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**Securitization of Immigration
under the Trump Administration:
Reconceptualizing the Functional Actor
through the Judiciary and the Media**

MA Thesis

Supervisor: Viacheslav Morozov, PhD

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I have written this Master's thesis independently. All viewpoints of other authors, literary sources and data from elsewhere used for writing this paper have been referenced.

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Securitization of Immigration under the Trump Administration: Reconceptualizing the Functional Actor through the Judiciary and the Media

Karl-Gerhard Lille

Abstract

The act of “speaking security” has grave implications for political debate. By evoking a threat, political resources are mobilized in a way that lifts the issue at hand “beyond” politics and calls for an immediate response by adopting extraordinary measures that may result in the restriction of civil liberties. This approach was developed by the so-called Copenhagen School. The efforts of subsequent researchers to develop the several concepts left under-theorized in the original framework remain incomplete.

The aims of this thesis are twofold. First, to develop a model for analyzing securitization processes in a more comprehensive manner, accounting for the bureaucratic policy-making procedures that undergird *securitizing moves*, for the reiterative deliberations between *securitizing actors* and *audiences* in the construction of threats, for the multiplicity of *audiences* involved in the process, and the influence wielded by *functional actors* on the success of securitization. To this effect, this thesis expounds on the theoretical aspects of securitization and media studies, the judicial precedents regarding immigration policy in the US, and adopts John Kingdon’s three streams model of policy-making.

Second, this thesis presents a novel definition of the *functional actor*. *Functional actors* are entities that (1) affect decisions in a field of security in general and the success of a *securitizing move* in particular, (2) cannot independently produce security meanings, (3) stand to gain or lose, in material, ideational, social, or other terms, as a result, and (4) can, in their particular function, operate as a secondary *securitizing actor* or as a *secondary audience* but is not the direct target of a *securitizing move*. Specifically, this thesis argues that the media and the judiciary should be treated as *functional actors* in the securitization process.

The latter point is tested by applying an enhanced model of securitization to the presidency of Donald Trump whose signature policy has been immigration. This thesis analyzes four categories of immigration policy through which the Trump administration

has sought to securitize immigration. Each category is presented through the Kingdon model, followed by an overview of *securitizing* and *desecuritizing moves*, of media frames, and of judicial proceedings. The results confirm the utility of treating the media and the judiciary as *functional actors*. However, it also reveals a shortcoming of the Kingdon model because its presumption of temporal linearity is found to be unjustified.

Keywords: securitization, desecuritization, functional actor, audience, security, immigration, United States, Donald Trump, media, the judiciary.

Table of Contents

LIST OF ABBREVIATIONS.....	9
INTRODUCTION.....	10
RELEVANCE.....	10
RESEARCH QUESTION.....	12
STRUCTURE OF THE THESIS.....	13
OVERVIEW OF THE THEORETICAL FRAMEWORK AND SOURCES.....	13
ACKNOWLEDGMENTS.....	15
1 THEORETICAL FRAMEWORK.....	17
1.1 CORE CONCEPTS.....	20
1.2 SPEECH ACT.....	22
1.3 DESECURITIZATION.....	24
1.4 KINGDON’S THREE STREAMS MODEL.....	25
1.5 AUDIENCE.....	28
1.6 FUNCTIONAL ACTORS.....	32
1.6.1 <i>Judiciary</i>	35
1.6.2 <i>Media</i>	38
1.7 SECURITIZING IMMIGRATION.....	45
1.7.1 <i>Federal prerogatives</i>	46
1.7.2 <i>State prerogatives</i>	48
2 METHODOLOGY.....	50
3 SECURITIZING IMMIGRATION UNDER THE TRUMP ADMINISTRATION.....	54
3.1 CONTEXT.....	54
3.1.1 <i>Immigration policy</i>	57
3.1.2 <i>Trump’s campaign</i>	59
3.2 SECURITIZING MOVES.....	60
3.2.1 <i>Securing the U.S.–Mexico border</i>	61
3.2.2 <i>Travel ban</i>	68
3.2.3 <i>Restrictions on refugees and immigrants and increases in deportations and incarcerations</i>	74
3.2.4 <i>Defunding sanctuary cities</i>	82
3.3 ANALYSIS.....	87
3.4 SUGGESTIONS FOR FUTURE RESEARCH.....	89
CONCLUSION.....	91

BIBLIOGRAPHY 93

THEORETICAL BACKGROUND..... 93

CASE LAW AND JUDICIAL PRECEDENTS 97

POLICY MEASURES AND JUDICIAL PROCEEDINGS..... 100

MEDIA COVERAGE AND OPINION POLLS 107

List of Abbreviations

AG – Attorney General

CBP – Customs and Border Protection

CS – the Copenhagen School

DACA – Deferred Action for Childhood Arrivals

DAPA – Deferred Action for Parents of Americans and Lawful Permanent Residents

DHHS – Department of Health and Human Services

DHS – Department of Homeland Security

DoD – Department of Defense

DoJ – Department of Justice

DoL – Department of Labor

DoS – Department of State

Dream Act – the Development, Relief, and Education for Alien Minors Act

EO – executive order

ICE – Immigration and Customs Enforcement

IIRIRA – the Illegal Immigrant Reform and Immigrant Responsibility Act

OLC – the Office of Legal Counsel

SC – the Supreme Court

ST – securitization theory

USC – United States Code

Introduction

Relevance

The election of Donald Trump as President of the United States has attracted considerable global scrutiny. Much of it has stemmed from concern with Mr. Trump's character, temperament, and the policies which he has proposed or adopted. His presidential campaign and his time in office have been tinged with a host of controversies. Much of this has owed to his statements and hardline stance on immigration. This antipathy has also been echoed in other policy areas, for example in the administration's protectionist decision to institute steel and aluminum tariffs under the guise of "national security interests" (Chung and Westbrook 2018). While political commentary on the Trump administration abounds, relatively little academic research has hitherto been published on his presidency. This is understandable, of course, given that he is currently hardly a year and a half into his four-year term. In any case, academic research is necessary to better understand the dynamics of American domestic and foreign politics under the new administration since, owing to the country's preeminent position in the international system, there obviously are implications on international relations. This thesis, therefore, is both timely and topical.

The specific topic of immigration is also germane to investigate for multiple reasons. First, immigration consistently ranks among the top issues for the American electorate (Pew Research Center 2016, Newport 2016). Second, immigration is the core issue for populist radical-right parties (PRRP) and their specific electorates (Mudde 2016, Rydgren 2017). Mr. Trump, although nominally a Republican president, nevertheless fits the populist paradigm well (Inglehart and Norris 2016). Immigration is thus not only a suitable policy issue to investigate but an essential one, both in terms of the general electorate and in terms of the priorities of the new administration. Third, and more broadly, immigration in Western countries generally involves a debate over things like assimilation, affirmative action, discrimination, welfare policy, etc. Minorities who are favorably impacted by more liberal or more inclusive policies lean toward the parties that are on the left side of the political spectrum, a correlation that also applies to the US electorate (Pew Research Center 2015). Therefore, the status and treatment of immigrants, both illegal and otherwise, has serious implications on the electoral balance

between the leftward Democrats and the rightward Republicans. Finally, immigration-related policy debates are very often framed in ways that make securitization theory (ST) a befitting model for analysis.

Securitization is a process in which something is argued to be existentially threatened by something else and that the remedy to the threat is the adoption of emergency measures. Securitization theory (ST) investigates how threats are constructed between entities who articulate the threat and the entities that need to be persuaded into accepting the threat. ST is a constructivist approach to international relations (IR) because it treats security as socially constructed by speech acts uttered in intersubjective communication. Our perception of security (or the lack thereof) is largely mediated by the *way* we speak or what we choose to speak *about*. Buzan and Hansen (2009: 212) suggest, the ST framework has seldom been applied to the United States specifically. They state that this is due to “the extent to which the concept of security is explicitly addressed” in the US and in Europe. It is no wonder that constructivist theoretical paradigms such as ST find little traction in American academia because it has historically been heavily dominated by positivism.¹

Furthermore, given that the Trump administration is the rare example of a populist right-wing government, one to whom immigration is *the* paramount issue, the ST framework has newfound utility for the US as a case study. There has hitherto been relatively little to research through ST, the voluminous research on the 9/11 terrorist attacks excepted (e.g. Bigo and Tsoukala 2008, d’Appollonia and Reich 2010). Thus, this thesis also fills a thematic gap at a propitious moment in time.

Côté (2016: 544–45) has highlighted a common concern regarding case studies that this thesis is bearing in mind. Using empirical studies as basis for theory development may include indirect selection bias through the reliance on secondary sources. However, the different representations of the same issues in the media, for example, are a key component of the empirical analysis, which alleviates (but does not completely eliminate) this concern. As such, this thesis also makes extensive use of original sources, such as policy documents published on government websites. In addition, since the US is comparable to other liberal-democratic systems in the most important respects, the

¹ For a discussion on the differences between security studies in Europe and in the US, see Wæver (2004).

conclusions regarding the influence of the media and the judiciary that this thesis draws are *a priori* applicable to other Western settings as well.

Research question

The original framework of securitization has been widely criticized for being under-theorized (McDonald 2008, Léonard and Kaunert 2011). While some key concepts have been considerably refined, no common framework for analysis has been developed. For example, there is still open debate over how to precisely judge when securitization has occurred or not.

These theoretical concerns are at the heart of this thesis. First, the thesis seeks to enhance the ST model by developing and then applying a model of ST that incorporates more precise definitions of the key concepts — in all their multiplicity —, elaborates on the dynamics between the entities involved, and utilizes important insights from fields such as law, media studies, and cognitive psychology. This thesis offers a modest step in that very direction. This task necessitates a considerable amount of theoretical elaboration and synthesis.

Second, this thesis uses the Trump administration case study to refine the concept of the *functional actor* — originally understood as any entity that affects the dynamics of a sector by influencing decisions in the field of security (Buzan *et al.* 1998: 36) — and seeks to clarify how *functional actors* impact the securitization process. In particular, this thesis argues that ST gains in explanatory potential by treating the media and the judiciary as *functional actors*.

The double task of the developing the ST framework in general and creating a more nuanced definition of the *functional actor* in particular necessitates an overview of existing literature on the relevant aspects of the theory. In the case of the *functional actor*, research is almost entirely non-existent. However, the revised conception does draw on, in part, the theoretical contributions of previous researches (see [Chapter 1 Section 6](#)).

The enhanced model of ST requires the researcher to conduct an extensive survey of government and media sources, as well as public opinion polls, to explain the ST process as accurately as possible.

Structure of the thesis

The thesis consists of three chapters and a conclusion. The first chapter delves into the theoretical framework of ST, including an overview and discussion of the several key concepts. It also presents Kingdon's three streams model as a way of structuring the securitization process by introducing elements bureaucratic politics into the mix. The theoretical chapter ends with an overview of important judicial rulings regarding the immigration policy of the US. These are relevant to understanding the influence the judiciary has had on the Trump administration's immigration policy. It also speaks to questions regarding the legality and morality of those policies.

The second chapter will present the methodology used in the empirical part. The Kingdon model is used to delineate between different *audiences* in the process and to illuminate the dynamics between the *securitizing actor* and those *audiences*. The chapter also lists other units of analysis and describes the data gathering methods that have been used.

The third chapter applies the enhanced theoretical model of ST to the Trump administration's attempts at securitizing immigration. The chapter then discusses the implications of the case study and offers ideas for future research.

Overview of the theoretical framework and sources

The use of ST is appropriate because it provides insights into the dynamics of how policy issues are elevated into security issues. Patterns of securitization affect the kinds of policies that are adopted. Successful (or unsuccessful) securitization of immigration has significant ramifications for certain populations. Policies that may be described as "extraordinary" or even "extreme" — insofar as they start infringing on the basic human rights of those populations — become possible to adopt in cases of successful securitization.

The salience of this topic is accentuated by the fact that Mr. Trump's election had an immediate demonstrable effect on immigration, as evidenced by the number of illegal border crossings plummeting and by the number of arrests and deportations surging in the administration's first months alone (Dinan 2017a, Sacchetti 2017). Thereafter, the immigration-policy debate has remained on the front burner. These effects serve as a

stepping stone to problematizing the *audience*, since the American electorate is widely considered to be extremely divided, tendentious, and oppositional (Shifflett 2016, Jones 2016). The original theory of the Copenhagen School (CS) assumes an idealized democratic society to be the *audience* of a *securitizing move*. The CS oversimplifies this crucial element in the securitization process since it treats the response of *audience* as a nominal measurement — either the audience agrees or not. However, the *audience* may respond by attempting to *desecuritize* the issue instead and try to keep it in the political arena. While we presume that a democratic society will involve a tug-of-war between ideas and policies, we expect majority assent to be the prerequisite to the same being enacted institutionally.

This seemingly simple dynamic has now been complicated. Mr. Trump has consistently argued that illegal immigration is the bane of American society but counter-discourses hold immigration and immigrants in higher esteem (Sharma 2017). He has managed to enact few extraordinary measures yet his political opposition and the media claim those measures are extreme by default, since, for example, they have broken up families and dispensed with the civil liberties of immigrants, illegal or otherwise (King 2017). Complicating the picture further are *functional actors* who influence the success of *securitizing moves*.

Following the lead of Léonard and Kaunert (2011), this thesis will utilize John Kingdon's three streams model (originally developed in 1984) which divides the policy-making process into three distinct stages. The model enables the analyst to divide the process of securitization into different stages and to analyze the process in greater detail. Another utility for ST, as emphasized by Léonard and Kaunert (2011: 64), is that it aides in operationalizing the *securitizing actor* and the *audience* more precisely, as well as enabling the conceptualization of the *audience* as an amalgam of different audiences, thereby resolving the overly simplistic original conception of the CS. To this model, I will add the enhanced concept of the *functional actor*.

The concept has neither found discussion in Léonard and Kaunert's (2011) adoption of the model, nor has such an entity been included in the original model. This is due to the inclusion of various entities, inside and outside governments, “visible” or “relatively hidden” (Kingdon 2013: 68), that operate, in the ST paradigm, somewhere between a *securitizing actor*, a *functional actor*, and an *audience*. Kingdon accounts for these

entities in their myriad actual functions but he does not abstract their common qualities, which otherwise would enable to unite those entities under a single label such as the *functional actor*. The closest concept in Kingdon's model appears to be the *agenda agent* who is an entity involved in creating or blocking policy agenda items (e.g. interest groups) (Kingdon 2013: 51). However, Kingdon hardly mentions the concept and offers no theoretical considerations either. In any case, the enhanced definition of the *functional actor* includes the potential to influence on the policy-making process directly.

The empirical analysis section will present the policies that the Trump administration has sought to adopt — categorized into four different policy areas — and then discuss the responses by the judiciary (such as placing an injunction on a particular executive order) and by the media (such as arguing for and against the legality behind a policy).

Data will be gathered from US government websites and from various news sites that are generally understood to be in opposite political camps (such as the left-leaning *Washington Post* and the right-leaning *Washington Examiner*). Among the data is a selection of the Trump administration's *securitizing speech acts*, the Democrats' *desecuritizing speech acts*, as well as the arguments the courts have made in allowing or forbidding the proposed policies of the Trump administration.

The analysis will be illuminated by opinion polls, taken to indicate the sentiments among the American populace. These polls pertain to general attitudes regarding broad social and political topics and to specific attitudes regarding particular policies. The polls often delineate between the political persuasions of the respondents, which is necessary in identifying the several *audiences* involved in the securitization process. Polls also elucidate the *context* in which certain attitudes are held and potentially reveal the impact that real-life events have on the formation thereof. Second-generation securitization scholars argue that *context* should be a full-fledged unit of analysis and the author of this thesis concurs.

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1 Theoretical Framework

Securitization is a process in which a *securitizing actor* depicts a *referent object* as existentially threatened by a threat to mobilize support for emergency measures that go “beyond rules that would otherwise bind” (Buzan *et al.* 1998: 5)². This approach was developed by constructivist scholars now referred to collectively as the CS, associated mostly with the researchers Barry Buzan, Ole Wæver, and Jaap de Wilde and their seminal work, *Security: A New Framework for Analysis* (1998).

The essence of this approach is that security and securitization are, in the final analysis, social constructs realized by speech acts uttered in intersubjective interaction. This approach runs counter to mainstream IR scholarship which mostly purports to analyze the objective presence of threats and the subjective perceptions thereof. Analytically, it is important to note that “speaking security” is essentially about evoking insecurity, since potential insecurity is the prerequisite to securitization.

For the CS, the adoption of *extraordinary measures* (e.g. suspending civil rights, limiting economic freedoms, war, etc.) as a response to accepted threats (i.e. realized threat images) is paramount but methodologically the focus is almost solely on discourse, including aspects such as the authority of the speaker, rooted in John Austin’s speech act theory. Second-generation securitization scholars (e.g. Balzacq, Bigo) hold that this is like studying the tip of the iceberg (Berling 2011: 389) and instead highlight sociopolitical factors such as institutionalization and bureaucratic practices as additional objects of analysis. This extends the original boundaries of the securitization to account for a wider “configuration of circumstances, the congruence of which facilitates its realization” (Balzacq 2011: 18). Appropriately, then, the first generation is referred to as the “philosophical” approach while the second generation is referred to as the “sociological” approach.

Security is better understood as a spectral measure (i.e. a ratio measurement) that ranges from the non-politicized (i.e. not for the state to deal with and not up for public debate) through the politicized (i.e. part of public policy and policy-making) to

² For a more meticulous, albeit laborious definition, see Balzacq (2011: 3) who attempts to account for all contingencies simultaneously.

securitization (i.e. an existential threat that is no longer debated but dealt with haste). However, there is no clear dividing line between the categories. This means that assessments thereof are necessarily externalized — inductively, the analyst assumes that their empirical observations evidence a particular state of affairs. If there is vigorous public debate between political factions on, for example, how many immigrants should be allowed into the country, then the matter is politicized. If, for example, the civil liberties of 120,000 Japanese Americans have been suspended through orders to relocate into internment camps under suspicion of potential treachery — with negligible public resistance —, then the matter has been securitized. The discursive and institutional practices that constitute securitization would, then, range from the entirely ordinary to the entirely extraordinary.

It is not in the purview of this thesis to answer the question that is inherent to a spectral measure: how *much* to yield a result³. Instead, this thesis serves to highlight the blurred line between the politicized and the securitized, especially with respect to different *audiences*. It is perfectly possible that critical mass can be determined only retroactively, based on an assessment of the whole securitization process, from the *securitizing act* to the adopted policies. If the state of affairs was changed and it involved some degree of *audience* assent, then we can deduce that *enough* support for the securitizing claim was garnered. One crucial shortcoming of the CS is that their securitization model does not include a way to measure the success or failure of *securitizing moves*.⁴

In terms of levels of analysis, the focus is on the interaction between individuals (i.e. the *securitizing actor*, usually) and subunits (i.e. the *audience* and the *functional actors*), while the resulting implications are located at the unit level (i.e. states). The scope of security studies has expanded over time beyond the traditional military and political sectors. Buzan *et al.* (1998: 7–8) suggest that sectoral analysis in security analysis aids in

³ O'Reilly (2008: 67) attempted to conceptualize “critical mass” as a factor of volume (i.e. the amount of people convinced of a threat, “usually the majority of the target group”) and caliber (i.e. that the people convinced are actually the relevant *audience*). O'Reilly states that the usual target *audiences* in the US context are Congress and the general populace.

