of abuses and third, the reaffirmation of an absolute ban on torture but not on ill-treatment (27). These patterns can be found in numerous respective public statements by representatives of the Bush administration.[10] In other areas, where counterterrorism policies affect norms with a much lower level of tabooization, e.g. privacy rights, through surveillance measures or limitations of expression of speech, state actors presumably use other or varying argumentative strategies, also depending on the status of the norm and the assumed level of tolerance on the part of the population. Another pattern of argumentation that becomes obvious in the field of counterterrorism – not only in the USA but also extensively in Russia as well as to a significant extent within the EU – is one that accentuates and prefers the 'right to security' over the right to liberty as the new guiding norm.[11]

There is, however, no further holistic and theory-informed analysis on the various types of argumentative strategies governmental actors use to contest established norms. In our view, securitization and framing are key concepts here. Securitization theory, as developed by the Copenhagen School (CS), captures the fundamental process of (re)framing policy-issues into and linking them with the notion of security. Frames themselves are 'schemata of interpretation' that enable individuals 'to locate, perceive, identify, and label' occurrences within their life space and the world at large (Goffman 1974). In an alternative conceptualization, collective beliefs or 'thought-world' (Oberschall 1989) are 'a structure of classifications and distinctions by means of which information gets framed, stored, and

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[10] See as examples: The White House: President Bush Previews War on Terror Speech November 1, 2007, http://georgewbushwhitehouse.archives.gov/news/releases/2007/11/20071101. html; The White House: Press Briefing by Dana Perino, October 5, 2007, http://georgewbush-whitehouse.archives.gov/news/releases/2007/10/20071005-4.html; The White House: Press Briefing by White House Counsel Judge Alberto Gonzales, DoD General Counsel William Haynes, DoD Deputy General Counsel Daniel Dell'Orto and Army Deputy Chief of Staff for Intelligence General Keith Alexander, June 22, 2004, http://georgewbush-whitehouse.archives.gov/news/r eleases/2004/06/20040622-14.html.

[11] Prime examples include former German Interior Minister Otto Schily, who advocated for the right to security in Basic Law, or the former Australian Attorney General Ruddock. See for a discussion of these examples Michaelsen 2006. Within Russia, the 'right to security' is also often framed as the 'right to life', see for instance: Tamara Shkel: Duma counteracts terrorism. In the first reading, in *Rossiskaya Gazeta*, 18.12.2004; Dmitri Medvedev: Verbatim to the meeting of the Advisory Council for the Promotion of Civil Society and Human Rights, 19.5.2010, homepage of the Russian President: http://kremlin.ru/transcripts/7792.

retrieved in organized meaning-bundles for thought and action' (13); they are social, shared, and exist independently of the individual (Klandermans 1992). In the social movement tradition, framing has been conceptualized as an essential mechanism of mobilization, i.e. a mechanism consciously employed to motivate adherence to readings of certain situations as problematic and in need of change, and actual involvement in protest actions. Frames and framing have already been employed in the context of norm creation (Keck and Sikkink 1998) and are considered essential in the first stage of the norm life cycle: 'Norm entrepreneurs devote significant attention to constructing a suitable cognitive frame in order to persuade target states [...] to embrace the normative idea they support. Frames are therefore seen as a key means by which advocates impute social knowledge into their communicative acts,' (Payne 2001: 43). It appears plausible that when we look at norm challengers in the field of counterterrorism, securitization and framing processes are central to norm erosion, through their facilitating role with respect to adherence to new or modified interpretations of norm expectations, along with the commonly shared values on which they rest.

*Securitization theory: Security speech and its context.* Securitization refers to processes by which mostly governmental actors try to establish, argumentatively, acceptance on the part of the public for extraordinary measures as necessary and adequate solutions for the defense against perceived security threats. This process is presumably driven by the de- and reconstruction of meaning: it is the 'process of constructing a shared understanding of what is to be considered and collectively responded to as a threat' (Buzan *et al.* 1998: 26). Securitization is understood as a 'speech act' that consists of the utterance of words, including specific reference and predication, with the aim of producing a particular effect in the addressee: '[…] by uttering "security", a state representative moves a particular development into a specific area, and thereby claims a special right to use whatever means necessary to block it' (Wæver 1995: 55).[12] If successful, the main effect is to let a respective audience tolerate violations of, or limitations on norms or rules that would otherwise have been obeyed (Buzan *et al.* 1998: 25).

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[12] Buzan *et al.* (1998: 28) acknowledge that '[s]ome security practices are not legitimized in public by security discourse, because they are not out in the public at all'. They point to 'black programs' to illustrate this. With respect to counterterrorism, one could mention torture-like interrogation practices or detentions. They nevertheless subsume such programs under the security logic: '[I]t is […] possible to have black security boxes in the political process. The speech act reduces public influence on this issue […]'. In such cases, securitization works to silence opposition and to give governmental actors 'a right to handle something with less democratic control and constraint' (29).

