Tales from the Riverbank: The art of government, policy-making, and politics - an insider's view

Anthony McNulty

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Abstract

This thesis examines the development of the Home Affairs policies of the New Labour Government (1997-2010) – specifically in the areas of counter-terrorism, policing, and immigration. Much of the most significant research on this government has focussed on political economy or politics in general. The Home Affairs agenda has been largely ignored and has only ever been dealt with in the context of civil liberties and the government's apparent proclivity towards authoritarianism. This thesis fills this lacuna and does so from a unique perspective of the researcher as a former Home Office minister.

It focusses on both how policy is devised, developed, and implemented, and the role of ministers at each stage of the decision-making process. These themes are explored through the analysis of three key case studies: the development of a points-based system of immigration for non-European Union migrants; the proposal to merge the 43 police forces in England and Wales into 12-15 strategic forces; and the development of pre-charge detention in counter-terrorism legislation.

Each area is analysed in the context of rational choice theory, historical institutionalism, and an interpretivist approach. The relevance of these theories to an understanding of the development of policy in the real world is discussed from the perspective of an insider. It considers the historical context of each area, how each policy was formed, and the ultimate success or failure of the implementation process. The empirical analysis includes interviews with over 45 participants in these events at the time, among them, former ministers, including cabinet minister, former civil servants, policy officials and special advisers.

The thesis contextualises these Home Affairs policy choices within the New Labour project in general and within the specific experience of government. It makes a hitherto unique contribution to political science since it represents a rigorous academic assessment and analysis of key policy areas by an active participant in the events described and analysed. It examines the key factors that inform both policy decision-making and the role of ministers from this dual perspective and argues that policies fail because so little regard is given to the factors that are afforded importance in an interpretivist approach.

Memoirs abound, but this thesis uses the insider's perspective and an interpretivist approach, to make a substantive contribution to the field of UK politics and public policy by arguing that policies fail unless the 'understandings, beliefs and practices' of all the actors are understood and clear policy narratives are established.

Introduction

Politics is about policy and position. Politics is about choice – but to make the choices you have to be a participant. Politics is about decisions - decisions that are made in the hurly-burly world of a multi-faceted, multi-layered, and multi-dimensional freneticism. Politicians have little time to stand still and reflect, little time to fully digest the complexities of the decisions they have to make, and little time to understand either the enormity or mundanity of these decisions.

Political decisions such as these are not made in laboratories, classrooms, lecture theatres or seminar sessions. Politicians seldom have the luxury of the academic – time. There is little or no time for introspection, reflection or thought. Former Home Secretary, Jacqui Smith,[1] related that

> I think one of the shocks of ministerial life is the speed with which decisions need to be taken. One of the shocks is the amount of paper…reading…general information and submissions that you need to process and the speed at which you need to do it. [2]

Ministers have to struggle to make time to learn - the work of the department does not stop just because there is a new minister in the department. John Healey[3], who held five various ministerial roles during the 1997-2010 government stated that

> I had no training beforehand, no training after, no support after and I had a big, fat lever arched file prepared by the department for new ministers which I never got to read.[4]

One of their first struggles will be to find room in the diary to go through the diary. Ministers have to find their feet very quickly – the machinery of government will roll on and over the minister if they do not assert themselves and do so quickly. New ministers seldom talk to their predecessors at any length. Some might see it as a sign of weakness, but I suspect the truth is that ministers who have moved on to new jobs are too busy to look back and ministers who have been sacked feel less than generous towards the people who have replaced them. Smith answered 'Not really' when asked

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[1] Smith was the MP for Redditch from 1997-2010

[2] Institute for Government (2016) Transcript, Jacqui Smith, June 2016, Ministers Reflect Archive, Institute for Government, Online: https://www.instituteforgovernment.org.uk/ministers-reflect/person/jacqui-smith/ p.3

[3] Healey is the MP for Wentworth and Dearne and has been since 1997

[4] Institute for Government (2016) Transcript, John Healey, May 2016, Ministers Reflect Archive, Institute for Government, Online: https://www.instituteforgovernment.org.uk/ministers-reflect/person/john-healey/

if she had any handover with Charles Clarke,[5] her predecessor as Home Secretary.[6] She continued that 'the challenge … is that if you are promoted or reshuffled into another ministerial job, you yourself then have all the challenges of that. So equally, I often didn't talk to the people who came into a job after me.'[7]

The only time I had substantive handovers with successors was when I stayed in the same department but moved roles – as I did at Transport and the Home Office.[8] Whatever the situation, ministers have to find out what their role is in the department and how they fit in to the decision making and policy making processes.

The thesis will attempt to show that the academic can be a politician, and the politician can be an academic, and that both worlds can benefit from an academic analysis which takes account of role of the participant – Roosevelt's 'man in the arena'.[9] If it is the case that these two worlds co-exist in a state of mutual misunderstanding or, indeed, no understanding at all, then both will suffer as a consequence.

It focuses on the role of ministers, in general and their role in the policy and decision-making processes of government in particular. We need to understand the varied roles of the government minister in all their complexity to comprehend politics and then understand the processes of policy development and decision-making, and the ministerial role within them. Ministers are very important to the smooth running of government and central to governmental decision-making. Ministers may appear all-powerful decision-makers but may feel anything but. As Barber puts it:

> From the outside people at the heart of government look all-powerful; on the inside they often felt helpless, stretched to and beyond breaking point by the weight of expectations on the one hand and the sheer complexity and difficulty of meeting them on the other.[10]

The central research problem is why do policies fail? Why do governments in general and politicians in particular invariably fail in policy terms? The key dependent variable in this study are the policies themselves – as represented by the three key areas of

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[5] Clarke was the MP for Norwich South from 1997-2010 and Home Secretary from 2004-2006.
[6] Institute for Government (2016) Transcript, Jacqui Smith. Op.cit. p.4
[7] Ibid. p.4
[8] See Appendix Two for the full history of my ministerial roles.
[9] Roosevelt, Theodore (1910) 'Citizenship in the Republic' Speech delivered at the Sorbonne Paris, France April 23, 1910 ("The Man In The Arena")
http://design.caltech.edu/erik/Misc/Citizenship_in_a_Republic.pdf Downloaded 13-2-15
[10] Barber (2015) *How to Run a Government: So that Citizens Benefit and Taxpayers Don't Go Crazy* Allen Lane Penguin London p.xiii

Home Affairs policy under discussion. The key task is to look in detail at each of the case studies and then compare across the three experiences to find some common ground. Central to this analysis is the insider perspective and how the rich description and analysis of such a perspective can advance our understanding of these processes, not just in terms of policy development but also an evaluation of the success or failure of the policy.

This first chapter looks at the world of government ministers and how they have been considered by scholars thus far. It discusses the literature on the role of ministers, the historic need for balance in cabinets, the turnover of ministers and the, until recently, dominance of cabinet ministers in the literature. It looks at how ministers have used memoirs, diaries, autobiographies and journalism – and the usefulness of these tracts.

The second chapter looks at the theoretical context of the thesis and elaborates on the three theoretical approaches that are utilised to discuss and analyse the role of ministers and the internal processes of government. As Bevir would have it, social scientists often employ two broad, dominant ways of studying politics.[11] One – rational choice theory – offers an "abstract general theory of more or less universal scope from which other theories or hypotheses could then be deduced, applied and tested." The other – new institutionalism – looks at a 'set of theoretical ideas and hypotheses concerning the relations between institutional characteristics and political agency, performance and change.'[12] The chapter looks at such phenomena in the context of correlations and typologies focussing on institutions, the impact of institutions on individuals and also the interaction between individuals and institutions.[13]

Given that the researcher is also a participant in the events under discussion, the work of the interpretivist school will also be of particular interest.[14] As Bevir et al would have it, interpretivists

[11] Bevir, Mark (2006) 'Political Studies as Narrative and Science 1880-2000' *Political Studies* Vol.54 pp583-606 p. 594-595

[12] March, James G and Olsen, Johan P (2006) 'Elaborating the "New Institutionalism"' in Rhodes, Rod, Binder.Sarah and Rockman, Bert (eds.) *The Oxford Handbook of Political Institutions* Oxford University Press, Oxford pp. 3-21 p.4. See also March, James G and Olsen, Johan P (1984) 'The New Institutionalism: Organisational Factors in Political Life" *American Political Science Review* Vol.78 No.3 pp.734-749

[13] Bevir (2006) Op.cit. pp.594-595

[14] See for example - Rhodes, Rod A.W. (2005) 'Everyday Life in A Ministry: Public Administration as Anthropology' *American Review of Public Administration* Vol.35 No.1 March 2005 pp.3-25 p.5; Bevir,

> …conceive of individuals not as passive supports of institutions or discourses but as agents who can modify inherited norms and languages for reasons of their own … [and] conceive of agency as inherently situated.[15]

Central to such an approach is an understanding of the data and events that make up the narratives relating to the role of ministers and the processes they are involved in and that '… agency always occurs against a particular historic background.'[16] Far too often, this approach has been overlooked but will be central to this thesis. It will further be argued that the perspective of a minister – an active participant in government – is very different from the perspective highlighted in the ethnographic, interpretivist research of Bevir and Rhodes and can therefore offer insights that both complement and go beyond their ground-breaking work.[17] This chapter will also consider the policy failure literature and how this may inform the analysis of policy and decision making. More broadly, the thesis will look at the use and usefulness of academic theory to the world of politics.