⁴ Salter (2008) has developed a spectral measure to assess the success or failure of a securitizing move.

determining the *referent objects* or their characteristics. This speaks to one of the key contributions that ST made: a conceptualization of how *state security* is actually made up of disparate elements, not of simply military-political security, broadly understood. However, even though ST enables to analyze securitization processes on the individual and subunit level, the CS's focus is fundamentally a traditional statist one. Sectors pertinent to this paper are the economic sector (i.e. national economies and the global market), the political sector (i.e. the sovereignty and ideology of the state), and the societal sector (i.e. collective national identity). The Trump administration has made appeals to all three.

The aforementioned elements constitute internal incongruities that limit the explanatory potential of ST. Neal (2009) points at two other shortcomings. First, the ST paradigm may not be applicable to all venues. IR scholarship has generally been acknowledged to be Eurocentric but ST specifically, paradoxically, may not actually be applicable to processes on the supranational level of the European Union, given that the public dimension in EU policy-making is “minimal” (Neal 2009: 336). Second, the causal relationship between a *securitizing act* and a policy outcome is hard to discern. Indeed, Neal (*Ibid.*: 352) states that security cannot be comfortably understood through “a single overarching logic,” and while ST has admirably problematized the construction of security threats, “practices of government have become too complex, too plural and too diverse to maintain the plausibility of a sovereign centred, nominalist understanding of security.” But even if the “practices of both security and risk are becoming increasingly plural and heterogeneous” (*Ibid.*), it does not really prevent ST from being a useful model to apply to understanding these processes. While Neal's argument is one in favor of a more comprehensive framework, his key argument regarding a policy outcome is fundamentally a call to abandon the focus on exceptional measures, especially in light of his references to Bigo (2002) and Huysmans (2006). But both of these researches already draw attention to security as a kind of practice in their discussions of the “security continuum” and a “governmentality of unease,” respectively⁵. The work of second-

⁵ Both of these concepts treat security as a *field* in the Bourdieuan sense. The security continuum is “an institutionalized mode of policy-making that allows the transfer of the security connotations of terrorism, drugs traffic and money-laundering to the area of migration” (Huysmans 2006: 72). Bigo's governmentality

generation securitization scholars shows that the shift Neal is calling for has already taken place. Furthermore, the application of Kingdon's three streams model to the securitization process enables to map out how a *securitizing act* is made into policy. Critiques of ST are aplenty, such as McSweeney's (1996) argument that giving an ontological preexistence to the *securitizing actor* and *audience* runs afoul of to constructivist and processual perspectives of identity, but they are not fundamental to this particular thesis.

The context of the US, fortunately, overcomes these concerns anyway in that the actors in the process are easily distinguishable, as is the process from a *securitizing move* to a policy outcome, save for the particular actors involved in backroom negotiations and any other manifestations of bureaucratic politics that attend any piece of legislation. The fact that the Trump administration, so far, has only succeeded in enacting executive orders (EOs), bypassing Congress, minimizes Neal's concern over the ST paradigm not explaining how *securitizing moves* are institutionalized.

1.1 Core concepts

The concepts presented here retain their conventional meanings as espoused by the CS and subsequent researchers. Austin and Brossard (2017: 10), among a myriad other scholars, have noted that the CS gave an impression that the main units of analysis — the *referent object*, the *subject*, and the *audience* — are “homogeneous entities.” Theoretical elaboration on these concepts, as well as my original contribution to the definition of the *functional actor*, appear in subsequent sections.

A *securitizing move* is an attempt to persuade the audience to acquiesce to a referent object being threatened existentially and to offer a potential way out. Securitization

of unease is about the ramifications of creating “a continuum of threats and general unease” that accompany the creation of “a risky and dangerous society” (2002: 63). Neal (2009: 353) is interested in how the links between different policy areas — asylum, border control, etc. — become institutionalized and how this is manifested in the “complex technologies, knowledges and techniques” of governance. However, as Côté (2016: 549) has pointed out, treating security as a field in the way the Paris School does, constructs a passive and limited conception of the *audience* by excluding the *audiences* outside the field of (in)security. The production of security practices and meanings is done by a select few security professionals that impose the same on a larger group but this runs counter to the extensive empirical work on *audiences* in ST.

cannot be imposed but has to be argued for, which is important because security action is “usually taken on behalf of, and with reference to, a collectivity” (Buzan *et al.* 1998: 36). The reverse of a *securitizing move* is the *desecuritizing move*, which is given next to no attention in the CS except for being considered the “optimal long-range opinion” in that it shifts an issue back “into the normal bargaining processes of the political sphere” (Buzan *et al.* 1998: 4, 31).

A *referent object* is something that is seen as existentially threatened and that has a legitimate claim to survival. Different sectors involve different *referent objects*: economic security can be about the maintenance of the welfare state while environmental security can be about the maintenance of the local biosphere.⁶

A *securitizing actor* is someone (or a group) who commits the securitizing move. These actors are often public officials who can lobby for securitization more easily because “they hold influential positions in the security field based on their political capital, and have a privileged access to mass media” (Balzacq 2011: 26). This paper treats the Trump administration (principally the president but also other members of his cabinet) as the *securitizing actors* and the political opposition (principally the key figures in the Democratic Party) as the *desecuritizing actors*, insofar as their role in this thesis is limited to the debate over immigration and attempts to counter the policies of the new administration.

A *functional actor* is a person or a group that affects the dynamics of a sector by influencing decisions in the field of security (Buzan *et al.* 1998: 36).

The empowering *audience* are people that need to be persuaded of a threat for securitization to be successful. An *audience* can offer formal and moral support, depending on whether it is an institution or the public, respectively.

Context describes the general perceptions of threats that precondition *audience* behavior. It is important to note that rhetorical urgency does not always constitute a real threat. Just because somebody states something does not necessarily make it so — the constructivist position is that discursive statements could *potentially* make it so. According to Balzacq (2011: 12), the CS has overemphasized institutional threats (i.e. products of communicative relations between agents) and neglected “brute” threats (i.e.

⁶ For a more comprehensive overview of sectors, see Buzan *et al.* (1998: 8).

actual threats not contingent on “language mediations”). Indeed, “language does not construct reality; at best, it shapes our perception of it” (*Ibid.*). However, we are familiar with the axiom that perception is reality — or, at the very least, that perception could become reality. For successful securitization, the words of the *securitizing actor* need to resonate within the *context*, making securitization contingent “upon a perceptive environment” (*Ibid.*: 13) which is to a greater or lesser degree shaped by discourse. As discussions in subsequent sections demonstrate, the media plays a key role in creating the *context* in which the reiterative interactions between the *securitizing actor* and the *audience* take place.

1.2 Speech act

The total *speech act* is a performative utterance (i.e. it is intended to *do* something, like changing the state of affairs), consisting of three acts (presented here in a simplified form): (1) locutionary (i.e. what is said), (2) illocutionary (i.e. what is meant), and (3) perlocutionary (i.e. what happens on part of the *audience*).

Illocution and perlocution are often confused because the speaker’s intent, partly, in issuing a *speech act* is to bring about the perlocutionary effect. Linguistics considers the success of a *speech act* to depend on *felicity conditions*, defined by Balzacq (2011: 11) as the “necessary and sufficient rules that must prevail for linguistic acts to produce their effects.” Transposed to ST, it makes sense to assume such conditions under the more general notion of *context*.⁷ In the case of securitization, while institutional practices may suggest securitization, they might not always necessarily be contingent on discourse.

There is a fundamental logical problem at the heart of CS’s conception of ST. The CS claims that security is both a self-referential practice and an intersubjective process simultaneously but they effectively attempt to reduce security to a *speech act*. The CS’s

⁷ It is worth mentioning that this linguistic logic, strongly represented in the original framework of the CS, is developed further in Buzan *et al.* (1998: 32–33) who list three conditions for a successful speech act: (1) internal, linguistic-grammatical (i.e. the speech act is executed according to accepted and conventional rules that apply to such acts), (2) external, contextual, and social (i.e. the persons have to have the authority and the circumstances need to be appropriate for the act to be invoked), and (3) the specific features of the alleged threat that either “facilitate or impede” securitization.

focus on illocution makes the self-referentiality of the *securitizing move* a definitional feature of the whole ST paradigm. This problem is highlighted by Balzacq (2011: 20): either security is self-referential (which forsakes perlocution) or it has the potential to produce a perlocutionary effect (which forsakes self-referentiality). Stritzel echoes this point (2007: 358), saying that “too much weight is put on the semantic side of the speech act articulation at the expense of its social and linguistic relatedness and sequentiality.” The inclusion of the *audience* as a proper unit of analysis in the securitization process — which the CS does not do — necessarily makes security intersubjective. If securitization is merely an illocutionary *speech act*, then language is given power to “create social reality” without input originating from “social interaction or authorization” (Côté 2016: 542).

The CS fails to treat *audience* and *context* “as proper units of analysis,” making “it difficult to address the practically important question of what the proportionate weight of audience and contextual factors are in securitization theory” (Balzacq 2011: 20). The inclusion of these two concepts shifts securitization more toward a sociological practice, as opposed to the universal pragmatics of the CS.

Speaking security also pertains to *not* speaking it. Buzan and Hansen (2009: 215) deftly point out the “security as silence” problem, which occurs when the “potential subject of (in)security has no, or limited, possibility of speaking its security problems.” This poses a problem for the CS’s conception of ST because by making securitization hinge almost exclusively on the explicit verbal *speech act*, the failure to identify security utterances leaves a potential security problem outside the purview of the analysis. It also illustrates another way by which issues can become depoliticized.

Speech acts are also linguistic insofar as they construct narratives: speech acts must “follow the security form, the grammar of security, and construct a *plot* that includes an existential threat, point of no return, and a *possible way out*” (Buzan *et al.* 1998: 33). Mr. Trump’s rhetoric has highlighted the performative nature of language, especially through a particular narrative: by *saying*, he has *changed* the political reality regarding immigration. A piece on *Vox* implied as much: “Trump likes to say that no one was talking about immigration before he entered the race. That isn’t true. But the *way* he talked about it resonated much more deeply than anything his rivals could muster.” (Lind and Yglesias 2016) Immigration is a galvanizing issue for Americans and talking about it in a certain

way certainly polarized the electorate. This thesis will show that Mr. Trump’s securitized narrative regarding immigrants has also been explicitly employed by the judiciary to prevent the adoption of the same policies that that narrative is calling for.

Eroukhmanoff (2018) employs John Searle’s indirect *speech act* theory to include *indirect securitization* in the equation. While *direct securitization* is overt in labeling something a threat, *indirect securitization* is characterized by “a covert security grammar where securitising actors avoid labelling the issue a threat, for fear of saying something gauche and be subsequently chastised” (Eroukhmanoff 2018: 6). However, her approach suffers from the fact that it invites the analyst to read illocutionary motivations⁸ into the speeches of elites which is ultimately a subjective endeavor. Nevertheless, I consider this approach relevant to the Trump administration case study because one reason why the courts initially rejected the administration’s travel ban was the *intention* behind the ban, as inferred from statements Mr. Trump had made in the past.

1.3 Desecuritization

Desecuritization is about shifting a securitized issue back into the political domain. The concept is taken at face value by the CS and, as a result, left under-theorized. According to Austin and Brossard (2017: 6), Wæver drew on Jacques Derrida to define *desecuritization* as failed securitization when an *audience* rejects an initial *securitizing move*. However, *desecuritization* could also be a “deliberate ‘positive’ normative-political move to reject the ‘exceptional’ realm of security politics” (*Ibid.*).

Hansen (2012) developed a typology for modes of *desecuritization*: change through stabilization, replacement, rearticulation, and silencing. The first two are neutral and refer to the ways issues lose their intensity (e.g. in relation to the post-Cold War environment) or are replaced by more urgent issues, respectively. The latter two carry normative implications. Silencing emphasizes the power relations that underlie securitization, specifically pointing at the marginalization of women since they are less likely to have the authority from which to speak security. Rearticulation seeks to speak of issues

⁸ Or, to use Searle’s terms, to discover different illocutions with “a different propositional content” (Searle 1979: 30 via Eroukhmanoff 2018: 14).

differently (e.g. instead of talking of migrants as a potential security threat, one can instead talk of human rights and hospitality) to move away from the “ethico-politically” negative status of security as such (Austin and Brossard 2017: 6–7).

An interesting manifestation of *deseuritization*, which is the focus of Austin and Brossard (2017), is that *securitization* and *deseuritization* can be enacted in conjunction, which challenges the temporally linear logic of the original ST. For example, by depicting radical Muslims as a separate entity from moderate Muslims — i.e. by splitting the threat image —, one aspect is being securitized against while the other is being deseitized. However, I would refrain from using this particular kind of *deseuritization* as the template for all *deseuritizations*, but only inasmuch the original *securitizing move* contains within it the ingredients from which to construct *deseuritization* (i.e. what aspects or appeals of the *securitizing move* to argue against to reverse the process). This is more suitable to the case study of this thesis.

1.4 Kingdon’s three streams model

This thesis employs a policy-making model first developed by John Kingdon in 1984 and as integrated into the ST framework by Léonard and Kaunert (2011). Léonard and Kaunert (*Ibid.*) adopt the model⁹ as a means by which to reconceptualize the *audience* in ST and their effort produces a serviceable — and hitherto the most comprehensive — framework for analyzing the securitization process. Kingdon’s model remains a popular one in policy analysis but it was neither original — as it was based on the so-called garbage can model that Cohen, March, and Olsen presented in 1972 — nor the last of its kind (Rawat and Morris 2016).

Kingdon’s model divides any policy-making process into three streams (i.e. stages). These represent the steps from acknowledging a policy problem to implementing a policy solution. Crucially, in the context of ST, the model enables the differentiation of *audiences*, as well as their “specific composition and role” and “impact” (Léonard and Kaunert 2011: 74).

⁹ Léonard and Kaunert are not the first securitization scholars to attempt to integrate Kingdon’s model into ST. See, for example, Eriksson (1999) and Dunn Caveltly (2008).

The first of the three streams is the *problem stream*. In this stream, an actor tries to construct a policy problem based on external events and/or various indicators. Kingdon (2013: 109–10) presciently acknowledges that certain conditions (i.e. a particular state of affairs) only become political problems when decision-makers perceive them as such. As Léonard and Kaunert (2011: 66) state, “Securitizing an issue (or a condition) is just a specific way of transforming it into a policy problem — a specific type of policy problem, namely a ‘security problem.’” In this stream, the *audience* is mostly comprised of other decision-makers who are involved in the policy-making process. It is the decision-makers themselves that first need to be convinced of a problem (in ST, of an existential threat) before proceeding to convince others.

The second stream is the *policy stream*. In this stream, a policy is formed and alternatives to it are generated. Policies that meet the requisite criteria for passage — “technical feasibility, value acceptability within the policy community, tolerable cost, anticipated public acquiescence, and a reasonable chance for receptivity among elected decision makers” (Kingdon 2013: 131) — are ones that survive. In this stream, the *audience* is comprised of specialists and technocrats who are involved in the policy-making process. This *audience* is more responsive to rational, evidence-based arguments which is not necessarily the case for the public at large or even for decision-makers (Léonard and Kaunert 2011: 67).

The third stream is the *politics stream*. In this stream, policy proposals are adopted or dismissed. The adoption of policies is contingent on factors such as public opinion, partisan distributions in Congress, pressure group campaigns, election results, and changes in administration (Kingdon 2013: 145). The obvious link with ST here is the notion of *context*. Support for passing a policy is garnered through bargaining with decision-makers to build coalitions. In this stream, the *audience* is comprised of unconvinced decision-makers and the general public. Since this stream involves the latter, it effectively conceptualizes the “politics of consent” (Léonard and Kaunert 2011: 66).

Kingdon argues (2013: 166) that when these three *streams* are coupled, a *policy window* is briefly formed which presents an opportunity to take action on a given initiative. *Policy windows* are essential to adopting policies and they can only be opened by changes to the *problem stream* (e.g. a terrorist attack) or to the *politics stream* (e.g. because of a change in public opinion) but not in the *policy stream* of alternatives. When

a window for one subject opens, it becomes more likely for a window to open for a similar subject, a phenomenon called a “spillover”¹⁰ (Kingdon 2013: 190). As Léonard and Kaunert (2011: 69) note, this relates to the notion of security continuums, discussed previously.

The people that push the policies through are *policy entrepreneurs*, “advocates who are willing to invest their resources /.../ to promote a position in return for anticipated future gain” (Kingdon 2013: 179). In terms of ST, *policy entrepreneurs* are *securitizing actors*, just in the narrower context of bureaucratic politics. *Policy entrepreneurs* can be Senators, lobbyists, academics, civil servants, etc. What describes them is their expertise, their ability to speak for others, and their “authoritative decision-making position” (Kingdon 2013: 180).

The benefit of Kingdon’s model is that by delineating different *audiences*, it enables us to consider their different logics of persuasion. It also emphasizes that the several *audiences* “are all interlinked as they are part of the same policy-making process” (Léonard and Kaunert 2011: 74) The model also enables us to include that policy-making process under the larger securitization framework. The model allows us to answer questions such as which *audiences* need to be persuaded at a particular stage and with what arguments.

The model has been adopted to the realm of IR before (e.g. Durant and Diehl 1989, Neumann 2006). However, as outlined by Rawat and Morris (2016: 621–24), the model features some shortcomings, e.g. quantitative applications of the model not finding support for the predictions the model makes, a vague conception of the *policy entrepreneur*, and the absence of a spatial dimension to the *policy stream*. The model is also inapplicable to non-democratic contexts. However, these common criticisms of the model do not inhibit its application in this case study, given the focus on the *audiences* and *context*.

¹⁰ Originally used by Ernst Haas.

1.5 Audience

Several second-generation ST scholars (e.g. Balzacq 2005, McDonald 2008, Vuori 2008, Léonard and Kaunert 2011, Côté 2016) have tackled the concept of the *audience* in the original ST. In fact, critiquing and developing this concept has been one of the pet preoccupations and main contributions of these scholars. Given that Buzan *et al.* (1998) gave the concept relatively short shrift and little theoretical attention, this was to be expected. As was discussed in [Chapter 1 Section 2](#), the overemphasis of the illocutionary aspect of the *speech act* in the CS makes the *securitizing move* self-referential, thereby negating the role of the *audience* (Balzacq 2005: 179).

The subject of much research has been on *who* the *audience* are and how exactly do they relate to the *securitizing actor*. It is clear that audiences vary across different securitizations but they do not necessarily possess “a universal task or trait” (Côté 2016: 547). In addition, a specific answer to the question of who the audience are “risks decontextualizing the audience and assigning it an essential characteristic” which would limit subsequent analysis (*Ibid.*).

The *audience* are the people that a *securitizing move* aims to persuade and who participate in the production of security meanings (i.e. what is considered to be a legitimate threat). Second-generation ST scholars emphasized that the *audience* is actually a multiplicity of *audiences* and that *context* determines both the relationship between the *securitizing actor* and the *audience* and also preconditions *audience* response (as well as the type of support they offer, either formal or moral). The existence of multiple *audiences* and *contexts* reinforces the appropriateness of Kingdon’s three streams model.

Salter’s (2008) “dramaturgical analysis” of the Canadian Air Transport Security Authority proposes the existence of four types of *audiences* and speech *contexts*: popular, elite, technocratic, and scientific. Salter draws attention to the settings in which securitization processes occur and how the setting affect their outcome. He highlights the necessity of a speaker to adapt to, to use Michel Foucault’s terms, a “particular local ‘regime of truth’” that determines what can be spoken in the social context (*Ibid.*: 322). A *securitizing move* can be successful in one setting but may fail in another. Importantly, Salter (*Ibid.*: 326) argues, contra Balzacq’s (2011: 9) assertion that *securitizing actors*

aim to convince “as broad an audience as possible,” that *securitizing actors* can and do pursue narrow securitization to specific *audiences*. The second key contribution by Salter (2008: 324) is the notion of “entropy of the public imagination,” which describes how some issues can fade from public attention and memory, independently of whether the threat is actually still “there” or not. Salter’s conception of the *audience* meshes well with Kingdon’s model, which is of benefit to this thesis. However, Salter does not discuss how “settings become settings and, once formed, how [they are] reproduced and transformed” (Côté 2016: 554).