Thus, securitization is the most intense rhetorical instrument governmental actors can use to persuade an audience and 'to break free of procedures or rules he or she would otherwise be bound by' (ibid.). It can be used to legitimize certain practices already in place or to create room for maneuver with respect to planned measures. Security practices may *follow* securitization, but they may also be intended to pave the way for certain *future* measures. Governmental actors may, in this way, become norm entrepreneurs – 'agents' of normative change (Wæver 1989, 1995; Buzan 1997: 14; Buzan *et al.* 1998: 21; see also: Neal 2009: 335).[13] In this sense, we can hypothesize that in counterterrorism state actors basically challenge existing norms by securitizing certain events related to terrorism. Surprisingly, although studies on securitization have been conducted for a wide range of actors, issue areas and jurisdictions,[14] there are only a few of them in the counterterrorism area (Karyotis 2007). Furthermore, none deals particularly with the question of the interaction between securitization on the one hand and the limitation of civil and political rights on the other or with the related erosion of norms (but see: Kelstrup 2004; Bigo *et al.* 2007; Salter 2011).

This is even more surprising as it is quite obvious that governmental actors, when legitimizing counterterrorism measures, have securitized a wide range of issues somehow connected to terrorism, such as migration, asylum or religion. The use of the notion 'war on terror' as an all-embracing interpretation and imperative for action is a prominent example for securitization in counterterrorism (Buzan 2006). In fact, terrorism was subject to security 'threat agenda setting' (Eriksson and Noreen 2002), long before the 9/11 terrorist attacks, so that it seems rather more appropriate to speak of 'hyper-securitization' – a notion introduced by Buzan (2004: 172) to describe an expansion of securitization beyond a 'normal' level of threats and dangers by defining 'a tendency both to exaggerate threats and to resort to excessive countermeasures' (see also: Hansen and Nissenbaum 2009: 1163) – when characterizing the securitization process with respect to international ('jihadist') terrorism in the post-9/11 period and the dramatized 'security statements' presented by governmental actors. Applying securitization theory to counterterrorism may, therefore, help to understand how 'security' in this field is invoked to legitimize contentious legislation, policies or practices

[13] See also: McSweeney 1996; Baldwin 1997; Buzan and Wæver 1997; Eriksson 1999; Knudsen 2001; Aradau 2004; Guzzini and Jung 2004; with a critical view.

[14] For an overview see: Buzan 1997; Williams 2003; Balzacq 2005, 2011; for different policy fields see: Huysmans 1998, 2000 (migration); Wæver 1999 (security communities); Bigo 2000 (domestic security/justice and home affairs); Kostakopoulou 2000 (migration); Guiraudon 2003 (immigration policies); Roe 2004 (minorities); Sasse 2005 (minorities/migrants); Elbe 2006 (HIV, AIDS); Diez *et al.* 2006 (border conflicts in Europe).

(including secrecy, additional executive powers or the use of force) that would otherwise not have been deemed legitimate.

While we regard securitization theory as a very useful means to understand how actors in general try to legitimize certain practices by challenging existing norms, we contend that the theory can only unfold its full explanatory capacity when it is amended by a number of aspects to which critics of the CS have pointed and when supplemented by the framing theory approach. An important aspect here is the CS' problematic characterization of securitization as 'self-referential'. According to Buzan *et al.* (1998: 24), an 'issue becomes a security issue – not necessarily because a real existential threat exists but because the issue is presented as such a threat' (see also: Balzacq 2005: 181). This is problematic because the audience must accept this presentation before the issue can be regarded as securitized (Buzan *et al.* 1998: 25). Buzan (1997: 27) has moreover written that securitization 'is constituted by the intersubjective establishment of an existential threat with a saliency sufficient to have substantial political effects'. This, however, is not a self-referential process and it implies that with the simple uttering of 'security', the process of securitization does not come to an end. Securitization 'moves' must be understood as only one part of the securitization process, as an *attempt* to securitize a certain issue. The CS acknowledges that for securitization to 'work', several conditions need to be fulfilled: '(1) the demand internal to the speech act of following the grammar of security, (2) the social conditions regarding the position of authority for the securitizing actor – that is, the relationship between speaker and audience and thereby the likelihood of the audience accepting the claims made in a securitizing attempt, and (3) features of the alleged threats that either facilitate or impede securitization' (Buzan *et al.* 1998: 33; Wæver 2000: 252–5; see also: Buzan and Wæver 2003: 71–4).[15]

Nevertheless, critics have contended that the CS has not worked on the facilitating conditions as differentiatedly and intensively as might be necessary (see e.g. Stritzel 2007). Generally, they point out the need to better 'embed' securitization in a more process-like and a more 'interactive', audience-related set of conditions (see: Balzacq 2005; 2011: 27; McDonald 2008; Williams 2011). In order to understand how securitization works

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[15] By 'grammar of security' the CS means the 'security form' of a speech act, to 'construct a plot that includes existential threat, point of no return, and possible way out' and, in addition, the 'particular dialect' of a specific sector, in the political sector 'recognition and sovereignty' for example. 'Authority' for the securitizing actor refers to the 'social capital' of the speaker. He or she 'must be in a position of authority'. 'Features' comprise factors making it more or less likely that 'certain objects can be referred to that are generally held to be threatening' (Buzan *et al.* 1998: 33).

and how it contributes to the transcending of a given normative setting, one has to contextualize the use of language, i.e. a) take into account the cultural context into which this use of language is embedded, and b) look at the very particular way a securitizing actor makes use of language.