The third chapter details the methodological context and research design of the thesis. The research design comprised case studies, cross-case analysis and elite interviews. Each of the case studies relate to various aspects and events that occurred during the life of the last Labour Government 1997-2010. By using case studies that I was involved in, I am providing 'constructions of my own and other people's constructions of what I and my compatriots were up to'.[18] They are also case studies that have continuing relevance to and influence on the UK's politics today

The chapter summarises how effective case studies can be in helping to explain the phenomenon of agency and the events that ministers are involved in. After discussing the use of case studies, the chapter looks at the issues presented by interviewing elites as over forty-five of the participants in the events discussed in the case studies have been interviewed. The interviews were with a range of my colleagues at the time –

Mark and Rhodes, Rod A.W. (2006) *Governance Stories* Routledge Abingdon Oxford; Rhodes, Rod A.W. (2011) *Everyday Life in British Government* Oxford University Press Oxford
[15] Bevir, Mark Daddow, Oliver and Hall, Ian (2013)'Introduction: Interpreting British Foreign Policy' *British Journal of Politics and International Relations* Vol. 15, pp.163-174 p.167
[16] Ibid p.167
[17] See in particular Bevir, Mark and Rhodes, Rod A.W. (2008) 'The Differentiated Polity as Narrative' *British Journal of Politics and International Relations* Vol. 10 pp.729-734 ; Bevir, Mark and Rhodes, Rod A.W. (2009) 'Decentering Policy Networks: A Theoretical Agenda.' *Public Administration* Vol. 87 No. 1 pp.3-14; Bevir, Mark and Rhodes, Rod A.W. (2010) *The State as Cultural Practice* Oxford University Press Oxford
[18] Rhodes, Rod A.W. (2008) 'Frank Stacey Memorial Lecture 2008: '*Scenes from the Departmental Court' Public Policy and Administration* Vol. 24 No.4 pp.437-456.

departmental officials, police, policy advisers as well as a range of very senior politicians – and with politicians, journalists and academics beyond the department whose insights will be of value in informing the development of the narratives for each of the case studies.

The thesis also uses a range of public sources – the media, academic works, journals and books, general political output, Hansard, political journalism, blogs and other public records – to help recreate the narratives necessary to explain and understand the case studies. It looks at some important aspects of policy formulation and framing theory as they relate to the research design before returning to the notion of interpretivism and ethnography.

Chapter four contextualises the home affairs agenda within the broader New Labour project. Much of the academic literature on the New Labour government under discussion concentrates more on the wider theme of political economy, and home affairs is a much more secondary consideration. More has been written and discussed on foreign affairs, as Daddow contends. He maintains that

> … the defeat of New Labour in 2010 has 'encouraged reflection on the conceptual underpinnings – the 'big ideas' – that drove the execution of Britain's external policy over the *longue durée* of its 13 years in office'[19]

Hoyle and Rose noted in 2001 that an 'objective analysis of Labour's record in office across the whole field of criminal justice has been noticeably lacking'[20] and this remains the case nearly twenty years later – across the whole range of issues in the Home Office not least the subjects of the case studies – immigration, policing and counter-terrorism. The chapter will put the New Labour government into the broader historical context and show how home affairs became an area of 'contested terrain' during this period.

Chapters five, six and seven develop the narratives and analyses for each of the case studies, including the use of the results from the interviews carried out and my own recollections as a participant. The case studies concern events taking place under the

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[19] Daddow, Oliver (2011) '"Character is Destiny": Tony Blair's Foreign Policy Leadership' *International Studies Review* Vol. 13, pp.342-344 p.342
[20] Hoyle, Carolyn and Rose, David (2001) 'Labour, Law and Order' *Political Quarterly* Vol.72 No.1 pp.76-85 p.76

Labour Government during the period 2005 to 2008. Whilst the broad subject of each case study is immigration, policing and counter-terrorism, they specifically focus on the development of a point-based system for immigration; the police force mergers policy of reducing 43 forces to 12-15 forces; and the introduction of a pre-charge detention period of up to 42 days for terrorists. It will look at how each policy was formulated, what evidence was offered to support the range of options considered and what was their success or otherwise.

The case studies exhibit varying degrees of Government success and failure. I shall argue that the points-based system for immigration was the appropriate policy option but ended up being the right answer to the wrong question. It suffered because of the government's own confusion over its narrative. The police forces merger policy was entirely the correct policy option, the right answer to the right question, but a political failure because the ground had not been properly prepared both internally and externally. The introduction of a 42-day limit for pre-charge detention was the wrong policy answer to the wrong policy question and a complete fiasco. The government had already addressed the legislative issue and had significantly advanced its counter-terrorism policy in all other areas.

Chapter eight provides a more general analysis across the case studies and summarises the thesis's conclusions. The thesis makes a theoretical contribution to political science and our understanding of both how government works and how ministers work within government.

It makes use of existing political science theory, in particular an interpretivist approach, and the policy failure literature, to advance an understanding of how politics works that has practical relevance to today's politics as well as to a greater understanding of the New Labour government.

Chapter One

'Ministrables': a diminishing pool of decision-makers

Decisions, decisions, decisions

The purpose of this chapter is to look at how the academic literature has dealt with the subject of government ministers to date. It discusses what we know and how we know it from both an academic perspective and from the standpoint of former ministers and officials. It then goes on to consider how this thesis goes beyond this literature and uses my unique position as researcher and participant to ensure that this thesis adds to academic knowledge and understanding.

A fellow minister once declared to me that he 'loved being a Minister, but the only thing that spoilt it was all those bloody decisions.'[21] He was actually a good minister but given that much of ministerial life is to do with making decisions, this struck me as a strange thing to say. I have known university lecturers who could not stand teaching and more than one 'man of the cloth' who had only a passing interest in theology or God, but I simply could not understand why a politician would resist the satisfaction of making decisions. King argues that:

> Ministers decide. That continues to be the bedrock doctrine underlying the whole of Britain's governing arrangement… ministers are free, within the law, to do pretty much whatever they like – and if they dislike the law enough, they can usually change that to.[22]

Decisions are essential to the smooth running of each government department. Decisions allow the work of government to flow freely – and all substantial and significant decisions can be tracked back to a minister. For those who are only familiar with the UK model of government, this would seem to be a normal state of affairs. It may be that King not only overplays the complete freedom of ministers but also underplays the other forces that influence them. [23] However, his description does, to some small degree, reflect my experience as a minister. I would, though, suggest that those 'other forces' deserve greater scrutiny, for they are varied, ever-changing and increasingly important – especially the media. The twenty-four-hour omnipresence of the latter and its apparently increasing power – notwithstanding the Leveson Inquiry

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[21] Personal recollection of Author
[22] King, Anthony (2015) *Who Governs Britain?* Pelican (Penguin Random House) UK, p.167
[23] King (2015) Op.cit. p.167

and subsequent report[24] - need further investigation. Nonetheless, in the UK, departments have always been the powerhouses of policy making, with the Prime Minister having relatively limited resources to achieve his or her goals.[25]