Côté’s (2016) laudable contribution is the meta-synthesis of nearly three dozen articles on the treatment of *audiences* in ST literature. He highlights that while the *audience* in the CS is nearly non-existent, the intersubjective treatment of the *audience* (e.g. Balzacq 2011, Bourbeau 2011) has not been truly intersubjective either, since “the notion of intersubjectivity in these amended theories is manifested only through the need for the actor to couch his/her securitizing moves in pre-existing, contextualized rhetoric and practices in order that they have a better chance of success” (2016: 550).¹¹ Soliciting *audience* acceptance is rendered a mechanical manifestation of contextual factors. By not producing a truly intersubjective conception of the *audience*, Côté argues, these approaches actually perpetuate the marginalization of the *audience*. To remedy this, he proposes an active role for the *audience*: the *audience* are entities that can “authorize the view of the issue presented by the securitizing actor and legitimize the treatment of the issue through security practice” (*Ibid.*: 548). His criticism and his novel definition of the *audience* are rooted in the divergence between theoretical abstractions and empirical reality in which *audiences* are found to be fundamental to the construction of “shared security values” and to be active participants in securitization processes by “challeng[ing] the securitizing actor’s presentation of the issue, forcing the securitizing actor to either abandon its attempt at securitization or reengage the audience with a new or modified

¹¹ To phrase this differently, *securitizing actors* are more successful if they sense the disposition of the *audience* and use language that resonates with them. This is a critical mechanism often utilized by politicians — especially populists — in that securitization evokes potential insecurity which carries powerful psychological effects on part of the *audience*.

securitizing move or security narrative” (*Ibid.*: 546, 554). This deliberation is a point previously also raised by Stritzel (2007: 363).

Audiences, thus, have independent capacity for action that has security effects. Furthermore, their reactions “can also influence the substance of security speech and action, shift and shape future securitizing moves, and influence the perception of shared security understandings and accepted policy responses” (Côté 2016: 551–52). This is expressed through “multiple iterative, contextually contingent interactions” with the *securitizing actor* (*Ibid.*: 552). This echoes Salter’s (2008: 327) suggestion that the *audience* determines the form of the *securitizing move*, especially since the *audience* is hardly ever just the public but also bureaucrats, ministers, officials, etc. Vuori (2008: 72) phrases this from the opposite point of view, stating that the *audiences* “depend on the function the securitization act is intended to serve.” Côté’s analysis enhances ST’s capacity to explain successful securitization, as well as how the contextual circumstances in which securitization occurs are created and altered through “securitization interactions” (2016: 554). Finally, Côté’s conception of the *audience* could enable a better application of ST to non-democratic contexts, the absence of which has been raised by Léonard and Kaunert (2011).

There remain theoretical loose ends, such as Balzacq’s assertion (2008: 76) that securitization can produce “social and political consequences without the explicit assent of an audience.” Léonard and Kaunert (2011) wonder what *audience* assent actually means, what it looks like in practice, and how to measure it. Another problem relates to the interactions between different *audiences*, something which this thesis topic touches on superficially. ST needs to be developed to take into account different *audiences*, their relations with each other, and their impact on the securitization process.

ST scholars have spent considerable efforts on the ontology of the *audience*. But another, non-linguistic dimension of this concept remains relatively vague: to strengthen ST’s explanatory capacity and to further bridge the gap between theory and empirical research, the cognitive psychology of individuals and collectives must be included in the paradigm. More specifically, there is a need to incorporate psychological insights into the securitization process to reveal what motivates people and how they respond to constructions of threats and of insecurity.

One recent contribution in this domain has been that of Baele *et al.* (2018) who investigate whether the utilization of quantitative rhetoric (i.e. the use of numbers and other, scientific-implies-objective-and-authoritative data) facilitates the success of *securitizing moves*. Quantitative rhetoric is common in attempts aimed at convincing *audiences*. Baele *et al.* recount the research that shows that iconic images, emotional displays, and scientific facts all support *securitizing moves*.

Another contribution is that of Berling (2011) who essentially argues the same point. Crucially, the air of authority¹² that scientific arguments add to *securitizing moves* — “scientific objectivation” (2011: 387) — could significantly aid in elevating issues from the political to the securitized (e.g. nuclear deterrence during the Cold War). Also worthy of note is that a lack of knowledge can be mobilized as “failed science” (*Ibid.*: 389) wherein a lack of knowledge legitimizes undemocratic practices for the sake of managing risk.

People process new information either through a central or peripheral route in the brain. Not all information is processed the same. Due to various internal and external constraints (e.g. personal interest, lack of time), some information can be “fast-tracked” with the help of cues (Baele *et al.* 2018: 462). People tend to process numbers slower, such information is fast-tracked with the help of secondary cues such as the character of the communicator, with an expert possessing greater persuasive potential than a non-expert. Given that quantitative information relayed by a non-expert has been found to be less persuasive than qualitative information, the implication is that the source of the information and the format of the message need to be congruous for the message to be persuasive. However, research has also shown (e.g. Kahan *et al.* 2012) that information is treated differently in political argumentation: there is a “strong tendency” for people to interpret quantitative information “in a way that only confirms their own pre-existing

¹² Berling is one among many security scholars — the Paris School, led by Didier Bigo, Jef Huysmans, Trine Villumsen, etc. — who use Bourdieu’s notions of the *field* and *capital* in analyzing securitization. Berling (2011: 389) argues that science can be understood as a practice and as a type of *capital* “with important weight in specific *fields*.” As such, science can determine what can and cannot be talked about, playing a role in the construction of *contexts*, which is constituted, in Bourdieu’s terms, by *fields* and field-specific *capital*. However, the mobilization of scientific facts only facilitates securitization, it does not cause it.

opinion, ideological beliefs, or worldview” — i.e. confirmation bias (Baele *et al.* 2018: 464) Hence, numbers are more persuasive when confirming preexisting beliefs but less so when they are inconsistent with those beliefs.

This speaks to what kind of arguments *audiences* find more and less persuasive and how *securitizing actors* can gain legitimacy and what types of legitimacy have more potential to persuade and in what *contexts*. Baele *et al.* showed that “it is in fact very easy to convince an audience that something or someone is a security threat” (2019: 471). Salter’s (2008: 324) notion of the “entropy of public imagination” also, partly, emanates from the psychology of an individual.

ST should more often be coupled with psychological studies, in addition to empirical recounts of events, to elucidate the dynamics between the relevant actors in the securitization process.

1.6 Functional actors

While the CS includes *functional actors* as one of the core units of analysis in ST, the CS hardly elaborates on the concept. Its definition is nebulous: *functional actors* are entities that “affect the dynamics of a sector” by influencing “decisions in the field of security” (Buzan *et al.* 1998: 36). In the sectoral analysis that the CS conducts, they merely list what the potential *functional actors* in a given sector are, such as the government, the armed services, and the private-sector arms industry in the military sector; economic actors (such as transnational corporations and chemical industries), governments, governmental agencies, and intergovernmental organizations in the environmental sector (*Ibid.*: 56–57, 79).

The *functional actor* has not been accorded the same theoretical attention as other units of analysis because it has hitherto been considered of secondary importance to the securitization process. However, since a lot of scholarship has focused on the multitude of factors that affect this process, the under-development of the *functional actor* constitutes a clear oversight and deprives from the comprehensiveness of the whole ST paradigm, in addition to distancing it from empirical reality.

Based on the discussion above, one might opt to overcome the problem that the under-developed *functional actor* concept by simply treating it as a *context-specific*

audience, especially if one subscribes to Côté's (2016) argument about the active role the *audience* plays. However, I would consider this a mistake since the dynamic between the *securitizing actor* and an *audience* is about persuading and deliberating in an effort to legitimate a solution to a security problem. The role of the *functional actor*, on the other hand, is to potentially exert influence on that dynamic. It is this influence, rather than a concentrated act of persuasion or an intersubjective response to that act, that serves to separate the *functional actor* from the *securitizing actor* and the *audience*.

This influence can be conceived of in several ways. It could be located in the bureaucratic politics side of the process and be expressed in the issues that find their place on a policy agenda, what policy alternatives are specialists choose to develop, etc. In this regard, there are close ties with Kingdon's model, which includes entities that he refers to as visible and hidden participant clusters (2013: 69). In the former belong people who receive a lot of attention and press (e.g. the president and his appointees), in the latter are those that do not (e.g. congressional staffers, academics, career bureaucrats, etc.). The influence of the *functional actor* could also be conceived of as an intermediary between the *securitizing actor* and the *audience*. For example, the media has considerable sway of *what* and *how* people think about world events (as will be discussed below). *Functional actors*, then, can influence the production, transmission, and reception of *securitizing moves*.

What makes *functional actors* not an *audience* is that they are *more* likely to be self-driven toward whatever their material, ideational, or social ends, and they do not respond to *securitizing moves* in the same way, especially since they rarely are the explicit targets of those *moves*. Indeed, it is entirely plausible that *functional actors* operate irrespective of someone's *securitizing moves*, or they operate in ways that drives the production of *securitizing moves* (by influencing those with the authority to speak security in a given *context*) or that influences how the *audience* reacts to those *securitizing acts* (as will be evidenced by the example of the media).

Of course, the influence of the *functional actor* on authorized speakers of security could be construed as a micro-level *securitizing move* in and of itself but that yields an ontological incongruity — in this instance, it would be the *audience* (i.e. an authorized speaker of security) who would be expected to follow up on a successful *securitizing move* with a policy or a subsequent *securitizing move*. This muddies the line between a

securitizing actor and an *audience* but does highlight how, overall, the roles of the participants can transform during successive iterations of securitizations (i.e. an *audience* in one setting may become the *securitizing actor* in another setting). The ontological incongruity applies to the abstract categories of *securitizing actors*, *audiences*, and *functional actors*, not to the actual changes of their particular constituents in a select instance of securitization. On conceptual grounds, it makes sense analytically to treat *securitizing actors* and *audiences* as separate entities from a *functional actor*, lest the latter concept become too diluted and impractical.

Moreover, the capacity of the *functional actor* to be a *securitizing actor* is circumscribed by its inherent lack of authority and legitimacy to speak security to the general public. Therefore, *functional actors* cannot independently produce security meanings either, only influence the production thereof between the *securitizing actor* and the *audience* (cf. Côté 2016: 544). As such, while a *functional actor* may exhibit context-specific characteristics of either a *securitizing actor* or an *audience*, it should be considered a separate entity with its own ontology.

One of the two main goals of this thesis is to reconceptualize the *functional actor* by analyzing the behavior of the media and the judiciary under the Trump administration and its efforts to securitize immigration. The original conception of the CS more-or-less suffices to describe the role of the judiciary in securitization but the conception needs to be expanded to better describe the role of the media. It needs to permit self-interest, which is implied in the CS but is explicit in the profit-motive driven business model of mass media. In the CS, this self-interest was generally either survival or profit.

Based on these theoretical considerations, I submit the following as the enhanced conception of the *functional actor*: it is an entity that (1) affects decisions in a field of security in general and the success of a *securitizing move* in particular, (2) cannot independently produce security meanings¹³, (3) stands to gain or lose, in material,

¹³ The *securitizing actor* and the *audience* engage in a negotiation as to what a threat is but this does not necessarily preclude an original articulation of a threat. As is discussed in Dolinec (2010), the *primary definition* hypothesis suggests that people with power and high rank in a society who have access to expert information the rest of the population does not have the power of primary definition of phenomena (i.e. the articulation of a threat). This is relevant in the case of the media since it is these high-ranking elites from

ideational, social, or other terms, as a result, and (4) can, in its particular function, operate as a secondary *securitizing actor* or as a *secondary audience* but is not the direct target of a *securitizing move*. I use the term “secondary” here to maintain that even though the media, for example, may produce content that constitutes a *(de)securitizing act* (such as an editorial that speaks favorably of Islam), that content is rarely produced *ex nihilo* but very often in response to a *(de)securitizing act* in another field, particularly a field that is of interest to the media.

One may be tempted to consider this definition tautological if considered in the light of the central argument of this thesis: that the judiciary and the media should be considered *functional actors*. That is to say, the essential qualities of the judiciary, for example, make it a *functional actor* because the *functional actor* has the qualities that the judiciary has. Instead, the process of developing this definition was inductive because a new theoretical perspective was developed in accordance with empirical observation. In classifying the media and the judiciary as *functional actors*, I am categorizing them according to their primary function in the securitization process. For example, the judiciary’s function in a liberal-democratic system effectively preordains its role as a *functional actor*, given that its capacity to act as a *securitizing actor* is delimited by the system itself. The general categorization of the media and the judiciary as *functional actors* does not preclude them in general or the individuals they are comprised of in particular from assuming other roles in a particular instantiation of securitization (just like *securitizing actors* and *audiences*).

I will now turn to why the judiciary and the media qualify as *functional actors*.

1.6.1 Judiciary

To fully illuminate the judiciary’s role as a *functional actor*, its functions and constitution need to be expounded. Keeping in mind the case study of this thesis, the following section proceeds to describe the judiciary with regard to the US specifically.

Modern liberal democracies are based on the principle of separation of powers. This division produces three branches of government: the executive, the legislature, and the

whom journalists often get their stories. *Functional actors*, especially in comparison with *securitizing actors*, lack this full-fledged capacity to speak security.

judiciary. The US Constitution was the result of a revolution incited by perceived mistreatment at the hands of the parliamentary monarchy of the British. To prevent the centralization of power — and the abuse of that power that has historically inevitably followed — the Founding Fathers devised the first system of government where its powers are divided between branches that exercise different functions but that check and balance the functions of the other branches. Regarding such a constitution of government, the late Supreme Court (SC) Justice Antonin Scalia stated that the Founding Fathers purposefully manufactured “gridlock” into the system so as to best protect the liberty of the people from injurious legislation (Savage 2011).

The powers of the judiciary stem from Article III of the US Constitution which guarantees the judges their office for life — their impeachment and conviction excepted —, as well as a salary that may not be reduced while the judges are in office. These measures protect the judiciary from threats and pressure from the executive and the legislature, respectively, as well as “the temporary passions of the public” (The White House N/d). Members of the federal judiciary are appointed by the executive and confirmed by the legislature.

The federal court system of the US consists of three levels: district courts, circuit courts (the first level of appeal), and the SC (the final level of appeal) (Office of the United States Attorneys N/d). The first two levels and their jurisdictions, unlike the SC, were established by Congress. Federal courts, unlike state courts, have limited jurisdiction, meaning they hear cases they are authorized to hear by the Constitution or federal statutes. In some cases, district courts have original jurisdiction, in other cases (e.g. lawsuits between state governments), it belongs to the SC. Congress has also given original jurisdiction to some specialized courts, such as the Foreign Intelligence Surveillance Court. Cases decided in the 94 district courts¹⁴ can be appealed to the 13 circuit courts which operate under mandatory review, meaning they have to hear all cases that have been appealed in the lower courts. Cases decided in circuit courts, as well as cases decided in state supreme courts that deal with federal law, can be appealed to the

¹⁴ In each district, there is a US Attorney, employed by the Department of Justice, who acts as the lawyer of the federal government in the district. This means defending the government in civil suits and prosecuting federal crimes.

SC. However, the SC has the discretion to choose which cases to hear. If it refuses to hear the case, the decision of the lower court is upheld. The SC accepts only a fraction of all appeals, usually hearing cases when an “egregious error” has been made or when there are conflicting decisions across the country on a particular case (such as on immigration) (*Ibid.*).

The judiciary interprets the law, determines the law’s constitutionality, and applies the law to individual cases. This has a direct impact on the effectuation and sustainment of policies (or extraordinary measures in the case of securitization). Indeed, the judiciary are people that need to be persuaded to charge or to acquit the accused, based on arguments from various actors who are generally on both sides of that argument. But this breaks the *securitizing actor–audience* dynamic because it does not involve a back-and-forth deliberation with the judiciary in an active role, as prescribed by Côté (2016). It is also perfectly possible that a passionate *audience* accepts the *securitizing move* which leads to the adoption of (extraordinary) measures to counter the threat image but have those measures thwarted by the courts, which constitutes an active role but not in the judiciary’s capacity as an *audience* in the ST paradigm. Moreover, the presumption of fairness, i.e. the administration of justice according to the law equally, is supposed to surmount any kind of persuasion that *securitizing moves* engage in, either by attacking the judiciary outright or trying to apply pressure on them by mobilizing the public.¹⁵

In terms of the definition of the *functional actor* that I outlined above, the judiciary qualifies on all accounts. First, the judiciary does not make policy but evaluates its lawfulness. By declaring a law or policy unconstitutional, the judiciary can block them, preventing a *securitizing move* from being completed. Second, the judiciary does not independently produce security meanings, which only result from the intersubjective and iterative discursive interactions between the *securitizing actor* and the *audience*. Third, the judiciary stands to lose legitimacy if its rulings are considered to be a misapplication

¹⁵ While anyone might attack the judiciary for ruling against his or her personal opinion, populist radical right-wing populists have made such attacks an industry, to the extent that excoriating the judiciary as another manifestation of a corrupt elite establishment is a definitional feature of current right-wing populists.

of justice. Furthermore, and more generally, if judges engage in what violates “good Behaviour” — such as political bias and favoritism, graft, and abuse of power¹⁶ —, as is stipulated in the Constitution, the judges may face impeachment. However, due to the politically fraught situation in the US presently, the judiciary stands to lose legitimacy no matter what decision it makes if the case is politically divisive enough.¹⁷ Fourth, insofar as the judiciary are indeed people open to persuasion in their particular function as judges, they function as a *secondary audience*. However, this function does not extend to the blocking of policy, since the courts are primarily tasked with interpreting and applying law, not adjudicating *securitizing moves* per se. Neither are they direct targets of those *moves*. However, the interesting aspect of this in terms of the case study is that some judges have referred to Mr. Trump’s *securitizing moves* as basis for blocking a policy. For example, federal judges have referred to Mr. Trump’s explicit antipathy against Muslim immigrants as the reason to block his travel ban against predominantly-Muslim countries.

1.6.2 Media

The previous section started with the division of governmental duties among different branches. The media, understood as news outlets that use media technologies to mass communicate, are often referred to as the fourth branch of government, or “the fourth estate,” which emphasizes the media’s role as another layer of checks and balances, as well as its own role as a center of authority (Vultee 2011: 82). The media is essential to the securitization process because of its generally-accepted-but-often-challenged status as a purveyor of truth and the self-evident effect on public opinion this entails. This self-

¹⁶ All these examples constitute only a selection of accusations for which federal judges have hitherto been impeached in the US. See Federal Judicial Center (N/d).

¹⁷ For example, in *Citizens United v. Federal Election Commission* (2010), the SC ruled that restricting corporations, unions, and other profitable organizations from independent political spending (as opposed to direct contributions to candidates), as well as prohibiting the same from broadcasting political media within a certain time frame before elections violated the First Amendment. Effectively, corporations, comprised of individuals, are guaranteed the same rights as individuals to engage in political speech. One side of the political aisle celebrated the decision as upholding the Constitution, the other side rebuked it for facilitating the flow of corrupt “dark money” into politics. See, e.g., Weintraub (2016).

evidence stems from the proliferation of mass media and of the Internet during the past century: there is nary a person that does not either read newspapers, watch TV, listen to the radio, or do all of these via the Internet. Given the very ubiquity of these media, a definite and considerable effect on public discourse and opinion is to be expected — and has been demonstrated.