With respect to the first point, Balzacq (2005: 172) puts forward the argument that 'securitization is better understood as a strategic (pragmatic) practice that occurs within, and as part of, a configuration of circumstances, including the context, the psycho-cultural disposition of the audience, and the power that both speaker and listener bring to the interaction' (see also: Leonard and Kaunert 2011). McDonald (2008: 573) also underlines this when he argues that one has to keep in mind that 'those interested in the construction of security *must* pay attention to the social, political and historical contexts in which particular discourses of security (even those defined narrowly in terms of the designation and articulation of threat) become possible'. One could object, however, that governmental actors, especially when they are part of the security establishment, unremittingly make securitizing moves because it is part of their business to do so. Most probably, they often do not really care whether each single act is actually successful. Be that as it may, the debate about the contexts and 'facilitating conditions' of securitization is important even in such a case, because securitizing actors must always take into account the cultural contexts and conditions in order to maintain the chance of their 'securitizing moves' becoming successful (see: McDonald 2008; Balzacq 2005, 2011; Stritzel 2007).

Moreover, a securitizing actor not only needs to consider the respective discourse or context, but also has to frame the arguments in a way that they find resonance with the audience. This is in accordance with Balzacq's (2005: 184) observation that 'the success of securitization is highly contingent upon the securitizing actor's ability to identify with the audience's feelings, needs, and interests', and that 'the speaker has to tune his/her language to the audience's experience' (see also: McDonald 2008: 564; Balzacq 2011: 9). In order to be successful, the speaker must use the appropriate language and heuristic artifacts that 'facilitate the mobilization of the audience – analogies, metaphors, metonymies, emotions, stereotypes' (Balzacq 2005: 173; see also 2011: 9). Therefore, the speaker has to skillfully employ language that resonates with the audience. This is even more important where the ideas, practices or measures to be legitimized extend to issues considered taboo. Norm challengers even have to anticipate that attempts to bring an established norm into question may, in the end, lead to its reaffirmation. In other words, it is not only what is said that is important but also the manner in which the securitizing actor makes the case for an issue, his 'capacity to use appropriate words and cogent frames of reference in a given context' (Balzacq 2005: 190, 192; see also 2011: 14).

This again points to the importance of the use of frames in order to structure various properties of an issue under the label 'security threat'. As Vultee (2011: 79) has put it: '[S]ecuritization is a form of framing that highlights the existential threat of an issue.' Buzan *et al.* (1998: 23) obviously had this in mind when they wrote that '"[s]ecurity" is the move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics.' However, the CS has not elaborated much on the framing issue. Securitization theory is also underspecified in this regard. Most critics, although pointing to the necessity of analyzing pragmatic aspects such as the 'wording', the *concrete* use of language in securitization, have not had recourse to framing theory, at least not explicitly. This comes as a surprise, as some researchers have argued for the use of framing theory for setting the threat agenda. Eriksson and Noreen (2002) for example contend that categorizing something as a 'security threat' (or 'securitization') is a form of 'threat framing'. Based on the assumption that political speech is supposed to 'convince', applying framing theory appears useful; in addition, we can make the empirical observation that such framing methods, which are supposed to convince and persuade, are indeed being used in practice (see below).

*Frame-analysis: Resonance as a condition for making securitization work*. Basically, what we learn from the discussion of securitization theory and the CS for our theoretical and analytical model of 'bad norm' development in counterterrorism is, that in order to grasp exactly how norm challengers make use of securitization in counterterrorism policy, we have to study how they utilize the contexts in which discourses about security are embedded – in short: how issues are being framed. Securitization theory has developed a couple of categories which need to be considered when contextualizing argumentation. However, these remain fairly general. The concepts of frames and framing have been mentioned several times in securitization research (for a further example see: Balzacq 2011: 36), yet rather in the more general sense of 'ways of formulating' arguments in order to find resonance with an audience. Conceptually and methodologically, however, it appears useful for our model to make a more systematic use of these concepts in their analytical sense. They are, in this form, not only a useful methodological tool for the analysis of securitization speech in the area of counterterrorism, but also a further element of the aforementioned conditions necessary for securitization moves to 'work'. This should constitute a solid basis for analysis to be able to identify and compare the way in which certain interpretative frames are constructed by governmental norm challengers to change perceptions and obtain approval for exceptional policy measures.