The role of ministers is varied and multi-faceted, beyond simply making decisions – however mundane. Within a department, ministers have "a policy role… a political role … an executive role … a public relations role."[26] So, one would imagine that, as ministers are so very important to the smooth running of any government and central to governmental decision-making, they should be chosen from the broadest range of potential appointees. This is far from the case - they are drawn from a very limited parliamentary 'reservoir'. The Ministerial and Other Salaries Act 1975 does not explicitly state that ministers have to be members of either the House of Commons or the House of Lords – but this is the constitutional assumption made. When people are appointed who are not MPs, they take a seat in the Lords. It does make clear that there should be a limit on paid ministerial positions – 21 at Secretary of State level (plus the Lord Chancellor), up to 50 at Minister of State level and a total of 83 at Minister of State or Parliamentary Secretary level. This has often caused some difficulty for successive Prime Ministers who sought to use their extensive patronage to promote more people than the Act permitted to be paid.[27]

It may be difficult to imagine but Attlee's 1945-51 government managed with half the number of junior ministers as in the Blair/Brown government. Theakston et al. report that '…whereas Attlee had appointed 32 junior ministers in 1945 (29 Parliamentary Under Secretaries (PUSS) and 3 Ministers of State (MoS)), Blair initially appointed 64 in 1997 (32 of each) …' [28] By 2008, Brown had appointed 13 ministers in unpaid

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[24]The Leveson inquiry took evidence in 2011and 2012 and produced a report **-** Leveson, Brain (2012) The Report into the Culture, Practices and Ethics of the Press. It was published on Thursday 29 November 2012

[25] Yong, Ben and Hazell, Robert (2014) *Special Advisers: Who They Are, What They Do and Why They Matter* Hart Publishing Oxford and Portland p.14.See also Kavanagh, Dennis and Seldon, Anthony (2008) *The Powers Behind the Prime Minister: the Hidden Influence of Number Ten* HarperCollins London

[26] Yong, Ben and Hazell, Robert (2014) Ibid. pp.13-14. For more detailed exposition on role of ministers see Marsh, David Richards, David and Smith, Martin J. (2000) 'Re-assessing the Role of Departmental Cabinet Ministers' *Public Administration* Vol.78, No.2 pp.305-326

[27] Ministerial and Other Salaries Act 1975

[28] Theakston, Kevin, Gill, Mark and Atkins, Judi (2014) 'The Ministerial Foothills: Labour Government Junior Ministers 1997-2010' *Parliamentary Affairs* 67, 688-707

capacities to get around the legislation. Thus, the number of junior ministers has increased significantly since 1945.

So, the pool of *ministrables,* as King [29] would have it, is extremely limited. It is limited by number – at least of paid ministers – and limited by convention – ministers have to be members of either House of Parliament. This is not too problematic for the limited number of ministers that a government needs to sit in the Lords: the Prime Minister can simply ennoble them, but it can be in the Commons - where most of the ministers will sit.

Upon becoming Prime Minister, Brown appointed what Hennessy described as the "greatest import of experts of a non-political background since World War Two." [30] He made four such appointments as part of his first government and spoke of wanting a 'government of all the talents'. By doing so, he instantly offended all those in parliament who were expecting preferment but were overlooked. The message from Number 10 was that Prime Minister had to go beyond Labour's ranks to find good ministers. Any point about 'big tent' or non-partisan pluralism in the service of the nation was lost on them. These outside ministers would soon be termed 'GOATS'- as in Government of All Talents. Two of the four were installed as the second ranking 'deputy' position, or most senior Minister of State, in their respective departments – Mark Malloch-Brown at the Foreign Office and Ari Darzi at the Health department. The other two were appointed to relatively junior positions – Digby Jones as Trade Minister, albeit at Minister of State level and Admiral Alan West as my junior minister – at Parliamentary Under-Secretary level - for security at the Home Office. [31]

Discussion of the success or failure of these and other historical examples of ministerial 'goats' is for another time and place, but they do indicate the relatively limited 'pool' a Prime Minister has to draw on. It is far smaller than most other countries as King[32] explains. He points out that in France, the Netherlands and Sweden a government minister may not also be a member of parliament and an MP accepting a ministerial position must resign that role. In Germany, Italy, Poland and Spain this

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[29] King Op.cit p.169 *Ministrables* is a French term for 'potential minister'.
[30] Quoted in Seldon, Anthony and Lodge, Guy (2010) *Brown at 10* Biteback London p.10

[31] Seldon and Lodge (2010) p.10-11; Richards, Steve (2010) Whatever *it Takes* Fourth Esta**te** London p.268-269
[32] King Op.cit p.170

rule is relaxed, and a minister can be an MP but does not have to be. In all these countries "the country's president, prime minister or chancellor is free to appoint to ministerial office whomever he or she pleases." [33] King adds that of all the EU member states only the Republic of Ireland shares the requirement that ministers be parliamentarians – although it is a constitutional device that has been exported to Australia, New Zealand, Canada and South Africa.

Most post-war governments have had around 350-370 MPs to choose ministers from. The government of the day has only had more than 370 MPs on five occasions – 1945 (393), 1983 (376), 1987 (397), 1997 (418) and 2001 (412).[34] Realistically the actual pool of potential ministers is less than this 350-370 figure because any number of the MPs will either eschew ministerial office or will have been ministers before with only relative success, in the mind of the Prime Minister at least, be simply 'not up to it', as Attlee once rather cruelly told an 'about-to-be' ex-minister.[35] Also, some MPs may feel too old, whilst others will have just got elected to the Commons. The pool for the prime minister may be as little as 200-250 MPs for the entire ministerial cohort. The pool available for the cabinet is probably no more than 40-50, at the absolute maximum, in any given parliament. The entire system also has an in-built self-destruct mechanism – some MPs must stop being ministers for other MPs to begin being ministers. Over time, a steady pool of ex-ministers is built up and the pool for new ministers inevitably diminishes. The limited nature of the pool of putative ministers does mean that ex-ministers will sometimes have the chance of a revived ministerial career. This can also be a useful tool for party discipline, and occasionally provide for the triumph of hope over experience.

A matter of balance

Added to the limitations of the size of the cohort of potential ministers are other considerations that the prime minister must be taken into account. In the early days of Thatcher's first government, although her takeover of the Conservative Party was almost complete, she had to be mindful of the split between those who supported her

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[33] Ibid p.170

[34] Kavanagh, Denis and Cowley, Philip (2010) *The British General Election of 2010* Palgrave Macmillan Basingstoke pp..350-351

[35] This quote is often attributed to Attlee in response to junior minister John Parker MP when he asked why he had to give up his job.

in the 1975 leadership election and those who were more sympathetically disposed towards the vanquished Ted Heath. She famously represented the 'dry' wing of the party – ideologically very right-wing – and had triumphed over the left-wing, centrist wing of the party, represented by Ted Heath. Her first cabinet reflected this shift, but she maintained the fine balance between the two wings of the party and contained some ministers from what she would dismiss as the 'wet' wing of the party. She did not, however, find room for Heath, who would probably have refused any overture anyway.[36] Moore makes clear that Thatcher did not want to "upset the institutional applecart. Her appointments sought political balance more than ideological affinity."[37] Although Heath was a step too far, she did keep faith with a promise that she gave to Willie Whitelaw when he assumed the role of deputy leader of the party in 1975, that is, not to appoint Keith Joseph as Chancellor on the assumption of power. Joseph was one of Thatcher's key ideological lieutenants, but she understood that the kudos and balance achieved by having the loyalist Whitelaw as deputy leader and then Home Secretary and *de facto* deputy prime minister far outweighed her own loyalty to an ideological soulmate.[38] Over successive years, Thatcher's quip that 'every Prime Minister needs a Willie' seems that her focus on balance paid off.[39] Although Keith Joseph would never be Chancellor, Thatcher's cabinets became successively more and more in her own ideological image, but even she always needed to nod in the direction of ideological balance.

Geographic balance was far less a concern for Thatcher. Up to and including her governments, the Conservatives had been much more of a nationally based party than Labour had been. The Labour Party had only ever had realised broad national coverage at times of heightened electoral success – 1945, 1966 and eventually, 1997. The balance needed in cabinet had as much to do with class and ideology as it did with geography. Geography was important for Labour not least because of the dominance of Wales, Scotland and the North of England.