Securitization scholarship has tended to implicitly and uncritically accept the media as a *functional actor* (e.g. Eroukhmanoff 2018) or as an *audience* (Léonard and Kaunert (2011)¹⁸. This constitutes an oversimplification of both concepts. The challenge for ST is to incorporate media studies and communication theory to better answer questions such as how issues are securitized, how people respond to attempted securitization, how contextual elements are formed, and how the deliberation between the *securitizing actor* and the *audience* is mediated and influenced. In this section, I will classify the media as a *functional actor* and then present an overview of media studies that ST should incorporate or has already ventured to incorporate.

In terms of the new model for a *functional actor* I outlined above, the media likewise qualifies on all accounts. First, the media, as will be demonstrated at greater length below, primarily acts as a medium that facilitates the communication between the public and the government, politicians, and other officials. The media’s framing of issues has a great impact on public perceptions thereof which in turn affects the threat negotiation dynamic between the *securitizing actor* and the *audience*. The media can act as a mouthpiece for the government (as it largely did in the lead-up to the Iraq War) or it can condition audience behavior (in issuing cues as to what to talk about and how). Both have severe ramifications on the success of *securitizing moves*.

¹⁸ In applying the Kingdon model to the 2003 British government proposal to the EU regarding changes to the asylum-processing system, Léonard and Kaunert (2011: 72) note that it is “interesting” how media reports, “particular[ly] in the left-liberal press,” reinforced the opposition by some EU Member States to proposal. The media highlighted the security dimension of the British proposal and presented it in a more politicized way than had been intended by the government — in EU circles, the plan came to be known as the “concentration camp plan.” Léonard and Kaunert (*Ibid.*) ultimately treat the “left-liberal” media as the representative of a particular public opinion and, therefore, just another *audience*. And, indeed, this dimension of the media does make it an *audience*. However, the media is a multidimensional entity and the media’s role as an *audience* is secondary function.

Second, it is true that the media has a bigger input *vis-à-vis* the production of *securitizing moves* in that the media's transmission of threat images can be construed as a *securitizing move* in and of themselves. However, as I stated in the introduction to this section, the media rarely creates topics — and threat images — *ex nihilo*. Rather, the media either reports on a *securitizing move* of an *actor* and engages with it (by legitimating it as news and by providing supporting or conflicting commentary) or it translates virtual preexisting discourses into actual discourses^{19,20}. Both serve to facilitate the deliberation between *securitizing actors* and an *audience*. Governmental positions have “formal authority granted by statute and by the constitution” (Kingdon 2013: 45) while the media can only strive for the moral support of its audience. The key dynamic here is that, in general, the media “reinforce a bias toward the status quo” by relaying information from reliable sources whose essential function is to provide that information “reliably” (Vultee 2011: 83). As such, the media's impact is to either focus or defocus threat images, not to produce security meanings independently of the dynamic between a *securitizing actor* and the *audience*.

Third, the media is a for-profit endeavor, which incentivizes the broadcasting of dramatic events. Both Salter (2008: 324), in his use of the “entropy of the public imagination,” and Kingdon (2013: 58–59) point at the fact that the media cover

¹⁹ The terms “virtual” and “actual” in this usage are inspired by the work of Gilles Deleuze (1966). The notion relevant here is that there exist a multiplicity of discourses in society which people can draw on. The *virtual* has several potential actualizations, all of them always in flux. The act of writing an opinion editorial or broadcasting a newscast that depicts something as threatening or as innocuous translates the virtual discourse into an actual discourse. The use of *translation* here emphasizes that this transformation is discursive in nature. Insofar as this translation engages with something that is already *out there*, this does not constitute the original production of security meanings. And while *securitizing actors* and *audiences* also employ preexisting discourses in the construction of threats, those qualities are closer to their essential features, unlike that of the media which primarily serves as a forum for those discourses. Moreover, if an investigative journalist, academic, or technocrat attempts to create an original threat image (i.e. by introducing a new threat to the public consciousness, such as the carcinogenic impact of tobacco), the fact that it is published *in* and *by* the media (indicating a *securitizing move* by the media) does not supersede the intended primary use of the media as a vessel to transmit the message of a threat image.

²⁰ A similar but a simpler argument regarding the media's function as a *securitizing actor* is made by Dolinec (2010).

sensational stories for a brief while and then jump on to the next one, whether or not the material facts of the case (such as the actual presence of a threat) change. Attracting public attention is a structural imperative of any media in that its very existence depends on its business success.²¹

Fourth, and has been strongly implied so far, the media's capacity to be a *securitizing actor* and an *audience* is its secondary function. The original conception of the *audience*, as Côté (2016) has argued, was too passive. A cursory analysis of how the media operates — how and why it publishes or broadcasts content, stemming from the necessity to make a profit — reveals at least an active part, which dovetails with Côté's conception of the *audience*. In fact, this activeness is not limited to the functions of an *audience*. The media, as I have already suggests and as has been indicated by research, *may* act similarly to that of a *securitizing actor* or an *audience* but it *must* act as a mediator between the two. The latter is its essential, ever-present quality since the media is a platform through which governments and the people interact, even in totalitarian regimes.

An overview of a selection of relevant media research serves to substantiate the aforementioned claims.

Several authors (e.g. Robinson 1999, Vultee 2011) have touched on the importance of media frames. Frames contextualize information. They are the way issues are presented, a “professionally structured reconstruction” of events (Vultee 2011: 82). Frames selects only certain events and facts which enforces only a certain interpretation of a phenomenon (Norris *et al.* 2003). Neither people nor the media have the time, resources, and the cognitive ability to think of “all the potential dimensions of the given problem” (Dolinec 2010: 26). Securitization, as Vultee argues (2011: 78–79), should be treated as a kind of media frame in its own right, for it “highlights the existential threat of an issue” and “diminishes the arguments for handling it as a matter of political routine”

²¹ Even entities as profligate as legislatures would entertain shutting down public broadcasting companies if their utility (i.e. their capacity to draw an audience) is found to be lacking to the extent that they are perceived to be a waste of resources. Note, however, how in Kull *et al.* (2013), the people that consumed NPR and PBS, funded in part by the government, were overwhelmingly less prone to misperceptions regarding Iraq.

(Gitlin 2003: 7). Such frames are constructed jointly between the media and its audiences, insofar as media content caters to the public and is informed by them.

Page and Shapiro (1983: 175) found a link between public opinion and policy data, finding “considerable congruence” between changes in preferences and changes in policies. They argue that public opinion can be a proximate cause of policy, affecting policy more than vice versa. This suggests that the media’s influence on public opinion can have a remarkable effect on the success of *securitizing moves*.

Robinson (1999: 301) discusses “the CNN effect” — the assumption that “real-time communications technology” provokes “major responses from domestic audiences and political elites to global events.” The reverse of this is the idea of “manufacturing consent” (*Ibid.*: 303) — the assumption that government policy drives media content more than vice versa. Kingdon’s (2013) analysis falls on the latter side but he himself, as well as other studies, do show a direct, even if modest, impact on policy.

Kull *et al.* (2003) present an illuminating overview of polling data collected by the Program on International Policy Attitudes (PIPA) and the polling firm Knowledge Networks (KN) regarding public misperceptions²² related to the invasion of Iraq. Their study affirms the strong influence the media has on the people. The three key misperceptions widespread among the American populace were Iraq having WMDs, Iraq having close ties to al-Qaeda and thus being linked to 9/11, and that global opinion supported the US taking unilateral action against Iraq. The misperceptions strongly predict support for going to war in Iraq. Regression analyses indicate that the most powerful predictors of misperceptions were the intention to vote for the sitting president²³, the source of news, the intention to vote for the opposing party in the next presidential election, and the level of education (non-college educated were slightly more likely to believe some misperceptions). The level of attention paid to news showed no statistical correlation²⁴ and neither did age, gender, party identification, and income. The

²² Their use of the phrase “misperception” immediately brings to mind Robert Jervis’ seminal work *Perception and Misperception in International Politics* (1976).

²³ In controlling for support for the president, party differences disappeared. Among Bush supporters, Republicans, Democrats, and independents all had similar rates of misperception.

²⁴ Curiously, viewers of Fox News showed an increase in the frequency of misperceptions as their attention to the news *grew*. This is explained by the fact that Fox News is an openly right-leaning media outlet and

implications this research has on ST is startling. Even if the public is opposed to unilateral military action (which would constitute an extraordinary measure), the *securitizing actor* seems to have considerable capacities in persuading the public — by instilling false beliefs that align with the “value orientations” of the public (*Ibid.*: 597) — especially if this intention is facilitated by the media. O’Reilly (2008) builds on the work of Kull *et al.* (2003) and says that the media was both the victim and the contributor to the hyper-patriotic national mood that took hold of America after the 9/11 terrorist attacks and led to the securitization of Iraq²⁵.

Dolinec (2010: 12–14) emphasizes how the media’s reproduction of who and what are important in society has an impact on agenda-setting²⁶, which influences security discourses which in turn “support particular speech acts and extraordinary measures.” People tend to assign importance to issues according to the level of importance that the media assigns to them. This is important since, as Altheide and Grimes (2005) argue, broadcast television networks shape how the American public understand foreign affairs by bringing in some people to speak security and not others (such as from pro-intervention think tanks). Prioritizing certain issues over others often serves elite interests, since the elites are usually the source of the information for the media. Importantly, given that the media are “usually subsidiaries of large corporations” (*Ibid.*: 14–15), corporate and business imperatives apply to the functioning of media entities.²⁷ The media tends to use dramatic frames over undramatic ones and showcases negative stories over positive ones in an effort to attract a bigger audience.

since support for the president ranked as the biggest predictor of misperceptions, the effect of serving as a misleading mouthpiece for the right-leaning government was compounded. Kull *et al.* (2003: 593–94) acknowledge that Fox and CBS, the two outlets “least likely to present critical commentary” of the administration, had viewers most prone to misperceptions.

²⁵ However, as Kull *et al.* (2003: 597) themselves acknowledge, the post-9/11 environment may have been a unique one.

²⁶ In Kingdon’s (2013: 51) model, the actors that participate in creating a policy agenda are referred to as “agenda agents.”

²⁷ Dolinec brings the example of NBC being owned by General Electric and CBS previously being owned by Westinghouse Electric, both of whom have or had ties to arms manufacturing. Moreover, both Disney and Warner Bros., owners of ABC and CNN, respectively, produced propaganda for the US government during World War II.

Kingdon's (2013) research indicates that the influence of the media should not be overstated. The media's influence on the government's policy agenda is "dilute[d]" because the media covers stories only briefly (Kingdon 2013: 59). Once people get tired, the media moves on and vice versa. I am dubious whether this impact remains muted since the advent of the so-called new media, as well as social media. In fact, I would venture to say that the liberalization and proliferation of media technologies has increased the pressure that could be brought to bear using them.²⁸

Kingdon's commentary on public opinion is likewise relevant for ST and for this thesis. Public opinion can influence governmental agenda because it makes an issue a popular cause for a vote-seeking politician. Then again, Kingdon (2013: 65) also suggests that public opinion more often functions to constrain the government, not to direct it to do something. He (*Ibid.*: 67) concludes that in terms of agenda-setting, "governmental officials and other activists [likely] affect the agenda in the mass public more than the other way around."

All these insights expound on how the media influences the "multiple iterative, contextually contingent interactions" between the *securitizing actor* and the *audience* (Côté 2016: 552). They also confirm my argument that serving as an intermediary between the *securitizing actor* and the *audience* is its essential characteristic, rendering the media a *functional actor*. This, in addition to the media's incapacity to function fully as an independent *securitizing actor* or *audience*, as I argued above, should alleviate

²⁸ For example, Matt Drudge, the creator of the right-wing news aggregator *Drudge Report*, famously broke the affair between President Bill Clinton and Monica Lewinsky, a story *Newsweek* had been sitting on (Glass 2013).

New media and social media have challenged the virtual monopoly the elite media had on the flow of information, thereby changing the power dynamics in society. Public pressure campaigns have, for example, finally removed many entrenched sexual harassers from office, previously protected by corporate silence. Even Ronan Farrow, the NBC News reporter that broke the story on serial harasser and film producer Harvey Weinstein, had to go to the *New Yorker* to get the story published because NBC executives were trying to suppress the story by "slow-walk[ing]" it (Ali and Polgreen 2017). Social media, at least in such instances, can act like a secondary amplifier of topical issues.

concerns over selection bias misguiding the analysis. It is to the great benefit of ST incorporate these constellation of factors.

1.7 Securitizing immigration

This section discusses the securitization of immigration policy and the constitutional prerogatives of the federal government which are requisite knowledge for analyzing the immigration-policy dynamics under the Trump administration. By incorporating juridical elements into ST, the framework could better predict which *securitizing moves* are likely to ultimately be successful.

The securitization of immigration is about mobilizing political resources by depicting immigration in general and a certain group of immigrants in particular (either as categories of migrants, such as immigrants, asylum-seekers, or refugees, or as categories of race and ethnicity) as an existential threat to national security, economy, and/or identity through mechanisms and policies that (may) suggest contravening international and domestic law. These technologies are usually those employed by police and military forces and includes gathering biometric data, profiling, detention, surveillance, etc. Givens (2010: 79) argues that immigration has been an “overlooked yet major component of both economic and national security.”

The literature on the securitization of immigration in Europe is abundant (e.g. Huysmans 2000, Neal 2009) but less so on the US, and even then mostly in the context of post-9/11 developments (e.g. d’Appollonia and Reich 2010, d’Appollonia 2015). ST has seldom been applied to the US. In both Europe and the US, especially in light of the rise of right-wing populism, the security dimension of immigration has risen to the fore.²⁹ Immigration policy is an instrument with which to protect the state, the society, and the internal market. Immigrants are often portrayed as a threat to domestic security, to the welfare system, and to cultural homogeneity (Huysmans 2000).

There are two main types of immigration policies: immigration control (e.g. over illegals and refugees, family reunification, and work visas) and immigrant integration

²⁹ This is not to say that these claims are exclusive to right-wing populism. Such criticisms have been levied for decades by many groups, even before Huntington’s (1996) notion of the clash of civilizations.

(e.g. concerning citizenship, anti-discrimination, and language requirements) (Givens 2010: 81–82). In the US, debates over immigration policy hinge more on physical borders while in Europe, the concern is more over the non-territorial border between *us* and *them*. The focus on immigration control in the US has been particularly intense after 9/11.

1.7.1 Federal prerogatives

The vast powers of the federal government to regulate the admission, expulsion, and naturalization of non-citizens is rooted in the Constitution, US Code, federal regulations, statutes, and SC decisions. Federal and state government attempts to regulate non-citizens have often come into conflict. In general, the SC has given relatively free rein to the legislature and the executive in this area.

The legislature has a “plenary and unqualified” power to regulate immigration, naturalization, and matters of foreign policy that arise from the same (National Paralegal College 2018). Article 1(8)(4) gives Congress the power to “establish an uniform Rule of Naturalization,” which is generally held to be the legislature’s constitutional source of power over immigration. However, naturalization does not necessitate full control over immigration.

The judiciary has been extremely deferential to the federal government in matters with potential international ramifications. In *Harisiades v. Shaughnessy* (1952), the SC held that “any policy toward aliens” is an essential part of conducting foreign relations, so much so that such matters are “exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference” (Justia: US Supreme Court Center 2018a). Congress is therefore free to set the terms that dictate the admission of aliens into the country.

Furthermore, federal courts have found the detainment of non-citizens and immigration quotas in keeping with the Constitution and the UN Charter, and that excluded non-citizens do not have a constitutional right to a hearing (Weissbrodt and Danielson 2004).

The executive does not possess an inherent power over immigration. Its purpose is to enforce congressional legislation without exceeding the authority provided by that

legislation. However, legislation often does not provide directions on how to apply the law, thus the manner of enforcement becomes an executive prerogative.

The departments that conduct executive immigration policy are the Department of Homeland Security, the Department of State (DoS), the Department of Justice (DoJ), the Department of Labor (DoL), and the Department of Health and Human Services (DHHS). Under the DHS, the Citizenship and Immigration Services (CIS) reviews petitions for immigration, asylum, and refugee applications; the Immigration and Customs Enforcement (ICE) seeks to identify and expel illegal aliens from within the US; and the Customs and Border Protection (CBP) seeks to prevent illegal entries in the first place by patrolling the borders and other ports of entry.³⁰

Much of the executive's prerogatives, as well as the interaction between the federal and state governments is governed by the latter chapters of Title 8 of the US Code (USC). For example, under 8 USC § 1182, the executive is endowed with the power to suspend the entry of "any aliens or any class of aliens" (Cornell Law School: Legal Information Institute 2018a). Nonetheless, 8 USC § 1152 also stipulates that no immigrant visa can be issued with prejudice towards the person's "race, sex, nationality, place of birth, or place of residence" (Cornell Law School: Legal Information Institute 2018b). The 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), prohibits state and local governments from restricting or not responding to federal inquiries into the immigration status of individuals (Cornell Law School: Legal Information Institute 2018c, Citizenship and Immigration Services 2018a).

The latter was a response to the emergence of so-called sanctuary cities — "localities which, as a result of a state or local act, ordinance, policy, or fiscal constraints, limit their assistance to federal immigration authorities seeking to apprehend and remove unauthorized aliens" (Kim and Garcia 2008: 1).

In *City of New York v. United States* (1997) (Justia: US Constitution Center 2018b), a federal court upheld the preemption by two federal statutes a New York City ordinance that prohibited NYC officials from sharing information about the immigration status of aliens with federal authorities and ruled that it did not violate the anti-commandeering

³⁰ For a more comprehensive overview of federal agencies dealing with immigration, see Weissbrodt and Danielson (2004) and Davy *et al.* (2005).

doctrine under the Tenth Amendment. This doctrine means that the federal government may not require a state legislature to enact particular regulatory standards or require that state law enforcement directly participate in enforcing federal law (Kim and Garcia 2008: 4).

1.7.2 State prerogatives

State efforts to regulate a field that is simultaneously regulated by congressional intent or federal statutes are struck down in federal courts by the doctrine of preemption — i.e. when state law conflicts with federal law, the former is invalidated. The main premise behind such preemption, the SC has held, in for example, *Graham v. Department of Public Welfare* (1971) (Justia: US Supreme Court Center 2018c), is that divergent state laws violate Article 1(8)(4) of the Constitution. Despite Article 1(8)(4), the Constitution does not explicitly state that the power to admit or deny admission or to remove non-citizens rests with the federal government instead of state governments.

Nonetheless, states are permitted some regulations that affect non-citizens but generally only if they comport with existing federal regulations. In *Hines v. Davidowitz* (1941) (Justia: US Supreme Court Center 2018d), the SC held states cannot, “inconsistently with the purpose of Congress, conflict or interfere with, curtail or complement, the federal law, or enforce additional or auxiliary regulation.” Complementary efforts were not necessarily deemed constitutional. But in *De Canas v. Bica* (1976) (Justia: US Supreme Court Center 2018e), the SC upheld a California regulation that prohibited knowingly hiring non-citizens without lawful residence, stating that not “every state enactment which in any way deals with aliens is a regulation of immigration, and thus *per se* preempted by this constitutional power, whether latent or exercised.” This case implied that “states may fill gaps in the federal regulatory scheme governing non-citizens,” (Weissbrodt and Danielson 2004, Chacón 2014), but any incursions into the federal domain, such as crossing the line between immigration and foreign policy, have summarily been struck down in the courts.

States nevertheless pass hundreds of immigration-related bills annually (Chacón 2014). And while the SC has affirmed federal supremacy, it has permitted the states to regulate the lives of immigrants, such as denying most all forms of benefits to illegal residents.