Framing theory, especially in its social-movement variant, is a specification and methodological tool for the more in-depth analysis of the argumentative processes and dynamics that lead to a transcending of given normative settings. A particularly useful function for our undertaking of analyzing persuasive political speech is the construction of 'resonance'. The concept has been developed in the specific context of social movements and with application to the power of mobilizing constituencies. There is, however, no reason why this scheme should not be applied in the context of securitization moves, since the short-term purpose is the same, that of persuading and potentially changing existing frames in the respective constituencies. The concept of resonance has also been invoked within research on norm establishment, where it has been found that norm entrepreneurs frame normative ideas with a view of resonance with the audiences (Nadelmann 1990: 482). And, 'the idea of frame resonance potentially explains both the persuasive success of these instruments and their social function in the persuasive process. Norm-building depends upon persuasive communicative acts. If particular frames resonate, they are properly viewed as key rhetorical tools used by advocates to create support for normative ideas' (Payne 2001: 44). Therefore, it makes sense to look at frame resonance the other way around as well, in the case of norm erosion.

In social movement theory, the conditions for the mobilizing potency of frames, or their 'resonance', have been subsumed under the criteria of *credibility* and *salience*. Credibility is, in turn, determined by frame *consistency*, *empirical credibility* and the *credibility of the frame articulators* (Johnson 1997; Benford and Snow 2000). *Salience* refers to the *centrality*, *experiential commensurability and narrative fidelity* of the frame in relation to the targets of mobilization (Snow and Benford 1988). Similarly to the conceptualization in securitization research, the role of these conditions is to assess the 'workability' of a movement's message – its resonance – for a given audience. They are, however, developed to a higher and more concrete degree in social movements theory and therefore seem promising as analytical tools for our model as well. While a systematic analysis of counterterrorism political speech still needs to be conducted, some examples from the Bush era already make it apparent that many frame resonance mechanisms have been put to use for legitimizing the exception through the creation of changes in meaning and reference to security. The following is an excerpt from a speech delivered by former U.S. President George W. Bush in support of and as justification for the CIA Terrorist Surveillance Program. Bush rhetorically mobilizes public acceptance for exceptional measures by redefining the logic and function of law. The core argument is not, as one would expect, that counterterrorism

measures should be taken in accordance with existing legal specifications, but, quite on the contrary, that the existing legislation needs to be changed to fit the respective measures and, thus, render them 'legal':

> Article III of the Geneva Convention is hard for a lot of citizens to understand. Let's see if I can put it this way for people to understand – there is a very vague standard that the Court said must kind of be the guide for our conduct in the war on terror and the detainee policy. […] And so we worked with members of both bodies and both parties to try to help bring some definition to Common Article III. I really don't think most Americans want international courts being able to determine how we protect ourselves. And my assurance to people is that we can pass law here in the United States that helps define our treaty – international treaty obligations. We have done that in the past. It is not the first time that we have done this. And I believe it's necessary to do it this time in order for the program to go forward.[16]

These kinds of arguments are usually delivered not in isolation but in discourses meant to obtain the approval of the audience, namely by their being resonant. The other way around, identifying the resonance mechanisms associated with normative arguments would inform us about their persuasion potential. Such a resonance mechanism is for instance that of frame consistency. Outlined by framing theory research (Gerhards and Rucht 1992; Zuo and Benford 1995; Johnson 1997), consistency, in the sense of compatibility between claims and actions, can be operationalized in the form of the adequacy and success of the means employed. Within the same text, Bush lists a series of operational successes in order to increase the credibility of the argument:

> We've also *learned* information from the CIA program that has helped stop other plots, including attacks on the U.S. Marine base in East Africa, or American consulate in Pakistan, or Britain's Heathrow Airport. This program has been one of the most vital tools in our efforts to protect this country. It's been invaluable to our country, and it's invaluable to our allies.[17]

The same speech offers an illustration of a further mechanism, empirical credibility (the resonance with everyday experiences), pointed out in several empirical studies of social movements (Erwin 1993; Zuo and Benford 1995; Babb 1996). It has also been referred to as a resonance

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[16] The White House: Press Conference of the President, September 15, 2006, http://georgewbush-whitehouse.archives.gov/news/releases/2006/09/20060915-2.html.
[17] Ibid.

condition for securitization moves see: Balzacq 2005). In our example, President Bush illustrates the frame of imminent danger and urgency of action through the recurrence of attacks:

> It's a dangerous world. I wish it wasn't that way. I wish I could tell the American people, don't worry about it, they're not coming again. But they are coming again. And that's why I've sent this legislation up to Congress, and that's why we'll continue to work with allies in building a vast coalition, to protect not only ourselves, but them. The facts are, is that after 9/11, this enemy continued to attack and kill innocent people.[18]

Culture is another important element in frame analysis, since frames are already present in the memory and culture of the actors. As Donati (2001: 150) argues, 'cognition is nothing else but re-cognition [...], and actors give sense to things through their "re-cognition" as elements of a meaningfully ordered world. A consequence of that is that nothing can be perceived which is not already known; that is why the meaning needs always to be sought in the existing culture'. Cultural resonance or narrative fidelity as a means to affect mobilization has been conceptualized as a resort to culturally embedded frames and has been emphasized by several authors in social movements theory (Noonan 1995; Zuo and Benford 1995; Berbrier 1998; d'Anjou and Van Male 1998; Kubal 1998; Park 1998) and more recently has been referred to as 'deep cultural grammar' (Johnston 2008).