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[36] Moore, Charles (2013) *Margaret Thatcher: The Authorised Biography* Allen Lane London p. 430
[37] Ibid p.427
[38] Ibid p.427-428
[39] This is another one of those quotes oft reported but bereft of an official citation

Conservative cabinets since the war were broadly ideologically consensual until the arrival of Thatcher. They were characterised by the 'Butskellism'[40] of the post-war consensus far more readily than the post-war Labour cabinets were. Notwithstanding this post-war consensus which Labour maintained serious splits along ideological and class lines. There was a long-established schism between a traditional left and a traditional right in Labour ranks. Wilson and Callaghan certainly had to be aware that their cabinets would be scrutinised for a left/centre/right balance, a working class/middle class balance, and a balance between colleagues with a union background and those without. To more recent Labour leaders, these 'cleavages' mattered less and less, when it came to balancing their cabinets and ministerial teams.

Throughout the term of the 1997-2010 Labour government, the dominant internal division was between supporters of Blair and supporters of Brown. There was an ongoing subtext of New Labour versus Old Labour but all movement within the ministerial cohort was interpreted through this Blair/Brown prism. By 1997, the number of Labour MPs from a working-class background had significantly diminished, as had the number of MPs who came from a union background. As a consequence, MPs from both these backgrounds lost significant influence within the party.[41] There has also been a sharp decline in declared left-wing MPs – and the left of the party remained split between a soft left and a hard left.[42] Neither Brown nor Blair was that troubled by the routine left/right splits endured by Attlee, Wilson and Callaghan when in government and subsequently did not have to worry unduly about left/right balance within the cabinet or the broader ministerial cohort.

New balance for a 3G Government: geography, generation and gender

Both Blair and Brown had to be more concerned with new, emerging divisions in the party's ranks which were rooted in the luxury of large parliamentary parties from which to choose ministers. These divisions, the three Gs – geography, generation and

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[40] First coined by The Economist journalist Norman Macrae in 1954. See The Economist (2010) The unacknowledged giant – Norman Macrae at https://www.economist.com/obituary/2010/06/17/the-unacknowledged-giant
[41] See MP occupational tables in Kavanagh, Dennis and Butler, David (2005) *The British General Election of 2005* Palgrave Macmillan Basingstoke; Kavanagh, Dennis and Cowley, Philip (2010) Op.cit and the previous editions in the series
[42] The difference between the hard left and the soft left goes back to the 1981 deputy Leadership election. The Tribune group of MPs supported Denis Healey or abstained. Benn supporters formed the Campaign Group (later Socialist Campaign Group) in 1982

gender - were very different from the past. Geography now mattered – but in the context of London and the broader south of England, not the traditional Labour heartlands. Generation now mattered much more than it had done in the past because of the continuing churn and turnover of MPs since 1997. MPs elected after 1997 made up 25% of the Parliamentary Labour Party (PLP) by 2005.[43] Gender also began to matter much more, not least because of the impact of all-women shortlists. Although progress remained slow after the 1997 surge in the number of women MPs[44] on Labour's benches, there was more and more pressure on the Labour leadership to promote and advance women – from the media as well the party. [45]

In 1992, the last time the Conservatives formed a majority government until 2015, there were only 20 women Conservative MPs – so gender would not have been quite the concern it would rightly become by 2010 and the Coalition government. By 2015, 68 women MPs were elected under the conservative banner – and they expect preferment to ministerial office just as their male counterparts do. [46]

So, in short, ministers do not drop out of the sky and prime ministers do not have *carte-blanche* on who they can appoint to these positions. The number of paid ministers is limited by statute; the source of ministers is limited by status and convention to the Lords and Commons; and the mix of ministers is limited by internal party considerations, particularly of the three Gs – geography, generation and gender. For the 1997-2010 Labour government, the main ideological division was not between Old and New Labour, but between the supporters of the two principal architects of New Labour – Blair and Brown.[47] For the Conservative governments before 1997 and

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[43] Kavanagh and Butler (2005) Op.cit Table 10.4 pp.162-164. When Labour lost power in 2010, 52% of the remaining Parliamentary Labour Party was elected after 1997

[44] At the 1997 election 101 women Labour MPs were elected. The previous two Labour governments – in 1964 and 1974(October) respectively saw only 18 women MPs elected. The post-97 low point for women Labour MPs was the defeat in 2010- 81 MPs, 20 less than 1997. By 2015, it was back up to 99 – over 40% of the PLP

[45] See UK Political Info 'Women MPs and parliamentary candidates since 1945 at http://www.ukpolitical.info/FemaleMPs.htm

[46] Ibid

[47] For more on these divisions, see Rawnsley, Andrew (2001) *Servants of the People: The Inside Story of New Labour* Penguin Harmondsworth and (2010) *The End of the Party: the Rise and Fall of New Labour* Penguin Harmondsworth; Richards, Steve (2010) *Whatever it Takes* Fourth Esta**te** London; Riddell, Peter (2005) *The Unfulfilled Prime Minister: Tony Blair's quest for a legacy* Politico's Publishing London

since 2010, notwithstanding the minor inconvenience of a five-year coalition with the Liberal Democrats, the main ideological division was Europe.

Ministerial 'churn'

In an *Institute for Government* report, the authors concluded that "a real constraint on ministerial effectiveness is that many ministers do not stay in their posts long enough, as a result of over-frequent reshuffles."[48] This was a common complaint by many of the ministers they interviewed for the report. The authors state that 'Few ministers are in the same job long enough to see a policy through from inception, via legislation, to implementation.'[49] This is important, not least because it is a very fortunate minister who gets to start a policy process as well as see it through. Government is, by its very nature, dynamic – government departments run to their own internal rhythm, new policies do not simply come in the front door with a new minister. Somewhere along the line, as the media became more and more important and all-pervasive in UK politics, reshuffles became 'media events'. They were increasingly used to revitalise or relaunch governments. They became a demonstration of the resolve and determination of the Prime Minister. They were no longer simply an administrative process to fill all the roles available, but a rewards and punishment system that was hung constantly about ministers' necks.

The turnover of ministers cannot be conducive to good government. Astonishingly, as the *Institute for Government* report highlights, the Labour government from 1997-2010 had 'six defence secretaries, eight trade and industry secretaries, eight business secretaries and six home secretaries (including three in four years).'[50] Indeed, in my time as a minister in the Home Office from May2005 until October 2008 – a total of 41 months – I served three different Home Secretaries each with very different styles and priorities – Charles Clarke, John Reid and Jacqui Smith. John Reid held seven cabinet posts in eight years – including Health, Defence and the Home Office – not exactly an advert for stable government.

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[48] Riddell, Peter, Gruhn, Zoe and Carolan, Liz (2011) *The Challenge of Being Minister: Defining and developing ministerial effectiveness* Institute of Government London pp.20-21
[49] Ibid pp.20-21
[50] Ibid pp.20-21

For Jack Straw, this churn was very ineffective. He claims that both Blair and Brown "misused reshuffles as a way of turning attention away from bad news (like poor election results)."[51] He argues that such constant churn led junior ministers, but also the government as a whole, to function far less well than they could have done if they were left for longer to get on with their newly appointed jobs. Straw relates that over the course of the thirteen years of the Labour government, 60 different MPs and peers occupied the 23 cabinet posts – an aggregate of 127 posts. He maintains that amongst junior ministers (including whips) the position was even worse with 770 changes of posts including 39 changes at the Foreign Office and 45 at the Home Office.[52] I held a total of 9 posts in government over twelve years – from Parliamentary Private Secretary to Minister of State. [53]

There are both advantages and disadvantages to the way prime ministers change their ministerial personnel. As we have seen, many regard stability of tenure as a key element of efficient government, but this does not always follow. Traditionally, the whips office – the party and government business managers – is the training ground for new ministers and an important part of a parliamentary apprenticeship. As Prime Minister, Blair resisted this tradition and appointed MPs straight into the ministerial ranks. This was partly because he did not completely trust the first two incumbents of the role of Chief Whip – Nick Brown or Anne Taylor - and regarded them both as 'traditionalists'[54] and partly, because he did not appreciate the importance of the office.