This chapter outlined the key elements of ST relevant to this thesis and included interdisciplinary insights that should be adopted by ST in explaining securitization processes. Media studies, cognitive psychology, and law are all relevant to understanding how security is constructed in a society. The following chapter focuses on how the enhanced concepts of ST will be applied to the case study.

2 Methodology

The chief aims of this thesis are to develop a more nuanced model for analyzing securitization processes and to argue that the media and the judiciary should be treated as *functional actors* in those processes. This requires the combination of those elements that the previous chapter suggested ST should incorporate, such as media studies and cognitive psychology. This chapter provides an overview of how the empirical case study supports the pursuit of these aims.

This thesis is a disciplined and interpretive single case study because it applies an existing theoretical framework to a new event in an effort to show that the framework can be extended to account for it. The Trump administration provides a unique perspective which can serve to expand ST by specifically highlighting the role the media and the judiciary play in securitization. A single-case study also evades the common problem of a lack of time and resources. However, while one of the benefits of this thesis is its timeliness, it is also its drawback since active policy-making is ongoing at the time of writing. For example, the SC is yet to rule on the constitutionality of the travel ban EO. Nonetheless, the amount of data already available is sufficient to demonstrate the utility of my proposed framework and to argue that the judiciary and the media should be considered *functional actors*.

This thesis is built on qualitative analysis. This is justified, since the central premise of the thesis is an inductive one. The endeavor is effectively a conceptual one since empirical observations feed into the theoretical discussion already presented in the previous chapter. The primary subjects of analysis are discourse and immigration policy-making. The data was gathered from US government websites and from various news sites that are generally understood to be in opposite political camps (such as the left-leaning *Washington Post* and the right-leaning *Washington Examiner*). This differentiation is necessary to be able to infer that a certain political bent is associated with a particular *media frame* that that outlet uses.

To elucidate the *context* in which immigration policy has been conducted under the Trump administration, the thesis provides an overview of recent immigration policy and an analysis of public opinion polls. Several different polling companies were used to minimize polling bias. Polls are necessary for gauging *audience* responses to *securitizing*

moves and proposed policies, as well as for identifying the several *audiences* involved in the process. The ability of ST to account for public sentiments and the media's effect on it is further enhanced by the application of Kingdon's three streams model. *Audience* assent is the prerequisite of successful securitization.

The subsequent section then proceeds to securitization proper. The Trump administration's *securitizing moves* have been categorized according to the four specific areas of immigration policy they address. These are the following: tightening the southern border, issuing a travel ban on predominantly Muslim countries, placing restrictions on refugees and asylum-seekers while increasing the number of deportations and incarcerations, and defunding sanctuary cities. The ending of the DACA program has been excluded due to spatial restraints and because high public support for pathway to citizenship for DACA recipients keeps the issue from being securitized. Kingdon's model is applied to each of these categories. The streams provide more specificity by breaking securitization up into different stages. The explication of the *policy stream* is contingent on the aspects of bureaucratic politics that have become public knowledge through the media which is the only source for such information. Insofar as the media primarily reproduces the information of the elites in government and in the bureaucracies anyway, whether through leaks or by authorization, this shall not be considered a hindrance. However, the general lack of information regarding the development of some policies does not enable to delineate between the *audiences* in the *problem stream* and in the *policy stream*. The latter is important since proposed and adopted policy measures tend to go through several iterations before being implemented. The peculiarity of the Trump administration is that it confuses the temporally-linear logic of the Kingdon model, owing to Mr. Trump's style of issuing general proclamations and EOs first and producing the specifics afterward.

Separately from the Kingdon model, *securitizing* and *desecuritizing moves* will be presented, the latter being issued by the political opposition. Because discourse is not the central focus of this thesis, the amount of textual examples will be limited. These limited examples are treated as particular illustrations of *speech acts* that have been reiterated several times by the administration or the political opposition.

The media sources that are used in this thesis are generally online publications, not broadcast television. The *media frame* will be understood generally as the particular angle

on a particular piece of news. If the media presents Mr. Trump's measures in a dramatic frame, it is clear there is an attempt to elevate the topic higher on the public agenda. If the presentation is sympathetic to the measure then the media will be understood to be actively facilitating the *securitizing move*, if the presentation is antagonistic toward the measure then this is regarded as impeding it. If the frames are specific to a particular political leaning, then they are construed to be communicating with a partisan *audience*.

The judiciary's impact will be measured dichotomously according to whether the courts have permitted or prevented the implementation of the administration's policies. However, the very nature of securitization is such that it invites legal challenges by going beyond politics as normal (e.g. by violating civil rights of certain groups). Discourse is relevant in the analysis of the judiciary's impact because judges issue rulings wherein they explain their rationale behind a particular decision.

Finally, I will conclude the thesis by analyzing the implications of the empirical data and consider whether the role of the media and the judiciary in this case justifies their treatment as *functional actors* in the securitization process.

The following section will attach the units of analysis in ST to the empirical case study.

The *securitizing actor* is the Trump administration collectively and President Trump specifically.

The *securitizing moves* are *speech acts* that depict immigration as a threat to the country and lobby for the passage of policies to counteract that threat (e.g. a travel ban). These *moves* are transmitted through news outlets, broadcast television, and social media.

The *referent objects* are those security sectors which the Trump administration has depicted as existentially threatened. These will be apparent from speeches and from proposed and adopted policy measures. The classification of Mr. Trump as a right-wing populist leads to the prediction that there the administration has invoked multiple *referent objects*, namely the national economy and welfare (i.e. economic security), the institutional robustness of the state (i.e. national security), and national identity (i.e. societal security).

The *functional actors* are presumed to be the judiciary and the media.

The *audience* is the American populace of different political persuasions. Inasmuch as possible, distinctions between *audiences* will be drawn, informed by opinion polls.

The *context* is the general political environment of the US currently. This can be gleaned from *how* different populations regard different issues. In terms of securitizing immigration, terrorist attacks by first- and second-generation immigrants both at home and abroad can play a significant role in preconditioning *audience* response. Other variable that predispose *audiences* against immigrants are economic insecurity³¹, high levels of unemployment within a community, media frames, etc.

The following chapter presents the empirical case study, followed by an analysis of its implications and suggestions for future research.

³¹ The literature on populism considers the so-called losers of globalization hypothesis to be a central one behind the recent rise of right-wing populists (e.g. Mudde 2007).

3 Securitizing Immigration under the Trump Administration

This chapter will first outline the *context* in which recent immigration policy has been conducted. This *context* will draw on the analysis of opinion polls that will be assumed to indicate the general mood of the country. The polls evidence a great degree of political polarization in general and largely divergent views on immigration in particular. The chapter will then proceed to briefly cover major immigration legislation preceding Mr. Trump's presidency and the immigration platform Mr. Trump campaigned on. The chapter will then outline the four main categories of the administration's immigration policy to which the enhanced securitization framework will be applied. The ending of the DACA program has largely been excluded due to it being almost identical to the other categories of immigration policy in the important aspects (such as Mr. Trump's *securitizing moves* creating a link between illegal aliens and crime) and because high public support for pathway to citizenship for DACA recipients keeps the issue from being securitized. Finally, the chapter will conclude with an analysis of the results of the empirical research and suggestions for future research.

3.1 Context

Context determines what kinds of *securitizing moves* are more or less likely to be successful by conditioning the *audience* to be more or less receptive to certain arguments. A particular *context* determines who has the authority to speak, what can be spoken, and what is heard. The rise of left-wing and right-wing populists in Europe, in Latin America, and in the United States over the past decade and more, but particularly over the past couple of years, bespeaks a kind of affliction affecting at least parts of Western societies. For example, the share of manufacturing in Western economies has decreased particularly rapidly from the beginning the 21st century (Levinson 2018) and real wages, not taking into account decreased working hours and increased compensation through benefits and taxes, have remained unchanged since 1972 (Worstell 2016). This has been compounded with traditionally-white Western societies becoming more diverse ethnically (Cohn and Caumont 2016).

Populism scholars, in trying to explain the success of populist parties, have among other theories adopted the so-called *cultural backlash* hypothesis which suggests that older generations, especially men, have started reacting against long-term shifts toward more “progressive” and “liberal” social values (Inglehart and Norris 2016: 16). Values strongly correlate with birth cohort, education, and sex — thus, the *cultural backlash* thesis predicts that older men lacking a college degree will be the most antipathetic toward liberal attitudes regarding sexuality, religion, multiculturalism, and immigration (Inglehart and Norris 2016: 16). Insecure times are also less conducive to open-mindedness and an acceptance of diversity (*Ibid.*: 13–14). Cultural accounts, in combination with economic hypotheses — e.g. that automation, outsourcing, globalization, the transition to a knowledge economy, etc. are leaving destitute certain segments of society — seem to explain populist successes rather convincingly. The aforementioned elements create a fraught environment on which populists can capitalize.

Immigration specifically taps into quintessential radical right-wing populism, which is nativist because immigrants are treated as an alien threat to the nation; is authoritarian because either immigrants do not fit in and are criminals or because many immigrants enter the country illegally and have to be deported; and is populist because it blames the poor economic condition of some people on the political elites who have decided to let the immigrants in to satisfy their supposedly globalist ideology or their corporate overlords who desire cheap labor.

Many consider Donald Trump’s election to the presidency to have been a reactionary response, a largely race-driven “whitelash” against the presidency of Barack Obama (Ryan 2016, Beauchamp 2016, Inglehart and Norris 2016: 9). While this is questionable statistically (since Trump won white voters by the same margin that Republican presidential candidate Mitt Romney did in 2012), it is a convincing argument socio-economically, given the wide gaps in terms of gender and educational attainment (Tyson and Maniam 2016).

In the case of the US specifically, it is widely-acknowledged fact that polarization is at its zenith, having increased dramatically over the past decades (Berman 2016, Campbell 2016). Partisan differences have widened considerably in terms of gender, race, educational attainment, and age. A majority of women lean Democratic, as do majorities

of ethnic minorities, the college-educated, and younger age cohorts (Pew Research Center 2018).

In 1994, only 64% of Republicans were more conservative than the median Democrat and only 70% of Democrats were more liberal than the median Republican (Pew Research Center 2017a: 12). In 2017, 97% of Republicans were more conservative than the median Democrat and 95% of Democrats were more liberal than the median Republican. Moreover, 71% of Republicans and 63% of Democrats cite harm of the other party's policies as a major reason for identifying with their party (Fingerhut 2018). Political polarization far outranks polarization across social, economic, urban–rural, or generational lines. According to a 2017 Pew survey, 64% of Americans perceive a *very* strong conflict between Democrats and Republicans, compared to 29% between the rich and the poor, 27% between blacks and whites, 13% between urban and rural dwellers, and 12% between old and young people (Gramlich 2018).

Partisanship on fundamental political values — immigration, racial discrimination, government-run healthcare and welfare — have grown from 15% in 1994 to 36% in 2017 (Pew Research Center 2017a: 3). Curiously, this is despite the fact that attitudes on many issues — particularly on social ones (e.g. drugs, same-sex marriages, divorce, out-of-wedlock births, etc.) — have shifted in the same, socially-liberal direction. It is simply the case that the rate of change has been bigger for Democrats than it has been for Republicans. Furthermore, research also indicates that partisans do not always understand the other side accurately (Lakoff 1996, Bauerlein 2012).

Republicans tend to be more anti-immigration than Democrats. Republican-leaning views have roughly remained the same in the past decades, with a modest increase to 60% of respondents favoring decreasing immigration into the US. Meanwhile, Democrat-leaning views have dropped by over half to 20% favoring decreasing immigration (Newport and Dugan 2017). Nevertheless, 65% of Americans say that immigrants “strengthen the country with their hard work and talents,” as opposed to 26% who think immigrants burden the country by “tak[ing] jobs, housing, and health care” (Pew Research Center 2017a: 38). These views were reversed in 1994 and the increase in positive attitudes has largely been driven by Democrats, whereas the share of Republicans who regard immigrants positively has never passed the share who regard them as a burden. In July 2015, a month after Mr. Trump had announced his candidacy, 53% of

Americans, including 76% of Republicans and 33% of Democrats believed illegal immigration “increases the level of serious crime” (Rasmussen Reports 2015a). In August 2015, most Americans (76%) and just over half of Republicans (56%) supported a pathway to legal status for illegals that meet certain criteria (Goo 2015). In 2011, a split of 46%–47% supported and a fence that would cover the entire southern border (Pew Research Center 2011).

These results lead to a few conclusions and some assumptions that greatly illuminate the environment in which security is spoken. First, since political bipartisanship is greatly hamstrung by political polarization among the electorate, favor or disfavor regarding a certain *securitizing move* or a proposed policy measure is likely driven by party allegiance. This creates a situation in which these allegiances truly do become tribal, meaning group loyalty supersedes issue-specific reflection (Freeman 1986). Second, the lack of bipartisanship in Congress, by definition, will shift policies toward the political extremes, thereby increasing the likelihood that politicians will seek to securitize those issues, which in turn fuels partisanship. A polarized society is more susceptible to calls by populists to topple the status quo. Third, the chances of the resulting *securitizing moves* succeeding will, therefore, be decreased since a smaller slice of the population will be open to being convinced. Fourth, the level of partisanship is presumed to be manifest in the media as well, insofar the media reflect and cater to the preferences of their respective *audiences*, which have grown more and more polarized. Political partisanship will be presumed to be expressed by the frames the media adopts, generally corresponding to the attitudes that left-leaning and right-leaning *audiences* have on specific issues. Fifth, given that the *audience* exhibits what could be called knee-jerk tribal loyalties, media coverage is largely expected to follow suit. This sort of partisan media coverage magnifies the sense of polarization in the country, leading to a vicious circle that exacerbates actual polarization and further decreases trust in the media Geiger (2016).

3.1.1 Immigration policy

The current US immigration system is founded on the 1952 Immigration and Naturalization Act (INA), which included a quota and a preference system, and the 1965 Immigration Act, which removed country-specific quotas and instituted rules for special

preference. At the heart of these are nuclear and extended family reunification, humanitarian admissions, and labor inflows (Rosenblum 2006: 1).

Smaller reform packages have subsequently been adopted. The 1986 Immigration Reform and Control Act (IRCA) granted a one-time amnesty to certain foreign nationals, eventually legalizing 2.7 million illegal aliens, and instituted the employment eligibility system. The 1990 Immigration Act established the green card visa lottery system, which effectively amounts to a diversity program for underrepresented countries. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) imposed heavy penalties for immigration violations. In 2001, the Patriot Act made background checks tougher and security clearances harder to obtain. The 2005 Real ID Act eased the deportation of illegal aliens and asylum-seekers, and imposed federal requirements for state driver's licenses. The 2006 Secure Fence Act authorized 700 miles of additional fencing along the southern border and increased funding for various measures of border security.

Comprehensive immigration reform has eluded American politicians for decades but its necessity has been acknowledged by both sides of the political spectrum. Givens (2010: 79) suggests that immigration reform in the US is so difficult because “the public has difficulty seeing beyond the cultural and ideational issues raised by the flow of people, whereas border control is a clear security issue.” Rosenblum (2009: 31) suggests that Americans disagree over the basic dimensions immigration reform is supposed to tackle: the economy, security, or culture. Many of the measures that were adopted after 9/11 were already being developed or implemented. However, the terrorist attacks prevented the Bush administration from fulfilling its promise to expand and to liberalize the immigration system (Givens 2010: 80).

Immigration gradually became a key policy issue for President Obama. But losing 70 seats to the Republicans in the 2010 midterms took comprehensive immigration reform off the table once again, given the lack of bipartisan support for a single immigration bill. In June 2012, President Obama announced the Deferred Action for Childhood Arrivals (DACA) program which halted the deportation of certain illegal immigrants who were brought to the US illegally as minors and instead provided those persons an opportunity to apply for renewable two-year periods of deferred deportation. By 2017, some 750,000 out of an estimated 1.7 million eligible illegals — those who had been brought to the US

before age 16 and who had lived in the US without authorization for over five years — had signed up through the program (Martin 2017, Passel and Lopez 2017). Republicans accused President Obama of violating the law by sidestepping Congress (Preston and Cushman 2012). DACA recipients were permitted to apply for driver’s licenses but since they are issued by states, not by the federal government, some states refused to provide the recipients with licenses (Chacón 2014).

Politicians and commentators were divided over the EO. Some (Rotunda 2015) argued that since the Office of the Legal Counsel (OLC) had previously held that the President lacked “policy discretion” and since President Obama himself had promised not to change immigration laws independently of Congress, then claiming “prosecutorial discretion” in instituting DACA was underhanded (Wolking 2014, Department of Justice 2014). Others (Wittes 2014) held that since the 8 USC § 1227 stipulates that “deportable aliens” will only be expelled “upon the order” of the Attorney General (Cornell Law School: Legal Information Institute 2018d), then a kind of discretion is implied.

In November 2014, Mr. Obama announced the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program, as well as his intention to expand DACA. DAPA was intended to give temporary legal status and work permits to illegal aliens whose children were citizens or legal permanent residents. However, 26 states sued and their objections were upheld by the temporary injunction of a district judge after the 5th Court of Appeals ruled DAPA “untenable” (Ford 2015) and after the SC deadlocked in *United States v. Texas* (2016) (Justia: US Supreme Court Center 2018f).

The Republican responses to DACA and DAPA were hostile. The perception that the executive branch was unilaterally handing out residence and work permits raised the specter of national and societal security, making immigration a top issue for the 2016 elections. This momentum was seized by Mr. Trump.

3.1.2 Trump’s campaign

Donald Trump ran on a platform that promised to largely undo President Obama’s domestic and foreign policies, from health care to the Iran nuclear deal. Immigration was the signature issue of his campaign, which is par for the course for most populist politicians. He has repeatedly called American immigration laws “dumb” (Griffiths 2018). Much of the controversy that attended his campaign was specifically fueled by his

rhetoric and policy proposals regarding immigration. He famously promised to finally build a wall on the US–Mexico border and to make Mexico pay for it. He also threatened to deport millions of illegal aliens and to limit the number of refugees and visas issued to guest workers. Finally, he promised to reverse President Obama’s EOs that had instituted DACA and had tried to institute DAPA.

Mr. Trump’s views on immigration have evolved over time but have remained consistent in certain aspects. Many of the views he expressed were already outlined in his 2000 public policy book *The America We Deserve*, written when Mr. Trump was considering running for president on the Reform Party’s ticket. In it, he stated that America was admitting far too many legal and illegal immigrants and that Americans should be put first (Sankin 2015). Mr. Trump’s conception of immigration is zero-sum (Matthews 2017).

Finally, opinion polls suggest that Mr. Trump’s anti-immigration rhetoric resonates with a significant portion of the American public, at least partially substantiating the notion that he was “giving voice to the voiceless” (Grabien 2016). This is further affirmed by the fact that Trump supporters were 17% more likely to support a border wall and 13% more likely to consider immigrants a burden than average Republican voters, and 28% and 22% more, respectively, than non-Trump supporting Republican-leaning voters (Smith 2016).

3.2 Securitizing moves

No immigration legislation has yet been passed under President Trump. His efforts have hitherto been limited to rhetoric and to several EOs. In general, President Trump has attempted two types of *securitizing moves*: (1) to protect economic, political, and societal security from illegal Latin American immigrants and (2) to protect political and societal security from radical Islamic terrorism. These sectors are depicted as existentially threatened, requiring the administration to adopt specific measures to crack down on immigrants. Insofar that EOs circumvent the Congress and often invite political and public backlash, they constitute extraordinary measures adopted in the service of an agenda. However, they are by their very nature limited and precarious since they can either be reversed by a future president or be blocked in courts. *Audience* support and

opposition is roughly split in half, likely contributing to the many legal challenges that have met the administration's EOs. Public attention can often direct the attention of politicians but the process works the other way too (Kingdon 2013: 67).