Narrative fidelity is observable through the invocation of historical events, of collective memories, as well as of a series of core values (honor, decency, toughness, liberty, justice, fairness, equality, dignity, courage, determination, vigilance, democracy, freedom, peace, etc.), albeit in partly different and contradictory contexts from the ones in which they were used originally – an instance of re-framing. In a 2006 radio address, the President uses narrative fidelity in order to produce an exception with an emotional reference to 9/11 and the collective memory of loss:

> This Monday, our Nation will mark the 5th anniversary of the attacks of September the 11th, 2001 [...] Our Nation honors the memory of every person we lost on that day of terror, and we pray that the Almighty will continue to comfort the families who had so much taken away from them.[19]

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[18] Ibid.
[19] President's Radio address, September 9, 2006, http://georgewbush-whitehouse.archives. gov/news/releases/2006/09/20060909.html.

Against this background then, the identification and qualification of the enemy responsible for the loss as opposed to what the American nation, as victim, stands for, follows:

> On this anniversary, we also remember the brutality of the enemy who struck our country and renew our resolve to defeat this enemy and secure a future of peace and freedom.[20]

The framing of the 'enemy' as exceptional and essentially different from 'us' functions as a basis for differential or 'exceptional' treatment, as the following example demonstrates:

> I meet frequently myself with the head of the ICRC and I think you will find that when the ICRC has questions, we try to give them answers. But we are in a different kind of war here. We're in a situation in which we have people who would, not as a matter of collateral damage but as a matter of design, kill innocent people were they released onto the streets. And we're simply not going to let it happen.[21]

A further example, this time from a speech held by Dmitri Rogozin, then Russian Duma's vice-speaker,[22] evolves along the same lines of differential treatment for essentially different individuals and at the same time an approach of 'purpose excuses the means':

> International terrorism is a young phenomenon. International law does not regulate the juridical aspects of the fight against it in an appropriate manner [...] Terrorism originates in an absolutely distinct type of mentality. Trying to understand it from the point of view of traditional European political culture is pointless. However, this circumstance should not act as an obstacle to a rigid and uncompromising fight against this evil. The paradoxical nature, the unpredictability and the severity of the threat of modern terrorism compels a more flexible application of existing laws.[23]

It might, of course, be argued that such an 'exception' argument, in effect, leaves the norm intact. After all, the speaker does not contest the validity of the norm as such, but rather its area of applicability, namely only to 'us'

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[20] Ibid.

[21] Secretary Condoleezza Rice, Interview with British Foreign Secretary Jack Straw on the Jonathan Dimbleby Programme ITV1, Liverpool, England April 1, 2006.

[22] To be clear, parliamentary representatives belong to the legislative authorities and are, by definition, not governmental actors. In the Russian case, however, an informal stretching of governmental power and influence to other constitutional authorities, particularly to the Duma and its parties, has taken place under the Putin regime. Therefore, it makes sense for the Russian case to expand the analysis to a wider group of people who belong to this 'informal network' and who are likely to transport 'state' opinion in their statements.

[23] Dmitri Rogozin, Duma, Release, 19 August 2003.

but not to 'them'. However, a process of norm erosion also seems plausible in this context in two ways: one is the eventuality of exceptions becoming the rule by means of repetitive application; the other is the effect on the nature of the norm itself, as universally applicable. On a broader level, it would be premature to argue that all justification patterns revolve around the concept of 'exception'. Indeed, justification of measures might well be found to occur in the context of certain conceptions of legality, defense, prevention or operational effectiveness. The latter can be illustrated by two further quotes, the first one from the EU:

> The necessity of having access to traffic data in such cases [of child pornography] was also recently demonstrated in a large international child porn investigation, coordinated by Europol. In that particular case, IP addresses of persons who were downloading child pornography of the internet were found by law enforcement in one Member State, and subsequent arrests were made in 12 Member States, based on those IP addresses. However, in five further Member States those IP-addresses could not be linked anymore to individual users, since the relevant data had already been deleted by the Internet Service Providers.[24]

And the second one from the USA:

> Inside our country, where the war began, we must continue to give homeland security and law enforcement personnel every tool they need to defend us. And one of those essential tools is the Patriot Act, which authorizes federal law enforcement to share more intelligence information, to track terrorists, to disrupt their cells, and to seize their assets. We use these tools to catch embezzlers and drug traffickers, and we need these tools, as well, to hunt terrorists.'[25]