Normally, the Whips Office is where future ministers learn their trade – and many spend at least a short time as whip. If you walk down the corridor that includes the Chief Whip's Office in Downing Street the walls are lined with photographs of the Whips Offices from previous years. It is striking how much the photographs of the Conservative Whips' Offices contain future Cabinet Ministers, the Labour photos much less so. The Whips' Office was considered much more an apprenticeship and precursor to ministerial office for the Conservatives. The measure of a good Chief Whip was as someone who got 'their people', i.e. the whips, promoted to higher office.

[51] Straw, Jack (2012) *Last Man Standing: Memoirs of a political survivor* Macmillan Basingstoke pp.549-550
[52] Ibid p.550
[53] See footnote 13 above
[54] Personal recollection of Author

There were seldom any bottlenecks in Conservative Whips Offices. Here, at least, turnover was a virtue.[55]

The absence of this natural turnover of whips assuming ministerial office during the normal course of events meant, for the Labour government, by the 2001 election, there was a real bottleneck. Promotions were not being made at a sufficient pace. In the first reshuffle after the election, only five of the whips stayed in the office. Three others were promoted into ministerial ranks, but the remaining eight, half of the office, were sacked, even though many of them had good ministerial potential. This could have caused real problems both in terms of the resentment caused and the relative inexperience of the incoming team, including a new Chief Whip. It didn't for two reasons. Firstly, in Hilary Armstrong, Tony Blair had the Chief Whip he wanted and could trust completely. Secondly, the loyalty of those who were sacked meant they all took it with a good deal of grace and dignity.[56] It may be, of course, that this was part of the calculation when deciding who to sack to make room for others. Stability, then, can become sclerotic just as churn and turnover can be destructive rather than efficient. It is, again, a matter of balance, but it is also important from the perspective of those seeking advancement. If there is little movement in the Whips' Office, then backbenchers lose hope.

The tension is between those concerned that turnover poses a 'real constraint' on effectiveness[57] and those who think that ministers *should* be detached from their departments and that staying for too long in one department can lead to 'capture' by the officials.[58] Labour Minister Tony Crosland is often quoted in favour of at least a degree of ministerial longevity.[59] He is much cited as saying "It takes you six months to get your head properly above water, a year to get the general drift of most of the field and two years really to master the whole of the department." [60] The balance remains, perhaps, a fine one and the last word on turnover should go to Riddell who,

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[55] See Renton, Tim (2004) *Chief Whip: People, Power and Patronage in Westminister* Politico's London and Brandreth, Gyles (2015) *Breaking the Code: Westminster Diaries* Biteback London for further details on Conservative Whips Offices
[56] Personal recollection of Author
[57] Riddell et al (2011) Op.cit pp.20-21
[58] Alderman, R.K (1995) 'A Defence of Frequent Ministerial Turnover' *Public Administration* Vol.73 Winter 1995 (497-512) pp.499-500
[59] Ibid p.502
[60] Boyle, Edmund Crosland, Anthony and Kogan, Maurice (1971) *The Politics of Education* Harmondsworth Penguin p.155 quoted in Alderman (1995) Op.cit 502

nearly twenty years before the Institute of Government report cited above, said that real issue was "how to improve the quality and range of experience of those in the House of Commons"[61] and, by definition, how to improve the available pool of *les Ministrables.*

For all the concerns about balance, in many instances, the experience of the new minister may have little to do with the prime ministerial worries at all and more to do with more intangible factors. However much the 'Westminster Village' contends that all departments are equal (except perhaps for the 'big three', that is, the Treasury, Home Office and Foreign Office), it is clear there is very much a pecking order. Cabinet ministers from each of the departments have to 'get in line' when opting for their ministers. One mentioned to Riddell et al that all the bargaining and bartering that went on for the most promising junior ministers 'all depends on your place in the pecking order.' They continued that 'weaker or new heads of departments had no real say in the choice of junior ministers.'[62] Secretaries of State become very adept at letting the individuals in their ministerial teams know that, of course, they wanted them all along.

First impressions: minimalists, mandarins' ministers, MoS-sies and PUSS-sies

However much the constitutional experts will tell you that there is no difference – legally, technically and constitutionally – between the Ministers of State (MoS) and the Parliamentary (Under-) Secretaries (PUSS) – there is. They are viewed very differently by both other ministers and MPs – and certainly by officials and civil servants. Some Secretaries of State are extremely status conscious and would recognise a MoS before a PUSS in meetings and would invariably ask a MoS to deputise for them but not a PUSS. Civil servants will watch the relationships between all ministers and the Secretary of State very keenly. Some MoS may clearly be on a fast-track to the cabinet, or at least think they are, and will be treated as such if this is a view shared by both their colleagues and officials. Both levels of junior minister – MoS and PUSS – come to their new roles with some degree of baggage – personal

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[61] Riddell, Peter (1993) *Honest opportunism: the rise of the career politician* Hamish Hamilton London quoted in Alderman (1995) Op.cit 511. See also King, Anthony and Crewe, Ivor (2013) *The Blunders of our Governments* Oneworld Publications London Chs.22-23
[62] Riddell et al (2011) p.18

connections and experience, party connections and experience or, indeed, professional connections and experience. It is always useful, as observer, academic or rival, to know and understand these linkages and networks. Each new minister comes with a history and 'political footprints' – and good colleagues, civil servants and members of the media – both know and understand the provenance of a new minister.

Sometimes, however good or bad the first impressions made by a new minister they are initially judged against their predecessor. When Roy Jenkins was appointed to his very first ministerial post as Minister of Aviation, the *Spectator* predicted that he "will shine brightly at the scarcely impossible task of doing better than Mr. Julian Amery."[63] He also proved to be good in the House of Commons very quickly into his ministerial career. Three weeks after his appointment, Campbell relates, the *Daily Telegraph* reported that "… in little more than half an hour he established himself as one of the most formidable and powerful debaters on the Government Front Bench….Rarely has a new Minister made so decisive an impact on the House."[64] Such parliamentary performances still matter and the "main criterion for promotion remains parliamentary, rather than necessarily administrative, skills."[65] Lord Norton of Louth bemoaned the notion that some ministers survived 'because of their performance in the House even though they may not be good at taking decisions and managing their departments.'[66] It may well be the case that a good performer in the House obtains preferment faster than other colleagues, but it is not clear that a ditherer or a bad decision-maker will advance just because of such performing skills. Clearly, performance in the House becomes all the more important in the context of a hung parliament or a government with a small minority.

So, the lot of ministers is governed by a range of issues, many of which are clearly beyond their control. The Prime Minister's consideration of an array of different balancing factors – especially more recently, geography, generation and gender – is complicated by an array of further considerations – longevity, turnover, departmental teams, House and media performance. The list is endless. And all this for a role that is seldom reported upon favourably, if at all and one that sits firmly under the prime

[63] *Spectator* 23.10.64 quoted in Campbell, John (2014) Roy *Jenkins: A Well-Rounded Life* Johnathan Cape London p.245
[64] Campbell, John (2014) Roy *Jenkins: A Well-Rounded Life* Johnathan Cape London p.247
[65] Riddell et al. (2011) p.19
[66] Quoted in Riddell et al. (2011) p.19

minister and his or her cabinet. When the media or the academic world focuses on minsters, it is invariably at cabinet level, not below. Yet, the prevailing strata of junior ministers at both MoS and PUSS level at any given time will contain tomorrow's cabinet ministers. If merit was the only criteria for advancement to the role of minister, then a Prime Minister would be well-advised not to appoint people whom they could not see sitting around the cabinet table. As I have indicated, there are many other factors beyond simply merit and competence that result in the appointment of MPs as ministers.