3.2.1 Securing the U.S.–Mexico border

3.2.1.1 Kingdon's three streams

Problem stream: In the *problem stream*, issues or conditions are transformed into security problems. For this to happen, someone with political clout has to articulate that something is an existential threat. While immigration has been a high-priority issue in Washington for at least since 9/11 (and arguably much longer before that), the issue gained new urgency during when President Obama passed DACA and tried to pass DAPA. Nonetheless, at the first Republican presidential debate in August 2015, Mr. Trump claimed that immigration was not “on anybody’s mind until I brought it up at my [presidential campaign] announcement” (Time 2015a), despite indications that immigration had already started becoming a hot-button topic again (Greenberg 2015). However, Mr. Trump did shift discussion toward the more extreme end of the spectrum (Fahrenthold *et al.* 2015).

Mr. Trump has attempted to securitize migration by pointing at the absent border wall with Mexico. He has repeatedly stated that violent criminals and drugs are flowing in through the porous southern border, painting a picture of an America whose national, economic, and societal security are at risk. However, he has tended to play fast and loose with specificity (Trump 2015a). Political rhetoric is often misleading, if not dishonest outright. Several studies have indicated that illegal immigrants, other than being illegally present in the country, commit fewer crimes than natives (Nowrasteh 2015). However, it is true that drugs and people are trafficked across the border, and there does appear to be a “small but significant” association between illegal immigrants and drug-related arrests (Green 2016).

Policy stream: In the *policy stream*, the details of the policy are formed and alternatives are generated. The policies that acquire the requisite feasibility and acceptability have the highest likelihood of being accepted.

In January 2017, Mr. Trump issued EO 13767 which called for the construction of a border wall and detention facilities adjacent to it, and for the hiring of thousands of additional Border Patrol agents (The White House 2017a). In July 2017, the House of Representatives approved \$1.6 billion for the wall but the Senate has so far not reciprocated. Thus, President Trump has repeatedly threatened a government shutdown over funding for the wall (Fabian and Bolton 2018). The administration commissioned the construction of eight prototypes to have choices regarding the type of border wall that is built (Edelman 2017). However, the ultimate construction of a border wall will still hinge on securing congressionally-approved funding.

In January 2018, in discussions over the continuation of the DACA program, the Democrats offered and then withdrew an offer to fund the wall (Cowan and Cornwell (2018). In May 2018, at the request of San Diego, the administration announced it would begin working on a section of the border wall in California (Reuters 2018).

Embedded in Mr. Trump's calls to build a border wall have been several other measures that often deal with other aspects of immigration policy. His call to hire large numbers of extra Border Patrol and immigration personnel was deemed "unrealistic" by the DHS, given the number of applications that would have to be processed by its already "understaffed, poorly trained human resources operation" (Rein 2017). In April 2018, Mr. Trump signed a memo that ended the "dangerous practice" of catch-and-release, which sees immigration enforcement officials release detained illegal immigrants while they are awaiting to be heard by an immigration judge (Beech 2018, The White House 2018).

The wall seems to remain a tough sell because it represents an expensive package deal that costs more than the \$22-billion estimate of the DHS, even if it would represent a minuscule portion of the entire federal budget (Brown 2017). This estimate does not cover extra border guards and annual maintenance. While the border represents a clear security problem, as Givens (2010: 79) stated, the biggest source of illegal immigration are visa overstays (Gonella 2017).

Therefore, not every policy — a potential one or an EO — is accepted by the policy-making community in government. It could very well be that the Trump administration's deviation from the temporal linearity presumed by Kingdon's policy-making model hinders the adoption of his proposed policies — not because it deviates from the model itself but because it deviates from the typical, business-as-usual bureaucratic politics that

the model describes, and thus from those established procedures of negotiating that usually increase the viability of policies. As a result, the *securitizing move* is undermined by not commanding the formal support that institutions provide, preventing the adoption of extraordinary measures to counter the threat image. In the absence of executive and legislative sanction, proposed policies are debated even more hotly in the media, likewise preventing the accumulation of enough support for the *securitizing move* as a whole.

Politics stream: In the *politics stream*, the policy proposals are presented to the public and either adopted or dismissed. Success is largely contingent on public and partisan support.

The essential part of this *stream* is public support for an aspect of immigration policy, understood as a proxy for support for a particular *securitizing move*. Mr. Trump's failure to secure funding for the wall is at least partly the result of not convincing the population at large either.

Curiously, support for the wall has been dropping ever since Mr. Trump raised it during the presidential campaign. In June 2015, the same month Mr. Trump announced his candidacy, the Pew Research Center survey showed 46% support for the border wall (Tesler 2016). In March 2016, the Pew figures had dropped to 36%. In August 2015, Rasmussen Reports (2015b) recorded 51% in favor of a southern border wall with 92% of Republicans and 30% of Democrats in favor. In April 2016, support had dropped to 42% and by December, down to 37% (Rasmussen 2016a). CBS/New York Times polls showed a drop from 45% support in January 2016 to 39% in July 2016 (Tesler 2016). The RAND Corp's PEPS poll, which tracks the same individuals, showed a decrease from 48% to 38% support in July 2016 and August 2016 (*Ibid.*).

In March 2018, a CBS News (2018) poll indicated 38% support and 60% opposition, with 77% support among Republicans, 10% among Democrats, and 36% among Independents. A 2018 Haas Institute poll found that 66% of Californians rejected the southern border wall as a policy priority (Haas Institute 2018). A Quinnipiac poll showed a 43%–53% split among Texans in April 2018 (Wallace 2018). Support for the border wall is low despite nearly half of Americans considering (illegal) immigration a major source of crime and a big drain on taxpayers (Rasmussen Reports 2017b, Monmouth University Polling Institute 2017).

The downward trend in support for the wall points at a couple of underlying causes. First, the *deseccuritized moves* by the political opposition, repeated by and emphasized in the media, seem to have successfully countered Mr. Trump's *seccuritized moves* by making the construction of a border wall an illegitimate way to protect the country from illegal immigration, whether or not the threat itself is accepted or not. Second, it is more likely that the elites influence the people more than vice versa. However, public pressure campaigns in the age of social media seem to be much more potent than in times before. In the current context, polling may suggest that support for the border wall was low even in the absence of media intermediation, thus contributing to the low support for the wall among government officials. Therefore, the *seccuritized actor* has not managed to persuade enough of any relevant *audience* that either immigration should be securitized or that the response to securitizing immigration should be the construction of a border wall.

3.2.1.2 (De)seccuritized moves

Seccuritized moves: Mr. Trump has repeatedly attempted to securitize immigration by depicting the southern border with Mexico as an existential threat to national, societal, and economic security. All these potentially-threatened sectors were invoked in the June 2015 speech at Trump Tower in New York City, where Mr. Trump announced his campaign for the presidency and created a political firestorm to boot. By creating a threat image of a conspiratorial outside seeking to take advantage of the US, he constructed the pretext for focusing that threat image on immigration. He stated that illegal immigrants from Latin America bring crime and drugs, a situation greatly exacerbated by the absence of effective border control:

The U.S. has become a dumping ground for everybody else's problems. /.../ It's true, and these are the best and the finest. When Mexico sends its people, they're not sending their best. They're not sending you. /.../ They're sending people that have lots of problems, and they're bringing those problems with us [*sic*]. They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people. But I speak to border guards and they tell us what we're getting. And it only makes common sense. /.../ They're sending us not the right people. It's coming from more than Mexico. It's coming from all over South and Latin America, and it's coming probably — probably — from the Middle East. (*Time* 2015b)

These sentiments have been echoed time and again in speeches, tweets, and in policies. For example, in the January 2017 EO on border security, illegal immigration is explicitly treated as a threat to “national security” and “public safety” (The White House 2017a). Mr. Trump has also said that drug crime, fueled by Mexican cartels, has become a “dangerous threat to our societies” and that drug gangs have “literally taken over towns and cities of the United States” (Dinan 2017b).

Finally, Mr. Trump has used the same event to lobby support for securitizing immigration on multiple fronts. When the illegal Mexican immigrant, who had been deported five times and who had killed Kate Steinle, was acquitted, Mr. Trump stated, “The Kate Steinle killer came back and back over the weakly protected Obama border, always committing crimes and being violent, and yet this info was not used in court. His exoneration is a complete travesty of justice. BUILD THE WALL!” (Trump 2017)

Desecuritizing moves: In January 2018, Democratic Senate Minority leader Chuck Schumer (2018) tweeted out a story that said Mr. Trump wanted to cut back on “smart border security” to have the means to actually pay for the wall, and added that Democrats cannot agree to Mr. Trump’s wall because it is “completely ineffective” and “absurdly expensive.”

In response to Mr. Trump’s 2018 State of the Union speech, Representative Joe Kennedy III delivered the official Democratic response in which he stated that President Trump’s policies are “not who we are,” and that whatever walls are built, “my generation will tear [them] down” (Meyer 2018).

In February 2018, California Attorney General (AG) Xavier Becerra stated that the Trump administration is “ignoring laws it doesn’t like” to build on the southern border a “medieval wall” that violates “our values,” implying that the administration’s keenness on erecting a wall is both illegal and immoral (Kopan 2018).

Politicians and other public officials who have argued against the wall have largely refrained from stating outright that it is racist. Rather, they focus on the wall being expensive and imply it is a symbol of nativism and xenophobia. Given that securitization is aimed at adopting measures to combat an existential threat, it is analytically more useful to treat these instances as *desecuritizing moves* — inasmuch as they depict the *referent objects* as not existentially-threatened or the threat image as not existentially-threatening

—, not as *counter-securitizing moves* aimed at depicting President Trump as an existential threat to the same *referent objects*. The ultimate effect in either case is the delegitimization of the *securitizing actor* and the *securitizing move*, especially in response to such *moves* being performed first.

3.2.1.3 Media frames

Media coverage regarding the wall specifically has mostly focused on arguments in favor and in opposition to the wall. The consensus among publications of both political leanings is that the wall is a wasteful endeavor and that immigration enforcement efforts should be directed elsewhere.

Conservative outlets like *National Review* (2017) have stated that that while more barriers in “select places” would be welcome, “physical barriers along the southern border ought to be just one element of a larger immigration-enforcement agenda,” pointing at the dramatic decrease of border apprehensions as a sign that the “fulsome rhetoric” and EOs of the president have worked — even better than a physical barrier would.

Left-leaning outlets like the *Washington Post* (2017) have concurred, saying that “the wall is a foolish and wasteful enterprise, one whose legitimate purposes — stopping unauthorized immigration and drug smuggling — could be achieved at far lower cost through other means.” However, if the wall was built, they would consider it a “monument to the xenophobia Mr. Trump tapped to get elected” (*Ibid.*).

Other left-leaning outlets emphasize the latter point more expressly. An article in *Vulture* (Saltz 2018) said that the wall prototypes “call to mind that under Mussolini and Hitler, fascist architects appropriated the look, materials, and visual languages of classical architecture in order to create new gigantic, intimidating structures.” Commentators in other outlets have echoed these sentiments (Gallego 2017).

Many right-leaning outlets have not so much argued in favor of building a wall but against the wall being a monument to racism, stating that calling people “racist” is a “discussion-killer,” which precludes people from finding “middle ground” (Campbell 2018). Nevertheless, some commentators have tried to make the case that the “wall can work,” since border apprehensions in places where fencing has been erected have dropped precipitously (Sperry 2018).

The only media that cover the wall in a positive light consistently are those which present the views of anti-immigration hardliners, most of whom occupy a specific niche of right-wing politics. For example, early Trump supporter Ann Coulter has repeatedly castigated Mr. Trump for slow-walking his immigration policies (Fox News 2017).

It is safe to assume that by generally representing the wall negatively — as a symbol of nativism and as a wasteful effort —, the public would be opposed to it. Given the decrease in support for the wall once Mr. Trump made it a campaign promise, one could also assume that the media's transmission of these messages persuaded people against it. Thus, the media has impeded Mr. Trump's *securitizing moves* aimed at producing a southern border wall.

3.2.1.4 Judicial deliberation

The Trump administration has so far not secured congressional authorization or funding for the southern border wall to be built. However, minor portions are in the works, in addition to the wall prototypes that have already been completed.

In response to acting DHS Secretary Elaine Duke announcing in September 2017 that several environmental protections will be waived to build the wall and also in response to the 37 regulations that had to be waived to construct wall prototypes in San Diego, California, the Trump administration was sued by several environmental groups (Garfield 2017). In February 2018, District Judge Gonzalo Curiel, whom Mr. Trump had accused of being biased against him in the Trump University case because of his Mexican heritage, ruled that the administration has the authority to waive environmental laws and other regulations to build the border wall (Kopan 2018). Judge Curiel affirmed that is not for the courts to decide whether political decisions are wise.

While this aspect of immigration policy has not been subjected to many lawsuits, the judiciary's decision to rule against the executive would have impeded it from constructing parts of the border wall. In not intervening — but having the potential to do so —, the judiciary affirmed its role as a facilitating *functional actor*.

3.2.2 Travel ban

3.2.2.1 Kingdon's three streams

Problem stream: The travel ban is arguably the most controversial policy President Trump has sought to implement. This stems from the originally explicit anti-Muslim nature of his rhetoric and proposed policies. Mr. Trump has sought to securitize political and societal security in the face of Islamist terror attacks in Europe and the US. In December 2015, after the Paris and San Bernardino, California terror attacks, he called for the suspension of Muslim immigration. He has also taken pride in finally articulating the words “radical Islamic terrorism,” effectively speaking a threat image into existence (Fox News 2015). In the context of a bevy Islamist terror attacks in Western countries, Mr. Trump sought to articulate radical Islam as an existential threat and promised to institute policies to keep America safe.

Policy stream: In January 2017, President Trump issued EO 13769 (hereinafter EO-1) which purported to prevent terrorist attacks in the US by placing a 90-day moratorium on visa issuance to seven predominantly Muslim countries — Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen —, in addition to reducing the number of refugees admitted to the US, including an indefinite block on the admission of Syrian refugees (The White House 2017c, Shear and Cooper 2017). The moratorium was intended to provide a period for immigration agencies to review visa-issuing procedures and to potentially alter them.

The travel ban went through several iterations after it was first introduced in December 2015. The original idea was to institute a blanket ban on foreign Muslims. In June 2016, right after the Orlando Pulse nightclub attack, Mr. Trump proposed suspending immigration from those countries in the world that have that have been “compromised by terrorism” (Detrow 2016, Healy and Martin 2016). In August 2016, Mr. Trump proposed to subject prospective immigrants to “extreme vetting” to weed out people who do not “share our values and respect our people” (Zezima 2016).

Unlike in the case of the border wall, the development of the travel ban has engaged in more traditional forms of bureaucratic politics. In August 2016, Mr. Trump said he was forming a commission to decide from which countries immigration should be suspended (Stephenson 2016). He is also alleged to have requested a commission to show him “the right way /.../ legally” to design a “Muslim ban” (Wang 2017). The seven countries that

were eventually included in the original EO had been declared “countries of concern” by the Obama administration (Blaine and Horowitz 2017) and several people from those countries have had direct and indirect links to terrorist activities (Lee 2017b).

Once EO-1 was blocked, the administration revised it and issued EO 13780 (hereinafter EO-2) (The White House 2017d) which excluded Iraq from the list of countries to which the travel ban applied and which no longer differentiated between Syrian refugees and refugees in general.

The SC stayed most of the injunctions against EO-2. Once the order elapsed in September 2017, President Trump issued Presidential Proclamation 9645 (hereinafter EO-3) which placed several additional countries under travel restrictions.

Given that EOs can be enforced immediately — unless or until stymied by legal challenges —, they largely circumvent the *politics stream*. However, EOs are not legislation and can be revoked by the subsequent administration. Insofar that they bypass Congress in instituting a policy, EOs may best be considered extraordinary measures in their own right, both in form and in content, as distinguished from congressional legislation that is extraordinary only in content. And as such, the politics of persuasion become secondary to legality, because urgent institutional, public, and media backlash will inevitably drive lawsuits against the government. The viability of policies is increased if it seeks to persuade people inside and outside government. Executive fiat in the absence of negotiated institutional support subverts the process of bureaucratic politics and also undermines the *securitizing move* because securitization is negotiated between the *securitizing actor* and the *audience*.

Politics stream: As was the case with the border wall, the absence of institutional support and consistently favorable media coverage are likely to drive considerable opposition to the travel ban. In addition, there were public protests all across the country when the EO was issued.

Public opinion polls have yielded contradictory results regarding the ban. In response to the proposed Muslim ban in December 2015, Rasmussen (2015c) found 46% support for and 40% opposition. But in 2017, Rasmussen (2017) found a split of 57%–33%, a Reuters–Ipsos poll found a split of 48%–41%, and Gallup found 42%–57% (Bump 2017). In February 2017, a Quinnipiac poll showed 38% saying the EO makes the nation

safer while 39% said it did not (Quinnipiac University 2017). In 2018, a Haas Institute poll showed 49% support and 51% opposition among Californians (Haas Institute 2018).

Furthermore, in June 2017, an AP–NORC poll found that 57% of Americans thought the courts had “acted correctly” by blocking the ban while 39% thought the courts were “wrongly interfering,” including 82% of Democrats in the former category and 73% of Republicans in the latter (Caldwell and Swanson 2017).

The public is at the very least divided on the issue and the disagreement generally follows party lines. Questionable institutional and public support are not optimal conditions for *securitizing moves* to be successful. However, in the case of EOs, the deliberation between the *securitizing actor* and the *audiences* may take on a judicial dimension, in which case the process will be influenced by the judiciary who effectively serve as an alternative mediator. This is because the judiciary, while being formally independent, are not responsible for submitting lawsuits, only for the adjudication thereon. These lawsuits can be brought by the unconvinced *audiences* in and out of government.

3.2.2.2 (De)securitizing moves

Securitizing moves: In December 2015, Mr. Trump’s campaign website issued a statement that called for “a total and complete shutdown of Muslims entering the United States until our country’s representatives can figure out what is going on” (DonaldJTrump.com 2015b). The statement depicted Sharia law as entirely antithetical to American values.

In an August 2016 speech, he specifically addressed radical Islam in a speech. He enumerated over a dozen of recent high-profile Islamist attacks on Western countries, including the *Charlie Hebdo* and Nice attacks in France and the airport bombing in Brussels. He added that the “hateful ideology of radical Islam” and the “oppression of women, gays, children, and nonbelievers” that it entails,” cannot be “allowed to reside or spread within our countries” (*The Hill* 2017).

The travel ban EOs reiterated many of these statements, arguing that the existential threat of terrorism to national and societal security is one that urgently demands a policy response.

Desecuritizing moves: Democratic Senate Minority Leader Chuck Schumer said in response to the travel ban, “Tears are running down the cheeks of the Statue of Liberty tonight as a grand tradition of America, welcoming immigrants, that has existed since America was founded, has been stomped upon.” (Owen *et al.* 2017) Lena Masri, an official at the Council on American-Islamic Relations, said, “There is no evidence that refugees — the most thoroughly vetted of all people entering our nation — are a threat to national security.” (*Ibid.*)

In response to the revised travel ban, Democratic presidential candidate Bernie Sanders called the ban “a racist and anti-Islamic attempt to divide us up,” and stated that the president does not respect “our traditions of religious freedom (Carney 2017a). Mr. Schumer stated the EO was “dangerous,” “makes us less safe, not more, it is mean-spirited, and un-American,” “must be repealed,” and “is all the proof Americans need to know that this has absolutely nothing to do with national security” (Carney 2017b).