A final factor that can be assumed to influence the degree of resonance has been identified in social movements as the credibility of the speaker (Hovland and Weiss 1951; Aronson and Golden 1962), including the speaker's status and knowledge, expertise on the issue (Hovland and Weiss 1951; McGuire 1985; Fiske and Taylor 1991; Hass 1991; Benford and Snow 2000; Roskos-Ewoldsen *et al.* 2002), as well as his/her reputation and likeability (Vanderford 1989; Benford 1993; Slater and

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[24] Commission Staff Working Document, Annex to the: Proposal for a Directive of the European Parliament and of the Council on the retention of data processed in connection with the provision of public electronic communication services and amending Directive 2002/58/EC, Extended Impact Assessment, {COM(2005) 438 final}, Brussels, 21.9.2005, SEC(2005) 1131.

[25] Remarks by the Vice President at National Republican Congressional Committee Event Donald E. Stevens Convention Center Rosemont, Illinois, February 7, 2004.

Rouner 1996; McCaffrey and Keys 2000). Furtell (2003: 380) has observed this aspect in relation to framing in general: 'expert authority may powerfully shape the contours of framing activities. The language of science and expertise can stall efforts of non-experts to understand what is going on. Lay citizens have to place a great deal of faith in the authority and judgment of experts'. Securitization research has also mentioned the element of status in the form of the power position of the securitization actor (see above). In the case of normative speech, the credibility of the frame articulator would therefore depend on the politician's perceived knowledge of the subject, general credibility – in the sense of support rates, for instance, and status with regard to a particular problem issue. The American president enjoys the status of Commander-in-Chief and primary responsibility for the insurance of state security, including in the context of the so-called 'war on terror'.[26]

Frames and framing have been mentioned in the securitization research and the conditions for securitization moves to 'work' resemble conceptually those of resonance. However it remains a fact that their full potential has not yet been put to use in this area, in particular with respect to specific counterterrorism measures (see McKeown 2009 as an exception). As the selected examples above show, a strong case can be made for the use of social movements framing categories in the analysis of political speech to justify exceptional counterterrorism measures. Specific types of resonance criteria are not only present in actual political speech, but can also provide a substantial analytical enrichment for the analysis of arguments.

## In search of a 'tipping moment': Argumentative convergence as an amplifier for broader norm erosion?

The first two phases and conditions of the life cycle model of social norms can be well adapted to the field of counterterrorism. There is, however, according to Finnemore and Sikkink (1998), a third phase in norm development, which is characterized by a global diffusion of social norms. Sunstein (1997) has introduced the idea that from a certain moment in time – a so-called 'tipping point' – new principled ideas trickle down and diffuse into the international realm in form of a 'norms cascade', in the course of which they gain wider international acceptance and thus contribute 'to a significant transformation of the international system' (Schmitz and Sikkink 2002: 521). Such a 'tipping point' for the norms

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[26] The support rates for George W. Bush up to the end of 2003 never went below 50%, with a historical record of 90% immediately after the 9/11 attacks; http://www.pollingreport.com/BushJob.htm.

cascade to start is reached when the new principled ideas resonate in a critical number of jurisdictions. A precondition for this to happen is not least that norm entrepreneurs, i.e. those actors who permanently argue in favor or against a specific idea, 'speak' in the same way beyond borders, using the same or similar patterns of argumentation, thus forming 'coalitions' of norm entrepreneurs that set and uphold narratives of legitimate behavior (Finnemore 1996; Finnemore and Sikkink 1998: 896; Keck and Sikkink 1998; Risse and Sikkink 1999: 35; Liese 2006).[27]

The question remains whether there is also such a 'tipping moment' with respect to our 'bad' norm model in counterterrorism. If so, what does that 'tipping moment' constitute, and how should we then think about transnational coalitions of norm challengers in argumentative terms? Can new counterterrorism frames, which in our logic are at first generated domestically, and 'bad' norms diffuse into the international realm? This would imply that other governments take up such arguments – be it by actively referring to them because they serve their own problem-solving well, or simply by being subject to contagion through the recurring use of a specific frame.[28] It is convergence theory, in particular, which tells us that such effects are particularly likely in the context of the phenomenon of international terrorism. Problems that are of a transnational nature, according to the convergence literature, produce interdependencies, globalized pressures and similar forms of problem-solving in different jurisdictions. Moreover, it is argued that under the influence of such transnational phenomena, national policies tend to homogenize dynamically and converge, i.e. become equal over time (see: Holzinger 2006). Policy convergence in this sense is defined as 'any increase in the similarity between one or more characteristics of a certain policy (e.g. policy objectives, policy instruments, policy settings) across a given set of political jurisdictions (supranational institutions, states, regions, local authorities) over a given period of time' (Knill 2005: 768; see also: Heichel *et al.* 2005: 828) – including material as well as non-material 'policies', under which Dolowitz and Marsh (2000: 12) also subsume 'structures of meaning'. Thus, following