As Riddell et al make clear

> … secretaries of state have dominated the discussion on ministerial performance in previous studies and memoirs. But there are four times as many junior ministers as those in the cabinet and their role has often been neglected."[67]

They go on to say that ministers of state and under-secretaries often play a very important role in delivering change and implementing policies. Theakston, 'a leading academic student of junior ministers'[68] maintains that the pattern of appointment and promotions has not altered much since the Victorian era. With his colleagues, he believes that "junior ministerial jobs remain key apprenticeship posts in the British system" and while they accept that the experience can be limiting and frustrating, junior ministers "undertake many essential ministerial functions and help maintain political control and accountability in government."[69]

Power games

One such dimension in the 1997-2010 government was the relative relationship, at any given time, of each individual MP to the both the Blair and Brown camps – and the relationship of any of the new ministers or Secretaries of State to Blair and Brown too. One senior Home Office official related that when Jack Straw[70] arrived for the first time

> … he came in … and … didn't talk … about the New Labour manifesto, … he talked about which MPs were Blair's and which MPs were Brown's…I thought 'what on earth is this all about? [71]

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[67] Ibid p.18
[68] Ibid p.19
[69] Theakston et al (2014) Op.cit p.689
[70] Straw was MP for Blackburn from 1979-2015 and the first Home Secretary of the new government.
[71] Interview with Author 2016-2017 (F11)

It was made very clear to me when I joined John Prescott in the newly formed Office of the Deputy Prime Minister (ODPM) in 2002 that the worst thing I could do was to have any dealings with Number 10 that he did not know about. He did not want to curtail any interactions I had with the Prime Minister's Office in my role as an MP or as a minister – he just wanted to know about it. I used to joke to colleagues, after ending my term as an MP, that for the duration of the government the Blairites thought I was a Brownite and the Brownites thought I was a Blairite – and Prescott was not sure at all what to think. Such concerns bedevilled the Labour Government of 1997-2010 and impacted on the entire ministerial strata as we shall see in the analysis of the case studies.

Another dimension is the distribution of power within a department. Theakston says that there are "still reports of Permanent Secretaries taking a lofty attitude towards Parliamentary Secretaries, as well as claims that officials try to exclude or isolate the small fry and attempt to by-pass or appeal against the decisions of junior ministers."[72] Junior ministers are at their most vulnerable when first appointed as they are unaware of the power relationships within the department and can get 'run over'. As an example, I offer the following anecdotal evidence together with an analysis of the power relationship within parentheses and italics:

Within days of my appointment to the position of Minister of State in a department, the Permanent Secretary walked into my office unannounced.

(I am superior to you but as a mark of respect I have walked the 500 yards between our offices but have not made an appointment because I am superior.)

He sat down in a very friendly manner and started to discuss the split of responsibility between me and my junior minister.

(I will determine what your role is because it is far too trivial a matter for the Secretary of State – and certainly none of your business, you should do what you are told.)

He was fully anticipating that I would receive this information with equanimity and due deference and do what I was told. I did not. I thanked the Permanent Secretary

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[72] Theakston, Kevin (1999) 'Junior Ministers in the 1990s', *Parliamentary Affairs*, 52, 230–245 pp.239-240

profusely for his kind consideration of what my role and that of my junior should be and explained that I had not even considered the matter yet.

(Thank you for fulfilling this administrative task, sorry to disappoint you but I have not made my decision on the matter yet.)

I said that I would happily give it the fullest of considerations.

(This is a decision for me to make, in the context of the political and governmental realms, not an administrative one that I am going to agree to simply for your bureaucratic convenience.)

I said I would have a word with my junior colleague, and we would both go to the Secretary of State with our determination on how the responsibilities should be divided between us.

(You work for us, not the other way around – and the politicians – not the civil servants, will decide who does what. Oh, and I take my guidance from my Secretary of State – not from you.)

Clearly, in the case above, if the Secretary of State had come back and agreed with the Permanent Secretary, then I would have had to comply – and rightly so. But I knew the Permanent Secretary was seeking to establish the power relationship between us from the very start and I was not going to take it. As it happens, the Secretary of State agreed entirely with the eventual division I had arrived at in consultation with my junior. I knew too that the *Ministerial Code* clearly states that whilst the "Permanent Secretary is not subject to the directions of the junior minister, equally, junior ministers are not subject to the directions of the Permanent Secretary."[73] When disputes of any description arise at any level, they are ultimately resolved at the Secretary of State-Permanent Secretary level. Such disputes are easier when it comes to Special Advisers (Spads) as they are first, and foremost political appointees and the disputes are resolved in the political realm.

Once the split of responsibilities has been established, what do junior ministers actually do? Digby Jones' description of the role as "one of the most dehumanising

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[73] *Ministerial Code* https://www.gov.uk/government/publications/ministerial-code Quoted in Ibid p.239

and depersonalising experiences a human being can have" is not one I recognise, and neither is his characterisation of the whole system as being "designed to take the personality, the drive and the initiative out of a junior minister"[74] Most commentators agree that junior ministers, like cabinet ministers, fulfil a range of roles. The key roles of cabinet ministers have been variously described as policy, political, executive/managerial and public relations; or policy, politics, management and diplomat.[75] Headey identified three types of policy roles for cabinet ministers; the initiator, the selector and the legitimator or minimalist.[76] Marsh et al. go further and suggest that the policy initiator can either be narrowly focussed on narrow policy areas and 'agenda-setters' who actually try to change their department's policy agenda.[77] They also point out that in general, civil servants prefer their ministers to be both decisive and to have political judgement. This makes sense as these are the key skills and qualities that officials need in their ministers.

The major differences in the role of ministers as set out in Headey's seminal work in the early 1970s to the early 2000s world of Marsh et al, are the increased role of public relations and the media; a much more developed role in policy-making for all ministers; and an increasingly political environment within each department, not least with the growth of special advisers. Marsh et al, conclude that ministers matter and

> … are important. Civil Servants cannot act alone; they lack the legitimacy to do anything without ministerial authority, which explains their preference for decisive ministers.[78]

Further, while ministers have multiple roles, this is not to suggest that they are "omnipotent actors, able to bring about significant political and cultural changes inside and outside departments."[79] The action of ministers needs to be considered within the structural context in which they operate. One should not overestimate ministerial power, nor assess it outside of its immediate context.

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[74] Public Administration Select Committee (2009) 'Good Government', HC 97-II, Eighth Report of Session 2008-2009, London, the Stationary Office. P. 283 quoted in Theakston et al (2014) p.689-690
[75] Marsh, David, Richards, David and Smith, Martin J. (2000) 'Re-assessing the Role of Departmental Cabinet Ministers' *Public Administration* Vol.78, No.2 pp.305-326 – quoted in Theakston et al (2014) p.690-691; Rhodes, Rod A.W. (2011) *Everyday Life in British Government* Oxford University Press Oxford p.52-55
[76] Headey, Bruce (1974) *British Cabinet Ministers* Allen & Unwin London p.71
[77] Marsh et al (2000) p.307
[78] Ibid. p.324
[79] Ibid p.325

Theakston highlights three broad areas of junior ministerial activity – "departmental work, parliamentary duties and 'ambassadorial' or 'representative' functions [80] - a narrower focus than for cabinet ministers, as one would anticipate. Theakston shows how the role of junior ministers has changed over time – especially the role of ministers of state.

Summary

This then is the world within which ministers make the decisions that constitute the lifeblood of any government. There is a limited pool from which to choose ministers in the UK system and the circumstances of virtually each minister are distinct and different. I was a minister or a whip for eleven of the thirteen years of the 1997-2010 government and have a unique insider's view to bring to this thesis.

Much of the academic discussion about the role of ministers revolves around the two distinct worlds of policy and politics. In reality, the two worlds are interchangeable, and it is here that the minister dwells. However, detailed a study a researcher can undertake about the life of a minister and the political processes they deal with, they cannot live the life and role of the minister. However comprehensively the journalist, commentator or academic can understand how policy is formulated, their perceptions cannot rival those of the insider. This is not to argue that the insider perspective is superior, it comes with its own baggage, but to argue that such a view is unique and brings new perception and a significant contribution to knowledge. Yes, there are ontological difficulties that come with such a perspective, but there are real strengths to the researcher as participant. This thesis develops three in-depth narratives in three key public policy areas to illustrate how the insider's perspective is of real importance to our understanding of both the role of the minister and the processes the minister deals with on a daily basis.

In terms of the case studies, all took place in the Home Office over a three-year period – 2005 to 2008 - when I was a Minister of State there. Ironically, given what has been discussed on the notion of ministerial churn and stability – I served three different Home Secretaries during those three years.