Unlike in the case of the border wall, politicians have been profuse in calling Mr. Trump a racist xenophobe and have depicted the travel ban as an illegitimate act fueled by animus. Their *desecuritizing moves* reject the notion that immigrants are a threat and that that welcoming immigrants is a fundamental value of America. The notion of *counter-securitizing moves* is stronger for this particular policy measure but I again suggest that since these *moves* are issued in response to a preceding *securitizing move* and with the aim of reversing it, the term *desecuritizing move* remains the appropriate analytical term.

In addition, it might actually be more fruitful to analyze these particular *desecuritizing moves* through the lens of Austin and Brossard (2017) who discuss the simultaneous enactment of *securitizing and desecuritizing moves*. This link holds because the statements of those opposed to the travel ban have sought to reverse the logic of the initial *securitizing move* by President Trump: instead of radical Muslims being an existential threat to national and societal security which requires the adoptions of the EO, the EO itself is the threat to national and societal security and that Muslims are esteemed Americans and immigrants.

3.2.2.3 Media frames

Media coverage of the EO has been much more partisan than for the border wall. Most all left-leaning outlets condemned the Muslim element in the order. Some commentators used evocative language, such a piece in the *Guardian* saying that, “Donald Trump is now officially gunning for the Muslims.” (Bayoumi 2017). The religious element has been highlighted in response to the revised travel ban as well, even though the revision tried to downplay the religious elements: “But make no mistake: It is a Muslim ban, no matter how much the Trump administration tries to wrap it in better legal reasoning, more docile language, and ribbon that screams national security.” (Cardona 2017A journalist for *Vox* said that even though Islam is a religion, the “orientalist” treatment of Islam has largely converted it into race as much as it is a religion (Harris 2017). Some left-leaning outlets, such as the *Huffington Post*, provided a platform to Muslim commentators who said that while the rollout of the EO was “clumsy,” radical Islam and radical attitudes among Muslim immigrants indeed had to be dealt with (Ali 2017).

Right-leaning pro-Trump outlets have been more focused on what has at times seemed like damage control. An article on *Breitbart* created a checklist of “facts” about the EO to counter the “hysteria” of left-leaning publications, stating *inter alia* that it is not a Muslim ban since the largest Muslim-majority countries “are *not* named,” that presidents have had cause to ban from some countries on the list before, and it is justified as a security measure if the government is concerned over its capacity to vet refugees (Hayward 2017). Many conservative outlets also provided judicial commentary to argue in favor the EO’s legality (McCarthy 2017a). Most of the conservative media has tended toward the latter, especially in responding to the judicial blocks issued against the EO, arguing that the judges “[got] it wrong” (von Spakovsky 2017) and that injunctions amounted to “judicial tyranny” (Shapiro 2017). Several left-leaning outlets, on the other hand, said that the Court of Appeals made “the right call” (*The Washington Post* 2017b).

In this case, media frames have been split between frames that effectively facilitate the *securitizing move* and those that are antagonistic to it. Media coverage that is at least to a significant degree sympathetic toward the government’s policies is likely to increase support for the policy among some of the *audience* higher than a baseline level of no media influence. However, the considerable amount of negative coverage has then

likewise done the opposite for the *audience* generally negatively disposed toward the policy. Thus, the media has magnified the split among the *audiences*.

3.2.2.4 Judicial deliberation

Once President Trump had issued the EO, acting DoJ Secretary Sally Yates, a holdover from the Obama administration who was waiting for the confirmation of eventual AG Jeff Sessions, refused to implement the travel ban for which she was promptly fired by President Trump (Johnson and Taylor 2017).

Numerous lawsuits were filed against the travel ban. Among them was a brief asking the courts to block the EO, signed by tech giants like Apple, Facebook, Google, Microsoft and by former Secretaries of State John Kerry and Madeleine Albright (Jacobs and Smith 2017).

In early-February 2017, the original EO was blocked by Seattle District Court Judge James L. Robart, citing “immediate and irreparably injury” *vis-à-vis* the States’ “residents in areas of employment, education, business, family relations, and freedom to travel,” as well as the “operations and missions” of its universities and its tax bases (Robart 2017: 4–5). Robart’s injunction did not discuss the judicial or constitutional provisions that the EO supposedly violated. Arguing against Judge Robart’s injunction, the Trump administration stated that judges were not equipped to adjudicate cases involving national security since they lacked access to classified information (Francisco *et al.* 2017).

On the other hand, Boston District Court Judge Nathaniel M. Gorton, refused to block the EO, citing 8 USC § 1182 (Gorton 2017). Those in favor of the injunction generally argued that this statute and the broad discretion provided to the executive in terms of enforcing immigration law make the EO legal. Those opposed to the injunction generally argued that the EO violated the First Amendment and 8 USC § 1152 because it discriminated against race, nationality, and religion.

The Trump administration proceeded to withdraw the first version of the order and resubmitted a revised version in March. That EO was blocked by Hawaii District Court Judge Derrick K. Watson, by Maryland District Court Judge Theodore D. Chuang, and by Fourth Circuit Judge Roger L. Gregory. These judges went beyond the text of the EO to argue that the order was based on anti-Muslim sentiment, and thus a violation of the First Amendment (Watson 2017a). Watson cites Mr. Trump’s anti-Islam statements on

the campaign trail as “significant and unrebutted evidence of religious animus,” and that “facially neutral language” only emerged later on to mask the original sentiment (*Ibid.*: 33–35). Moreover, Judge Watson argued that the EO would “irrevocably damag[e]” the University of Hawaii, including damage to “the collaborative exchange of ideas among people of different religions and national backgrounds” (*Ibid.*: 17–19).

In June 2017, the Trump administration appealed their case to the SC who accepted it for review. The SC overrode the injunctions and reinstated the travel ban, except for people with “bona fide relationships” with persons or entities in the US (Wheeler 2018). The SC considerably narrowed the injunctions issued by Judges Watson and Chuang but let them stand.

In September 2017, as EO-2 expired, President Trump signed EO-3 which extended it. Judges Watson and Chuang again implemented temporary injunctions to prevent the order from taking effect. Judge Watson argued that EO-3 did not adequately justify the link of an individual’s nationality to their propensity to committing terrorist attacks and that its appeals to national security did not hold water since many countries fail some of the criteria outlined in the proclamation yet are not included in the ban (2017b: 27–30). Judge Chuang quoted Mr. Trump’s statements as basis to block EO-3 on statutory and constitutional grounds (Peña 2017).

In December 2017, the SC stayed the injunctions on EO-3 until the SC itself rules on the matter (The Supreme Court 2017). The SC first heard oral arguments in April 2018 and is expected to issue a final ruling before summer recess.

The judiciary’s role in forbidding the travel ban EOs has prevented the *securitizing move* from being completed. This amounts to the judiciary acting as an impeding *functional actor*. However, the judiciary has specifically referred to the *securitizing moves* of the Mr. Trump as reasons for blocking the EOs.

3.2.3 Restrictions on refugees and immigrants and increases in deportations and incarcerations

3.2.3.1 Kingdon’s three streams

Problem stream: The impetus that drove Mr. Trump to lobby for a border wall is largely the same that has driven his attempts to limit immigration and to increase deportations — a perceived threat to national, societal, and economic security. The illegal aliens that cross

the border end up in communities where they peddle crime and drugs. A 2012 DHS report said there 1.9 million “removable criminal aliens” (Department of Homeland Security 2012: 61), out of whom an estimated 820,000 are unauthorized immigrants (Rosenblum 2015: 22) Mr. Trump has repeatedly articulated these perceived threats.

In July 2015, 32-year-old Kate Steinle was shot and killed in San Francisco by Jose Zarate, an illegal immigrant who had been deported five times. In November 2017, a jury acquitted Zarate of manslaughter charges (Stevens *et al.* 2017). President Trump repeatedly referenced the killing to argue that criminal illegal immigrants should be deported and that sanctuary cities, which San Francisco is, should be denied federal grants (Weinberg 2015, Nguyen 2016). In early-November 2017, immediately after the terrorist truck attack in New York City, Mr. Trump called for the suspension of the diversity visa lottery system because the assailant had entered the US through that very same program (Mark 2017).

These exemplify how external events can drive the (re)articulation of a security problem. For example, in August 2017, the administration had formally supported the elimination of the visa lottery system (The White House 2017b) but the truck attack in New York City provided an opportunity to do so again.

This aspect of immigration policy also has a distinct economic element to it, enabling Mr. Trump to claim economic security as the *referent object* threatened by illegal immigration. However, the idea of deporting illegals en masse would have serious ramifications on the labor market. Of the estimated 11 million illegals, about 8 million are in the labor force, constituting 5% of the national workforce of 160 million people (Martin 2017: 15). Almost a fifth of all agriculture workers in the US are illegals. It is also true that many illegals do menial jobs that Americans generally do not want to do. Analysts estimate that mass deportations could ultimately reduce the nation’s GDP by up to 2.6% (Soergel 2017).

Policy stream: Mr. Trump paid little regard to the policy specifics of his general proclamations that illegal aliens should be deported. As with the southern border wall, analyses indicated that the material and social costs of mass deportations would be prohibitive (Schoen 2017).

To aid the process of deporting illegals, the administration reinstated the Secure Communities program via an EO in January 2017 (The White House 2017f). The EO argued that the “interior enforcement” of immigration laws is “critically important to the national security and public safety” of the country. The EO also accused sanctuary cities of allowing “[t]ens of thousands of removable aliens” back into the “communities across the country” (*Ibid.*).

In June 2017, President Trump proposed to ban new immigrants from having access to welfare programs for five years. However, such restrictions are already in place (Diamond 2017).

In September 2017, the Trump administration proposed capping refugee admissions at 45,000 for 2018, the lowest number since the modern refugee admissions system was established in 1980 (Torbati and Rosenberg 2017).

Under President Trump, ICE arrests increased by 30% in 2017, largely due to the arrests of people without a “criminal background[,]” outside being in the country illegally, although the high numbers under President Obama also stemmed from removing people with no criminal history (Federis 2018).

Mr. Trump has also called for the ending of chain migration, under which legal immigrants are permitted to bring in distant relatives (The White House 2018). However, since the approval of every person takes a long time, massive influxes do not actually occur (Muñoz 2018).

In cracking down on illegal immigration, the administration has foregone the “once-common practice” of administrative closure, i.e. granting reprieves to immigrations targeted for deportation (Levinson 2018). This has contributed to an already-immense backlog of cases in immigration courts. In January 2018, AG Jeff Sessions announced he would seek “legal arguments” as to whether immigration judges should have the authority to “close cases” at all (*Ibid.*), indicating bureaucratic politics.

In April 2018, President Trump directed the Department of Defense (DoD) and the DHS to work with state governors to deploy National Guard troops to the southern border — with an aim to combat the “unacceptable” flow of drugs, criminal activity, and a migrant caravan traveling heading toward the US from Central America —, a move that Presidents Bush and Obama and state governors had also made (Davis and Rogers 2018,

Shaw 2018). This move led to the apprehension of at least 1,600 additional illegal border crossers (Giaritelli 2018).

Also in April 2018, the Trump administration directed federal agencies to adopt a “buy American, hire American” strategy and signaled an intention to end handing out H-1B visas through a lottery (O’Brien 2017). H-1B visas are generally reserved for high-skilled people in specialty occupations.

Since Mr. Trump took office, ICE prosecutors have appealed administrative closures at 10 times the rate they did during the second term of President Obama (Levinson 2018). Deportations from the US interior have risen 34% (Sacchetti 2018) and deportations in 2018 so far are up 40% compared to 2017, “returning to Obama-era levels” (Britzky 2018). Arrests of illegal aliens not convicted of a crime have tripled compared to the last two years under President Obama (Gogolak 2018). In 2017, border apprehensions were at a 46-year low but the numbers surged in the spring of 2018 (Dinan 2018a).

This area of immigration policy concerns the most substantial aspects of immigration. By speaking security, Mr. Trump has tried to curry favor for a host of policies that are generally understood to be a prerogative of the executive branch — the *enforcement* of immigration laws. DACA established that the government can exercise discretion in *not* enforcing a vaguely-worded statute. The Trump administration has taken the opposite approach in targeting the illegal immigrant population at large while instituting measures that either reduce or discourage legal and illegal immigration into the country.

Politics stream: This area of immigration policy touches on areas that are more deeply rooted than more controversial measures such as a border wall or a travel ban.

In August 2015, Rasmussen (2015b) reported that 94% of those supporting a wall and 65% of those opposed to it favored the deportation of illegal immigrants convicted of a felony. In September 2016, Rasmussen (2016b) found 48% of respondents opposing taking in any additional refugees from the Middle East and Africa. A split of 62%–28% thought that admitting more refugees would pose a national security risk.

In February 2017, a Pew (2017b) survey showed 56% support for and 41% opposition to the notion that the US has a responsibility to accept refugees. Also in

February 2017, a Quinnipiac (2017) poll found a split of 37%–60% in terms of support for and opposition to the suspension of all refugees for 120 days.

In March 2017, a Gallup (Jones 2017) poll showed 59% of Americans worrying about illegal immigration with a 48%–79% split among Democrats and Republicans, respectively. 67% of Hispanics, 59% of whites, and 57% blacks worried about illegal immigration. Over the past 15 years, the general level of concern has held relatively steady, except for a marked uptick in 2006–08.

In January 2018, a Harvard CAPS–Harris poll found 81% support for reducing legal immigration in general and 63% support for reducing legal immigration by at least half (NumbersUSA 2018). In March 2018, a Haas Institute survey showed 59% of Californians favoring increasing deportations (Haas Institute 2018). In April 2018, a Rasmussen (2018b) poll showed 54% opposition to letting the migrant caravan enter and 37% favor for letting the migrants in temporarily so each of their cases could be reviewed individually.

The public is generally favorably-disposed toward immigrants and refugees but less supportive of high numbers of legal and illegal immigration. Republicans tend to be more anti-immigrant than Democrats but two-thirds of Americans say that immigrants strengthen the country (Newport and Dugan 2017). Neither party holds favorable views of illegal immigration. Unlike for the border wall and the travel ban, public opinion tends toward the enforcement of immigration laws and the restriction of immigration generally. This predisposes the *audiences* toward accepting the securitization of immigration but less so of the securitization of immigrants, since most also favor a pathway to citizenship (Goo 2015). Americans support the deportation of criminal aliens but they are sympathetic to families not being broken apart by wanton deportations. Overall, stricter enforcement of immigration laws already on the books draws a much lesser backlash than attempts to institute new policies through EOs which are more likely to be perceived as extreme.

3.2.3.2 (De)securitizing moves

Securitizing moves: Mr. Trump has tried to securitize both immigration and illegal immigration. In 2014, at the annual conservative gathering CPAC, he threatened that passing immigration reform threatens the economy since immigrants are “taking your

jobs” and that it also threatens the Republican Party, which would “not get any of those [immigrant] votes” (Blake 2014). This notion echoes a 2012 Pew survey that found that illegal Latino immigrants lean Democrat over Republicans by a margin of 54%–19% (Patten and Lopez 2013).

In November 2015, President Obama stated after the Paris terrorist attacks, “ISIL does not represent Islam to the degree that anyone would equate the terrible actions that took place in Paris with the views of Islam.” (Fox News 2015) In an interview, Mr. Trump accosted President Obama for pussyfooting around the topic of radical Islam, adding that Syrian refugees are mostly men with fraudulent identification papers who could “very well [turn out to be] the ultimate Trojan horse” (*Ibid.*).

In October 2016, at a presidential debate, Mr. Trump said he would target “bad hombres” and “get them out” (Jacobo 2016).

During the presidential campaign, Mr. Trump repeatedly flirted with the idea of mass deportations, even echoing President Dwight Eisenhower’s 1954 deportation initiative known as Operation Wetback (Vlahos 2015).

These *securitizing moves* continue to depict national, economic, and societal security as existentially threatened. Comparing refugees to a Trojan horse is a particularly potent evocation of a threat image.

Desecuritizing moves: National security experts have argued that refugees are not a threat to the US because they already are “among the most highly vetted immigrants” to be admitted (Torbati and Rosenberg 2017). Democratic Congressmen John Conyers and Zoe Lofgren said that capping refugee admissions at a low number constituted “an abdication of our moral authority, and an abandonment of the very values that make America great” (*Ibid.*).

In January 2017, the Chairman of the Democratic National Committee Tom Perez tweeted out a statement which said that banning refugees and visa holders from countries in the Middle East and Africa is both “discriminatory and dangerous” and “contrary to our core values as Americans” (Perez 2017).

In March 2018, Mrs. Nancy Pelosi called the large-scale raid of illegal immigrants in California “unjust and cruel,” saying President Trump had “decided to terrorize

innocent immigrant families” and added that “Californians will continue to proudly keep our doors open to the immigrants who make America more American.” (Shaw 2018)

In May 2018, Mr. Bernie Sanders called President Trump’s views on immigration “heartless” (Morin 2018).

These statements again raise the question of what it means to be American and try to delegitimize the policies of the administration.

3.2.3.3 Media frames

Media coverage of this area of immigration policy has generally fallen into two categories and generally according to partisan leanings. Left-leaning outlets are more likely to publish stories that cast a sympathetic light on immigrants that have been in the country for decades but are being deported. Right-leaning outlets are more likely to publish stories that emphasize the crimes that immigrants commit.

The first category focuses on the familial ties that are broken, echoing the common slogan among immigration activists that deportations often separate families (Pilkington 2017, Silva 2018). These stories also tend to highlight the uptick in ICE arrests under Trump. These outlets also give a platform to immigrants negatively affected by particular policies to argue against those policies (Escalante 2017, Kalaw 2017).

The other category tends to emphasize the heinous crimes committed by immigrants, especially illegals. There is a tendency to give the impression that the particular crime being reported on is yet another one in a series recently and that these could have been avoided if immigration laws were “being fully enforced” (Bandler 2017). These stories also tend to criticize courts of judicial activism when they issue rulings favorable to criminal immigrants (Barron 2018). The outlets that tend report more on the negative aspects of immigration are usually right-leaning.

Left-leaning outlets have also focused on the morality of Mr. Trump’s immigration policies. An article in the *Nation* said that the administration’s policies are “designed to maximize suffering” (Hing 2018). Some columnists have written tongue-in-cheek articles that combat the “inhumanity of toying with people’s lives” by outlining the metrics in which natives to a little or a lot more poorly than immigrants, suggesting in jest that “[s]o-called real Americans are screwing up America” and that maybe “they should leave” and be replaced with “new and better ones” (Stephens 2017).

Some have focused on the policy-side of the debate. A column in the *Washington Post* argued that mass deportations have “long been ineffective policy” and that the focus should be on “stem[ming] the tide of undocumented immigrants” (Young 2017). The *Los Angeles Times* has given a platform to some immigration activists who argue that even violent criminals should not be deported since the “chaos” they would see in Latin American countries would only cause more people to “flee those countries” (Castillo 2017). A *New York Times* piece argued that by deporting MS-13 gang members, the criminals “simply regroup” and “head back” to the US but now with “recruits who know how to navigate the United States” (Martínez 2018).

Some commentators have argued that immigration policy should not be a tool “to divide us,” saying that the political parties “polarize the electorate and extract financial contributions from their favored interest groups,” even though America could be “a country of immigrants” that chooses to control its borders simultaneously (Cannon 2017). Conservative commentators often suggest that “the entire vocabulary of illegal immigration has become Orwellian,” accompanied by assumptions that illegal immigration is “a gift” to the US, even though some 1.2 million cases of identity-theft by illegals would amount to “career-ending felony” for US citizens, not to mention the brazenness of resident aliens in interfering in the politics of and declaring hostility toward the host country (Hanson 2018). Others emphasize that lawful residency and citizenship are “legal status issue[s],” not a matter of property or human rights (Ellis 2018).