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[27] The direction of normative change is basically from the 'outside-in': The norm entrepreneurs are external actors, traditionally non-governmental organizations, human rights NGOs such as Amnesty International or others. They act as public 'whistleblowers' whenever human rights are being grossly violated, mobilizing society and putting rhetorical pressure on governments. Other constructivist authors have put forward the idea of transnational advocacy networks, which are basically coalitions of different norm entrepreneurs, 'capturing cooperation among NGOs, but also connections to potentially like-minded actors in church and union organizations, foundations, the media, international governmental organizations, or governmental bureaucracies' (Schmitz and Sikkink 2002: 523).

[28] What mechanisms stand behind such a spread is certainly very difficult to find out empirically.

their interpretation, the notion of policy convergence can also include convergence in normative argumentation.

Security-related issues and counterterrorism in particular have not, so far, been of much interest in the research on policy convergence (see: Hill 1997, Jones and Newburn 2002),[29] although the new 'jihadist' terrorism is broadly understood as a transnational (insecurity producing) phenomenon. Hence, if we follow the assumptions put forward in the convergence literature, then international ('jihadist') terrorism is likely to lead to such convergence effects – both with respect to material politics as well as perceptions – and, subsequently, also rhetoric. On an argumentative level, governmental actors may frame the 'threat' and securitize terrorism in the same way all around the world in order to legitimize counterterrorism measures using the same or similar frames and patterns of frames – at least on a macro (or meta) and meso level of argumentation and justification. If we consider that international terrorism is an issue of 'hyper-securitization', i.e. perceived as a major security threat, in many regions of the world, and that the respective governments need to – in one way or the other – justify state measures in counterterrorism, then it appears most likely that governments across political, institutional and cultural borders and differences increasingly securitize and might argue in the same direction and with similar patterns of content. This could open the way, in the long term, to a permanent global normative change (Fordham and Asal 2007; Sandholtz 2008: 109).

From this follow a number of other consequences with respect to the 'bad' norm dynamic: Strong convergence in normative argumentation could – in the logic of the life cycle of norm development – function like a 'tipping moment' for these new, 'bad' norms to cause wider negative social repercussions on a global scale. In so doing, governmental actors not only challenge established domestic but also international norms and contribute to the spread of 'bad' norms, thus, undermining an existing (national and/or international) normative order or even contributing to its erosion. If governmental actors in influential states or other jurisdictions use the same arguments for legitimizing 'bad' counterterrorism policies, if they 'speak one language', and do so over a longer period of time (Adler and Haas 1992; Haas 1992), then they are on the way, willingly or not, to establishing a 'coalition of norm challengers' bringing combined and increased leverage to bear on globally established norms protecting civil and political rights. Consider, for instance, governmental actors in the USA, Europe and Russia using similar or convergent arguments in the field of counterterrorism:

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[29] So far, convergence research has concentrated mainly on 'low politics' (e.g. fiscal, environmental or social politics).

A 'hegemonic group' of norm challengers would emerge, that could have a severe long-term erosive impact on the worldwide validity of civil and political rights (see also McKeown 2009: 12, 20). Their rhetorical force originates from their cohesive rhetorical action (Keck and Sikkink 1998), and the robustness of the coalition (Sabatier and Jenkins-Smith 1993). We know that '[g]reat powers play a crucial role in norm-setting and norm-upholding in international relations and their public behavior legitimates the behavior of others within the international community' (Jackson 2007b: 369). As a consequence, new ideas – 'bad norms' – can spread and take root internationally, while other established norms erode.

The hypothesis can be formulated that the more manifest, in terms of content and frequency, a justification argument occurs over time and place, the stronger the global resonance of its meaning and, subsequently, its potential to oust existing, competing ideas about appropriate behavior (see also: Chong and Druckmann 2007: 113–16). When analyzing counterterrorist political speech, it seems therefore necessary to compare several jurisdictions and search for similar patterns of argumentation. In qualitative terms, such patterns would relate to convergent frame contents and contextualization (What kind of new meaning is constructed? What context do the governmental actors relate to?). If convergent justificatory frames are found across different regions and cultural contexts, this would be a strong indicator for the validity of our hypothesis. Quantitative indicators will also be relevant: If patterns in content can be detected, then it is important to know how frequently they occur and how stable they are. However, we should be interested not only in convergence patterns, but also in approximation effects over time. While the patterns can give us a static picture of convergence effects, approximation effects reflect the dynamics of convergence processes. In qualitative terms, one would need to ask, whether and how securitization moves, frame contents and contexts change, whether for instance the security impetus (securitization, hyper-securitization) becomes stronger over time, what clusters of frames are concerned and whether we can detect any target course of argumentation. Again, such dynamics also have to be studied in quantitative terms in order to trace argumentative continuity or possible 'argumentative cycles' over time.