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[80] Theakston et al (2014) p.690-691. See also Theakston, Kevin (1987) *Junior Ministers in British Government* Blackwell, Oxford

From May 2005 to May 2006, I was the Minister for Immigration, Citizenship and Nationality and worked with the then Home Secretary, Charles Clarke on the introduction of the points-based system for non-EU immigrants. My junior minister was Andy Burnham.[81] One of the first things we did together was a re-run of the ID Cards Bill. [82] Mindful of what was said earlier about how junior ministers crave a policy area of their own, Clarke was keen to give Burnham the ID cards area as a discrete issue that warranted that sort of focussed attention. I acquiesced but remember being annoyed that part of my ministerial 'fiefdom' was being given to somebody else. Burnham did a good job with the brief. Clarke and Number 10 both knew that I had plenty to do with the rest of my brief and the development of the points-based system in immigration.

From May 2006 until October 2008, I was firstly Minister for Crime Reduction, Policing and Community Safety, and then thereafter the Minister for Security, Counterterrorism, Crime and Policing. The Home Secretary, until July 2007, was John Reid,[83] who had replaced Charles Clarke in May 2006. One of my first roles as the new Policing Minister was to determine whether one of Clarke's key policies – the rationalisation of the 43 police forces in England and Wales into 12-15 regional strategic forces – remained feasible or not or whether it should be scrapped. My junior minister at the time was Vernon Coaker, MP for Gedling.[84] The posts lent themselves to a reasonable split in responsibility between the Police, Security and Counter-Terrorism elements on my side and the Policing, Community Safety and Crime Reduction element on Coaker's side.

In June 2007, when Brown replaced Blair as the Prime Minister and Reid stepped down, Jacqui Smith was appointed Home Secretary and almost immediately faced her first test. The day after her appointment, two car bombs were found in the Haymarket area of central London. They had failed to detonate, and the ensuing pursuit ended up with a Jeep-style vehicle trying to crash through into the terminal building at Glasgow Airport. Smith handled the media so well that day that she won plaudits from all quarters. Home Office media personnel have told me that on news of her appointment

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[81] Burnham is now the Mayor of greater Manchester city region.
[82] Identity Cards Bill 2006 at https://publications.parliament.uk/pa/ld200506/ldbills/071/2006071.pdf
[83] Reid was the MP for Airdrie and Shotts from 1987 until 2010 and now sits in the House of Lords as Baron Reid of Cardowan.
[84] Coaker has been the MP for Gedling since 1997 and succeeded me as the Policing Minister in 2008.

they thought the focus was going to be around the 'first woman' to be appointed Home Secretary and whether she would be up for the job.[85] All such doubts disappeared after the way she handled the Haymarket bombs and subsequent activity.

My time as a government minister means that I bring both a wealth of experience and a unique insider perspective to the analysis of the case studies that are central to this thesis. But before going on to discuss in full the case studies, the theoretical framework of the thesis and the methodological framework and research design are discussed in detail in the next two chapters.

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[85] Interview with Author 2016-2017 (F32)

Chapter Two

Theoretical Context: rational choice theory, new institutionalism and interpretivism

Policy context and development : an ugly business

Decisions are essential to the smooth running of government departments and, indeed, the country. Academics have tried a range of different ways in which to get to grips with the nature of decisions and the necessary precursory elements such as policy development, formulation and implementation. This chapter looks in some detail at these approaches and whether or not they offer any useful insight into the task of analysing the public policy case studies that are under discussion. The chapter begins with a brief look at the nature of the policy context and how policies are developed, before going on to look at some of the key aspects of rational choice theory, new institutionalism and interpretivism. It then discusses the policy failure literature in detail before positing an analytical framework rooted in both the literature and my extensive experience as a government minister.

In the world of policy making certainly nothing is straightforward and there are many different facets, dimensions, and perceptions at play. Heclo argues that "policy-making is a form of collective puzzlement on society's behalf; it entails both deciding and knowing."[86] He also asserts that the policy process is iterative in that "policy invariably builds on policy, either in moving forward with what has been inherited, or amending it, or repudiating it". [87]

Kingdon identifies two key elements to the policy making process – the 'agenda', that is "the pressing problems of the moment" and 'alternatives', the policy options that are available to resolve the problems identified.[88] He goes on to describe three autonomous streams through which actors – social and political – mobilise to promote specific issues or policy options. It could be argued that these three streams – problem, policy, and political streams – are reflected at every stage of the policy process,

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[86] Heclo, Hugh (1974) *Modern Social Politics in Britain and Sweden: From Relief to Income Maintenance* Yale University Press, New Haven Connecticut p.305 quoted in Béland, Daniel (2005) 'Ideas and Social Policy: An Institutionalist Perspective' *Social Policy and Administration* Vol.39 No. 1 February 2005 pp. 1-18

[87] Heclo (1974) Ibid

[88] Kingdon, John W (1995) *Agendas, Alternatives, and Public Policies* HarperCollins New York p.3. See also Béland (2005) Op.cit p.6

including at the highest level of government. It may well be that each of these streams contract and the options become more limited the higher up the policy process one travels, but they remain present. They do not arise in a vacuum – they are rooted in these wider policy streams and the choices reflect the wider society.

Kingdon's problem stream, or how issues get on to the policy agenda in the first place, refers to how issues become serious enough to be considered as pressing problems that require action. Such problems can be short-term or long-term, institutional, or one-off, unique, or cyclical, local or national (or even multi-national), situational or ideological, reactive, or proactive, threatening or fading, original or expected, routine or catastrophic, real or imagined. They can emerge as a result of events beyond the government's control or as a matter of government action. Kingdon relates that bureaucrats, elected politicians and the public become aware of socially constructed economic and social problems through *statistical indicators*, spectacular *focusing events* or *feedback* from previously enacted policies.[89]

Statistical indicators entail the increasingly important, often economic factors that the media especially determines are so important – growth rates, exchange rates, unemployment rates, poverty rates – many of them cyclical in nature. Focusing events refers to major dramatic events that not only attract media attention but had a significant impact on society. They include events such as natural catastrophes such as earthquakes, unexpected political developments such as the reaction to the Poll Tax in 1990, terrorist outrages such as the bomb attacks in London in July 2005, and economic disasters such as the 2008 economic crash.[90] In other words, a focussing event

> …is sudden; relatively uncommon; can be reasonably defined as harmful or revealing the possibility of potential future great harms; has harms that are concentrated in a particular geographical area or community of interest; and that is known to policy makers and the public simultaneously.[91]

Feedback effects relate to how current policies are being implemented and their impact in the areas concerned. The Conservative Government of the 1980s, following a long

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[89] Kingdon (1995) Ibid pp.90-164 Quoted in Béland (2005) Op.cit. p.6-7
[90] Darling, Alistair (2011) *Back from the Brink: 1000 days at Number 11* Atlantic Books London; Hindmoor, Andrew and McConnell, Allan (2015) 'Who saw it coming? The UK's great financial crisis' *Journal of Public Policy* Vol. 35 Issue 1 pp. 63-96
[91] Birkland, Thomas A (1998) 'Focusing Events, Mobilization and Agenda Setting' *Journal of Public Policy* Vo. 18 No.1 pp.53-74. See also Kingdon (1995) Op.cit. pp.94-100

history of objecting to the relative financial autonomy of local government, stood on a platform of a radical overhaul of local government finance. The resulting policy was the community charge – the poll tax. Others have reported in more detail on the genesis of the poll tax,[92] but the feedback received on it was damning and after much consideration the policy was changed. Feedback is only of value in any given policy scenario if it is legitimised, listened to and acted upon – it is otherwise entirely redundant.

Kingdon's policy stream concerns the development of paradigms and alternatives to the issues that require solutions. [93] This stream concerns policy experts who work for academic institutions, governments, and interest groups. These are potentially the 'epistemic communities' that Balch refers to,[94] that is actors that frame alternatives and legislative proposals which coagulate and stew in what Kingdon calls a 'policy primeval soup.' The latter contains the many policy ideas floating around that "combine with each one another in various ways".[95] He suggests, quite rightly, that most alternatives are grounded in policy paradigms. Once again, it is clear that policies are not determined in a vacuum – there are temporal, legacy, ideological and a range of other dimensions that contribute to the overarching paradigms and alternatives. Béland argues that such paradigms and alternatives have a dialogical nature – that is, "each of them only exist in opposition to other policy ideas available in a particular policy environment at a precise moment in time."[96] This is not strictly the case as there are those who would articulate a preferred or ideologically rooted policy response to a problem above and beyond alternatives or any temporal considerations.