Even though most Americans see eye-to-eye in opposing illegal immigration and favoring immigrants, the partisan differences that remain are sure to be magnified by media coverage. For example, if many outlets should consistently suggest that questioning the right of the US to restrict immigration amounts to intolerance, then this is unlikely to persuade the opposite side but to galvanize their antipathy even more. On the other hand, if other outlets suggest that immigration enforcement should be heavy-handed and less concerned with the impact indiscriminate enforcement has on immigrants, the opposite will feel justified employing accusations of intolerance. By magnifying polarization in this manner, the media facilitates securitization of immigration for one *audience* and impedes it for another.

3.2.3.4 Judicial deliberation

The courts have adjudicated on a couple of immigration cases tangentially related to the specific policies of the current administration. In February 2018, the SC ruled that immigration officials can hold immigrants “indefinitely without receiving [periodic] bond hearings” even if they have permanent legal status or are asylum-seekers, holding that the government has the right to detain immigrants while determining whether they should be allowed in the country (Bowden 2018). In April 2018, the SC struck down a deportation law that left the term “aggravated felony” too vague to be applied consistently in deporting immigrants (Liptak 2018).

Overall, in this particular aspect of immigration policy, the judiciary has played a different role than in other aspects. Since the majority of the administration’s policies in this field have concerned enforcement, the judiciary has instead been deployed to handle the backlog of cases in immigration courts. However, the very fact that immigration policy is thus rendered through the judiciary — i.e. the potential of the executive to enforce immigration laws is constrained by the capacity of the courts to handle individual applications of those laws —, the judiciary impacts the securitization process. And in this particular case, the judiciary acts as an impeding *functional actor* but one that has the potential to facilitate the process.

3.2.4 Defunding sanctuary cities

3.2.4.1 Kingdon’s three streams

Problem stream: President Trump’s policies regarding sanctuary cities are also rooted in his antipathy toward (illegal) immigration. He has often stated that sanctuary cities perpetuate the crime and drug-smuggling that he associates with illegal aliens because sanctuary policies frustrate federal efforts to deport criminal aliens.

Policy stream: In January 2017, Mr. Trump issued EO 13768 that stripped federal grant money from sanctuary cities on the basis of 8 USC § 1373 (The White House 2017e). It also ordered the resumption of the Secure Communities program and directed the Secretary of the DHS to hire 10,000 more immigration officers and to start issuing a weekly list of crimes committed by illegal aliens.

The Secure Communities program unites local, state, and federal law enforcement agencies in using integrated databases to identify criminal aliens (Department of Homeland Security 2009). The program was effected in 2009 and then canceled in 2014, after deportations had reached an all-time high under President Obama. The Obama administration replaced the program with one that focused on detainees charged with violent crimes. Statistics indicate that the program had not increased the number of criminal illegal aliens being deported specifically but the number of deportations generally (Groetzinger 2017).

In August 2015, Mr. Trump used the Kate Steinle murder to argue for deporting illegal immigrants accused of murder and to withhold federal grants from sanctuary cities (Weinberg 2015). The murder inspired two proposed bills, Kate’s Law, which would have created mandatory minimum sentences for people who reenter the country illegally, and the No Sanctuary for Criminals Act, which would allow ICE officials to pick up criminal aliens from local jails and to withhold certain federal grants from sanctuary cities (Leslie 2016, GovTrack 2017).

The January 2017 EO said that sanctuary jurisdictions “willfully violate Federal law” and have caused “immeasurable harm to the American people and to the very fabric of our Republic” (The White House 2017f).

In January 2018, DHS Secretary Kirstjen Nielsen suggested that she would ask the DoJ to look into prosecuting officials in sanctuary cities (Shapiro 2018).

Politics stream: In 2015, Rasmussen Reports (2015d) recorded 62% of respondents approving of taking action against sanctuary cities while 26% opposed. In 2017, a Harvard CAPS–Harris poll found 80% opposing sanctuary cities while polls by McClatchy–Marist and Fox News found a 50%–41% and a 41%–53% split, respectively, in support for and opposition to stripping sanctuary cities of federal funds (Lee 2017a). A March 2018 CBS News (2018) poll yielded 48%–47% support for and opposition to sanctuary cities being given free rein to deal with immigrants. Among Republicans, 74% said sanctuary cities should comply with federal efforts while 70% of Democrats said sanctuary cities should be able to deal with immigrants as they see fit.

Based on public attitudes, it seems that the administration’s efforts to crack down on sanctuary cities has had a galvanizing effect. If sanctuary cities are depicted as an

extension of illegal immigration and thus a threat to national and societal security, the *audience* seems agree with the *securitizing move*. However, if sanctuary cities are depicted as havens for non-violent immigrants who are being threatened by deportation, the *audience* favors letting those immigrants be. These attitudes have become distinctly partisan, impeding the administration from compelling an end to sanctuary policies.

3.2.4.2 (De)securitizing moves

Securitizing moves: In July 2017, Mr. Trump stated that Kate’s Law and the No Sanctuary for Criminals Act would “make our communities safer” and “save American lives” (Abrams 2017). AG Jeff Sessions said that Kate Steinle’s murder would have been “preventable” if not for “San Francisco’s decision to protect criminal aliens” (Stevens *et al.* 2017).

EO 13768 itself argued that sanctuary policies threaten “national security and public safety” and have caused “immeasurable harm to the American people and to the very fabric of our Republic” through the release of “[t]ens of thousands” of criminal illegals back into the communities (The White House 2017e).

In an effort to convince law enforcement officers to direct their efforts at sanctuary cities, AG Jeff Sessions told them that the DoJ and the administration would “fight these unjust, unfair and unconstitutional policies that have been imposed on you” (CNBC 2018).

In May 2018, President Trump hosted a roundtable with California mayors and sheriffs who are opposed to the state’s sanctuary policies. During the session, Mr. Trump commended their resistance to “California’s deadly and unconstitutional sanctuary state laws” that provide “safe harbor to some of the most vicious and violent offenders on earth (Jones 2018). When a Sheriff had said that she is not allowed to inform ICE about criminals, such as a potential “MS-13 member” because of the sanctuary policies, Mr. Trump responded that the administration is “stopping a lot of them” and that, “You wouldn’t believe how bad these people are. These aren’t people. These are animals.” (Pavlich 2018)

The administration has painted a clear picture of sanctuary policies as conduits for violent crime and drugs, threatening national and societal security.

Desecuritizing moves: California AG Xavier Becerra stated that California “abide[s] by federal law” and “respect[s] the Constitution,” whereas the Trump administration does not and is trying “bully local jurisdictions to do what they want” (Gerstein 2017). San Francisco City Attorney Dennis Herrera echoed these sentiments, stating that immigration enforcement was the “federal government’s job” and that nobody was “stopping them” from doing that (*Ibid.*). Mr. Becerra later stated, in response to the Trump administration suing California over its sanctuary policies, that the state is “in the business of public safety, not deportation” (Daniels 2018). These constitute desecuritizing moves because they assert the legitimacy of the state’s practices while asserting the illegitimacy of Trump’s policy. Their proposed way to achieve desecuritization is to block the EO that withheld federal grants from sanctuary localities.

In January 2017, California Representative Nancy Pelosi said that “in our sanctuary cities, our people are not disobeying the law,” adding that they are protecting “law-abiding citizens” (Schwartz 2017). In May 2017, Chicago Mayor Rahm Emanuel stated that illegal immigrants and their children work “incredibly hard” and are “welcome” in Chicago because they are “part of the Chicago family” (Key 2017).

3.2.4.3 Media frames

Once more, there is a partisan divide regarding the outlets and the types of stories on sanctuary cities they are likely to publish. Left-leaning outlets usually depict sanctuary laws as necessary to protect non-violent illegal aliens from deportation, right-leaning outlets usually depict them as violations of federal immigration law intended to harbor.

An article in the *Nation* applauded the federal courts for striking down the sanctuary city EO, because it evidenced “the strength of our system’s response when confronted by a president dismissive of civil rights, civil liberties, and the rule of law” (Cole 2017). An opinion column on NBC News said that California is “the last, best hope against Trump” because California knows “how to bead down racism (Arellano 2018).

Left-leaning outlets have also tended to magnify the negative interpretations of Mr. Trump’s statements. When Mr. Trump tweeted, “There is a Revolution going on in California. Soooo many Sanctuary areas want OUT of this ridiculous, crime infested & breeding concept,” an editor on CNN wrote a piece trying to get to the bottom of the term and stated that the fear of immigrations “‘breeding’ has been a staple of nativist thought

for hundreds of years” and that it has “an animalistic connotation” (Wolf 2018). Left-leaning outlets have also given a platform to people critical of sanctuary laws. Former New York Mayor Michael Bloomberg appeared on MSNBC and rejected the idea that everybody can “be deciding which laws they obey” because “[t]he law is the law” (O’Neil 2017).

Conservative outlets have gone much further. A piece on *Conservative Review* said, “When it comes to nullifying federal immigration statutes /.../ liberals suddenly develop an affinity for localism,” and that “liberals have the Constitution exactly backwards” (Horowitz 2016). An editorial on *National Review* said that President Trump was right to push in the opposite direction of President Obama, saying, “localities that specifically forbid their officials to provide information to federal immigration authorities are violating the black-and-white letter of the law” (*National Review* 2017c). And a column on the Hoover Institution website said that “sanctuary city” does not really imply anything “other than a place where advocates of illegal immigration ignore and override federal law to allow illegal aliens to reside, often in violation of the local, state, and federal law,” adding that “a more honest description” would be “secessionist cities” or “amnesty cities” because they are “defiant state-rights enclaves /.../ in Confederate fashion” (Hanson 2017). And as was the case with the previous aspects of immigration policy, many conservative commentators have criticized the injunctions place on the EOs of the administration (McCarthy 2017b).

Competing sympathetic and antagonistic frames are likely to magnify divisions among the populace, impeding the crackdown on sanctuary cities.

3.2.4.4 Judicial deliberation

Several counties and California promptly sued the Trump administration over the EO on sanctuary cities, arguing that the administration did not have the congressional authority to add new conditions to federal grants and that that denying grants to localities that did not provide immigration authorities extensive access and information violated the Constitution (Becerra *et al.* 2017: 21–25). In April 2017, District Court Judge William H. Orrick issued a nationwide injunction on the order (Orrick 2017). In July 2017, Judge Orrick declined to stay the injunction despite the DoJ issuing a request to reconsider the block in light of a memo that narrowed the scope of the original EO (Lima 2017).

In November 2017, Judge Orrick made the injunction permanent, stating that the plaintiffs have demonstrated that the EO violates the separation of powers and deprives them of their Fifth and Tenth Amendment rights (Visser 2017). In April 2018, the 7th Circuit Court upheld the nationwide injunction, stating that a “check against tyranny [must not be] forsaken” (Dinan 2018b).

In March 2018, the DoJ sued California over its sanctuary laws that prevent police from inquiring the immigration status of detainees and that prevent local and state law enforcement from sharing with federal immigration officials information regarding the release of illegals from custody (CNBC 2018).

The injunction against the EO that stripped sanctuary cities of their federal grants is a demonstration of how the judiciary can impede the execution of the administration’s proposed policies, thereby impeding successful securitization.

3.3 Analysis

This thesis sought to develop a model for ST which takes into account policy-making procedures, different *audiences*, the deliberation between the *securitizing actor* and those *audiences*, and the influence of the media and the judiciary as *functional actors*. Based on the results of the empirical analysis, the treatment of the media and the judiciary as *functional actors* is justified. Their distinct influence on the securitization process has been demonstrated in all categories of immigration policy.

The media influences the way the *securitizing moves* and EOs are perceived and received. In all the cases except for the border wall, media coverage was eminently partisan. As was predicted by the theoretical and contextual considerations outlined in [Chapter 1](#), the media was expected to magnify polarization among different *audiences*. This thesis did not seek to translate this impact into numerical terms, i.e. to measure precisely the impact the media had on public opinion, insofar that impact can accurately be measured at all. There seems to be an inverse relationship between the amount of media coverage a policy receives and the success of implementing that policy. Many aspects of immigration policy that pertain to enforcement, which are more widely understood to be the prerogative of the executive branch, have been performed with less backlash.

The judiciary influences whether *securitizing moves* can be completed by adopting a policy. In the case of the southern border wall, the district court held that the federal government can waive environmental laws to build the wall. The travel ban and sanctuary city EOs were blocked. Regarding restrictions on refugees and the increase in deportations, it is the incapacity of the judiciary to handle the sudden increase in immigration cases that is impeding the enforcement of immigration laws.

The enhanced model of ST that this thesis has developed provides a more comprehensive overview of how securitization processes actually unfold in real life. The Kingdon model captures the initial articulation of a security problem and the resulting policy-making and deliberation with the *audiences*. The case study showed that the deliberation between the *securitizing actor* and the *audiences* need not be direct. For example, widespread antagonism to a policy is more likely to yield legal challenges which may be upheld in court.

The Trump administration case study has revealed other unique insights as well. By relying almost exclusively on EOs, President Trump has challenged the temporal linearity of the Kingdon model. The *policy* and *politics stream* were largely combined by first issuing the EO and then revising it once about half of the *audience* had objected, usually also resulting in a federal injunction. Indeed, the reiterative deliberative interaction between *securitizing actors* and *audiences* does not permit for linear securitizations — unless *audience* assent is sufficient in the very first iteration. All these developments, including debates over threat images and the contents of the EOs, took place in the public eye.

The empirical case study also seems to indicate that *securitizing actors* tend to speak security to large *audiences* simultaneously, exerting influence on the public and policy-makers alike. The Kingdon model presumes a gradual expansion of the *audience* from select decision-makers to technocrats to the public at large. By articulating a threat publicly, the president influences policy-making processes in all three streams simultaneously. However, it may very well be that these theoretical concerns *vis-à-vis* the Kingdon model are specific to the Trump administration. Accounts of bureaucratic politics regarding previous administrations, for example, have demonstrated that tracing policy-making is applicable in the case of the US more generally. It may also be that if the Trump administration were to follow the established patterns of bureaucratic politics

— that which the Kingdon model was intended to theorize —, the feasibility and viability of the EOs would greatly increase. To the extent that the mercurial Trump administration turned the process on its head, the utility of the Kingdon model is nonetheless lessened. Besides, given that securitization aims to elevate political issues into security issues, the “normal” process of policy-making should not be expected to hold.

By including in the paradigm the judicial precedents outlined in [Chapter 1 Section 7](#), we have cause to assume that the several blocks by federal courts are likely to be overturned by the SC.

This thesis suggests that despite some theoretical concerns, the enhanced model for ST that incorporates Kingdon’s policy-making model, the explication of *(de)securitizing moves*, media frames, and judicial proceedings significantly improves the explanatory potential of the paradigm by providing a more accurate representation of reality. Securitization should be investigated across levels of analysis.

3.4 Suggestions for future research

Future securitization scholarship could follow several avenues. This thesis aimed to highlight the utility of an interdisciplinary approach to ST by putting different insights from different fields to the test in the empirical case study. Future research would do well to incorporate research in domains such as cognitive psychology and media studies to further enhance our capacity to understand security. For example, a lot of research remains to be done with regard to what arguments in what form *audiences* find most persuasive. Psychological insights are necessary to reveal how they respond to constructions of threats and insecurity. In other words, ST needs to take into account the essential features of the essential units that it investigates. Including interdisciplinary elements would help bridge the gap between theory and empirical research.

In relation to this thesis specifically, the revised *functional actor* concept could be applied to different empirical case studies, especially to test the roles of the media and the judiciary. A more comprehensive study would include a considerably larger percentage of TV broadcasts in the analysis to better understand the impact of media frames. Furthermore, future research could focus on the frames in news stories more than in opinion pieces.

An auspicious path would be to investigate the dynamics *between* different *functional actors* and the resulting influence on the success of securitization.

Finally, to restate what other ST scholars (e.g. Léonard and Kauner 2011), *audience* assent still requires operationalization. How to measure *audience* acquiescence and how to precisely define *critical mass*?

Conclusion

ST focuses on how certain entities are depicted as existentially threatened and how this can result in the elevation of political issues into security issues through the reiterative intersubjective deliberations between *securitizing actors* and *audiences*. This mutually-constitutive construction of security is influenced by contingencies such as *functional actors* and *context* that influence the success of *securitization moves*. Securitization makes it possible to adopt policies that go beyond the established norms in the political sphere. However, the original conception of the ST by the CS is marked by the severe under-theorization of several key concepts. Second-generation ST scholars have not fully ameliorated these concerns. The Trump administration case study served to inductively tackle the theoretical concerns still present in the ST paradigm.

This thesis had two overarching goals. First, it sought to develop a more interdisciplinary model of ST that accounts for policy-making procedures, different *audiences*, the deliberations between the *securitizing actor* and those *audiences*, and the influence of the media and the judiciary as *functional actors*. This endeavor necessitated intricate theoretical discussions regarding several key elements involved in securitization. Fields such as cognitive psychology and media studies were argued to be essential because of their intimate ties to the core units of analysis.

Second, with the particular case study feeding directly into the theoretical considerations, to produce a more nuanced and practicable conception the *functional actor*, which is an entity that (1) affects decisions in a field of security in general and the success of a *securitizing move* in particular, (2) cannot independently produce security meanings, (3) stands to gain or lose, in material, ideational, social, or other terms, as a result, and (4) can, in its particular function, operate as a secondary *securitizing actor* or as a *secondary audience* but is not the direct target of a *securitizing move*. Specifically, this thesis argued that the media and the judiciary should be treated as *functional actors* by ST paradigm, based on the increased potential of the enhanced conception to describe reality.

After providing a theoretical overview of the key units of analysis, including discussions on the functions of the media and the judiciary, the thesis constructed a model for analyzing securitization processes. To understand the dynamics between the

securitizing actor, the multiple *audiences*, and the media and the judiciary as *functional actors*, it is important to consider the *context* in which intersubjective interactions occur. The best way to do so is to delimit a policy area (such as immigration) and to discuss the events (such as terrorist attacks by immigrants) and attitudes (such as views on visa policies) germane to it. This thesis used public opinion polls to analyze public sentiments regarding several different aspects of immigration policy.

The *context* in which immigration policy has been conducted under the Trump administration was followed by the delineation of different categories of immigration policy. John Kingdon's three streams model, designed to describe the policy-making from the initial articulation of a problem till the final adoption of a policy, was applied to these categories, supplemented by *securitizing* and *desecuritizing moves* on part of the administration and its political opposition, by media frames that either facilitated or impeded the *securitizing moves*, and by the judicial proceedings that likewise have either facilitated or impeded the *securitizing moves*.

The results of the empirical study indicated that the treatment of the media and judiciary as *functional actors* is justified because their distinct influence on the success of *securitization process* is clearly demonstrable. By magnifying polarization among the populace, the media impedes successful securitization by limiting potential support for particular measures. The judiciary can prevent *securitizing moves* from being completed by blocking policies. In the case of the US–Mexico border wall, the courts allowed the government to waive environmental laws to build the wall. The travel ban and sanctuary city EOs were blocked multiple times. The incapacity of the judiciary to handle the increased backlog of immigration cases impedes the effective enforcement of immigration law by the executive branch.

The results of the study also indicate that an enhanced, interdisciplinary model of ST is a welcome addition because it increases the theory's explanatory potential by offering a more accurate representation of the entities involved in the process.

While the securitization framework has been considerably improved since its introduction two years ago, several unresolved theoretical obstacles remain. This thesis sought to take a step in resolving those obstacles and to offer novel avenues for future ST scholarship to embark upon, such as a more complete intertwining of the interdisciplinary elements with ST and the application of the enhanced analytical model to different cases.

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