Some nuances might need to be considered in the process, namely the extent to which culture and narratives play a role in framing particular arguments and the subsequent differences across countries and between discourse aimed at national and international audiences respectively. It might be the case that, while arguments converge structurally, the supporting frames differ depending on political culture and audience expectations. This observation was made for instance in relation to the coalition of the willing argumentation patterns for involvement in Iraq (McDonald 2007).

However, the case might also be that contagion and amalgamation effects occur in the context of a homogenization in threat perceptions. McKeown (2009: 11) speaks of 'emulation'. Due to differences in requirements of policy-solutions in various jurisdictions, we assume that under a convergence effect micro-frames, i.e. those frames identifying certain concrete problems and solutions, will converge the least. We expect more convergence on the meso level (identifying the bigger picture problem, namely terrorism as security threat) and on the macro or meta level of frames (more general worldviews).

So far, the convergence argument is only a hypothesis that has to be proven empirically. But if we really find argumentative convergence in counterterrorism rhetoric cross-nationally, this would show that there are globally resonant and permeating frames and arguments that have the potential to put pressure on established norms. Such a result would consequently be a strong case for proving that a 'bad' norm spiral, i.e. a process of norm regress, is in fact at work. We would have identified a mechanism through which the spread of 'bad' norms can be traced, and through which it is amplified, facilitated and accelerated. Notwithstanding, we cannot rule out that rhetorical attempts to bring down established social ideas may lead in some cases to other dynamics, e.g. the reaffirmation of an existing norm. Whether, how and under what circumstances 'bad' norms spread globally and contribute to a more fundamental process of norm erosion, thus, needs further investigation within the framework of the 'bad' norms dynamic outlined here.

## Conclusion

We developed in this article a theoretical and analytical framework to capture and explain normative setback dynamics in the field of counterterrorism. Our starting point was the observation that governments all around the globe, when developing and pursuing counterterrorist measures which come into conflict with established human rights norms, argumentatively legitimize these measures. Normative argumentation paves the way for the transformation of structures of meaning and a redefinition of socially 'appropriate' behavior and its respective norms. We further hypothesized that such argumentative behavior might account for more general and fundamental negative effects on principled ideas and international norms, particularly on international human rights, marking the start of a 'bad' norm spiral and allowing for new or continued 'bad' practices such as rendition or torture at worst.

We embedded our ideas, also derived from other theoretical discussions and research strands, into a theoretical 'life cycle' model of norm development

and examined them along its three main determinants and phases. We came to the conclusion that *first*, the period since the terrorist attacks of 9/11 marks an ongoing 'crisis' situation for new ideas about 'appropriate' political behavior in security policy to emerge, while old ones, the normative limitations to security policy, are put under pressure. *Second,* we argued that when tracing the 'bad' norm dynamic in the counterterrorism field, we need to consider in more detail the role of governments and the way they argue in favor of new policies. State actors appear as the main generators of 'bad' norms in the field of counterterrorism. They can be understood as principled 'norm challengers' in their attempt to push through and, with securitization, create societal acceptance for effective counterterrorism policies. And *third*, we put forward the hypothesis that cross-national argumentative convergence might serve as an accelerator for a more fundamental and broader process of norm erosion beyond the borders of a specific jurisdiction. It is plausible to assume that the more often (over time and space) and the more vehemently governmental actors appeal cross-nationally to the public in favor of these new solutions and policies in a similar way, the higher the probability that this new meaning will become established within the framework of a 'world society'.

With these considerations in mind, we argue that when conducting research on counterterrorism and its negative impact and consequences, it is important to thoroughly look at argumentative processes – at normative argumentation and justification – in counterterrorism policies and the discursive dynamics that follow thereon. It is most important to stretch such an analysis beyond the borders of a given jurisdiction as ideas, in particular, can easily diffuse to the international realm and be taken up in other jurisdictions as well. This is all the more the case as many arguments are simultaneously directed to domestic and international audiences and are picked up and dispatched by media networks all around the globe. In order to capture these processes in detail, we need to conduct a systematic analysis of persuasive counterterrorism political speech. Methodologically, this should be done by employing an interpretive, discourse-analytical rather than a causative approach. We suggest conducting a frame analysis of normative argumentation and justification by governmental actors over time and space since 9/11, with a focus on the statements of political leaders, their securitization moves and frames and the way they evolve.[30] This should result in a conclusive picture of how such patterns of argumentation

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[30] We acknowledge that there are also other forms of representation and sources in the discursive field of counterterrorism, such as national media coverage, that can contribute to changes in perceptions and attitudes in a society. For instance, the television images of September 11 were also important with respect to the development of perceptions of security and threat in the U.S. context (see: McDonald 2008: 569).

emerge, if and how they might converge and to what extent they have an erosive impact on established norms, in particular those in the area of civil and political rights.

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