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[92] Clarke, Charles (Ed.) (2014) *The Too Difficult Box: the big issues politicians can't crack* Biteback Publishing London; King and Crewe (2013) Op.cit esp. Chapters 16 and 17; Raynsford, Nick (2016) '*Substance not Spin: An Insider's View of Success and Failure in Government.'* Policy Press, University of Bristol Bristol ; McGrath, Conor (2002) 'Policy making in political memoirs: The case of the poll tax' *Journal of Public Affairs* 2:2 pp.71-84

[93] Kingdon (1995) Op. cit p.117-118

[94] Balch, Alex (2009) 'Labour and Epistemic Communities: The Case of 'Managed Migration' in the UK.' *The British Journal of Politics and International Relations* Vol.11, pp.613-633 pp.613-614. See also Haas, Peter (2001) 'Epistemic communities and policy knowledge', *International Journal of Social and Behavioural Sciences* 11578-11586; Haas, Peter (2004) 'When does power listen to truth? A constructivist approach to the policy process' *Journal of European Public Policy* Vol.11 No.4 pp.569-592

[95] Ibid. P.117

[96] Béland (2005) Op.cit p.9

Entrepreneurs and advocates, frames and framing

Whatever the policy direction agreed upon, the proposals will still need to be advanced and supported by 'major political advocates.' This is the core of Kingdon's 'political stream', [97] wherein key factors are providing the political backdrop within which the policy will be successful or otherwise. These factors include variables such as electoral results, pressures from interest groups and shifts in public opinion. Such factors afford chances to change, shift or sway policy and, as Béland notes, Kingdon identifies these factors as the terrain on which successful policy entrepreneurs advocate their preferred policy solutions and grasp the political opportunities afforded.[98]

Such policy entrepreneurs try to make the problem, policy and political streams converge as this is necessary to gain advancement and success. Policy ideas need powerful actors that have an interest in promoting them. The institutions within which they promote them will largely help to determine success as will the timing – the moment – at which the policy alternative is promoted. Béland quotes an example of such timing from Hansen and King.[99] They noted that the whole area of eugenics was becoming increasingly popular as a matter of social policy on the Left and the Right of the political spectrum in both Western Europe and the USA in the 1920s. The advent of the Nazi regime in Germany in the 1930s reduced the legitimacy of eugenics as a social policy tool. Bernard Shaw is quoted in Freedland[100] as saying that "…the only fundamental and possible socialism is the socialisation of the selective breeding of men' even suggesting that defectives be dealt with by means of a 'lethal chamber'". Post-Second World War policy entrepreneurs would not have got anywhere had they showed the same degree of enthusiasm for eugenics that their Leftist forebears had evinced prior to the war. Timing is all important for the success of a policy alternative.

In addition to a propitious blend between powerful actors, political institutions and catching 'the moment' policy entrepreneurs utilise and mobilise political symbols that

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[97] Kingdon (1995) Op.cit p.122. See also Béland (2005) pp.9-11
[98] Ibid pp.9-11
[99] Hansen, R and King, D (2001) 'Eugenic ideas, political interests and policy variance: immigration and sterilisation in Britain and the US.' *World Politics* Vol. 53 pp.237-63
[100] Freedland, Jonathan (2012) 'Eugenics: the skeleton that rattles loudest in the left's closet' 17/2/16 at http://www.theguardian.com/commentisfree/2012/feb/17/eugenics-skeleton-rattles-loudest-closet-left

are 'ever-present in a shared ideological repertoire'[101] These shared symbols and political representations are mobilised during policy debates to frame the issues and shape public opinion.[102] As we shall see when we look in detail at each of the case studies, policy makers must constantly justify their political and technical choices.[103] To do this, ideas, and other forms - ideology, legacy and other variables, as discussed earlier, provide them with "symbols and concepts with which to frame solutions to policy problems in normatively acceptable terms through transposition and bricolage."[104] Campbell continues arguing that "...frames appear typically in the public pronouncement of policy makers and their aides, such as sound bites, campaign speeches, press releases, and other very public statements designed to muster public support for policy proposals."[105] The ability to frame a policy programme in a politically and "culturally – acceptable and desirable manner is a key factor that can help explain why some policy alternatives triumph over others" and "why elected officials decide to 'do something' in the first place."[106]

No policy is developed within a vacuum. No policy is determined without at least an understanding of the context within which it is to operate and some knowledge of the policy it is to replace. Campbell maintains that policies are framed in order to make them politically acceptable. [107] He goes on to say that in order for policy programmes to be adopted "political elites strategically craft frames and use them to legitimise their policies to the public and to each other."[108] Other observers are keen on how the policy is relayed – that is, how devices such as political advertising, rhetoric and symbolic politics play a role in policy making and formulation. [109] This dimension of academic enquiry has expanded significantly over recent years, especially in the context of

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[101] Béland (2005) Op.cit p.10
[102] Ibid p.10.See also Marx Feree, Myra (2003) 'Resonance and radicalism: feminist framing in the abortion debates of the United States and Germany.' *American Sociological Review* Vol. 109 No.2 pp.304-44
[103] Béland (2005) Op.cit p.10
[104] Campbell, John L. (1998) 'Institutional Analysis and the Role of Ideas' *Theory and Society* Vol. 27 No.3 (June 1998) pp.377-409 p.394
[105] Ibid. p.394
[106] Béland (2005) Op.cit p.12
[107] Campbell, John L (2002) 'Ideas, Politics and Public Policy' *Annual Review of Sociology* Vol.28 (2002) pp.21-38 p.26
[108] Ibid p.27
[109] For further discussion see Block (1996) *The Vampire State* New Press New York; Edelman, Murray (1964) *The Symbolic Use of Politics* University of Illinois Press Urbana, Illinois and Jamieson, Kathleen Hall (1996) *Packaging the Presidency* Oxford University Press, New York.

rhetorical political analysis, political marketing and advertising and the use and role of symbols.[110]

Campbell is right to contend that researchers "rarely explore the process by which frames are constructed, tested, transformed and fit to the prevailing normative and cognitive paradigms residing in the background of policy debates."[111] Policymakers, he argues, may 'use frames to conceal their true motives from others whom they are trying to persuade'[112] It is also the case that one of the aims of the policy is precisely the development of a new frame. Of course, it is often difficult empirically to determine when policy makers are expressing their true motives rather than framing the argument in terms that they think will conform to what others want to hear. So, it is important to discern how it can be established whether policy makers are being truthful rather than manipulative framers, or truthful and manipulative framers, or indeed whether they act differently with different audiences depending on whether the audience in internal or external.[113]

Rational choice theory posits that the preferences and bargaining of actors, including how they frame policy, explain decisions and outcomes.[114] The focus is clearly on the individual – not processes, groups, networks or institutions. Institutional approaches argue that political organisations such as parliament, legal systems, and bureaucracies shape decisions and outcomes. The focus is clearly on the norms embodied in constitutional rules and conventions within the institutions. Bevir and others[115] assert that a 'new institutionalism' emerged in the 70s and 80s to push back against the prevailing dominance of behaviourism and rational choice theory, both of which dismissed institutions as "no more than a simple aggregation of individual

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[110] See, for example Lees-Marshment, Jennifer (2008) *Political Marketing and British Political Parties* 2nd Edition Manchester University Press Manchester and New York. On rhetorical political analysis see Atkins, Judi and Finlayson, Alan (2013) '…." A 40-Year-Old Black Man Made the Point to me": Anecdote, Everyday Knowledge and the Performance of Leadership in British Politics.' *Political Studies* Vol.61, No. 1 pp.161-177; Finlayson, Alan (2007) 'From Beliefs to Arguments: Interpretive Methodology and Rhetorical Political Analysis.' *British Journal of Politics and International Relations* Vol. 9, pp545-563; Martin, James (2013) 'Situating Speech: A Rhetorical Approach to Political Strategy' *Political Studies* Vol.63 No.1 pp.25-42. On symbols see Barthes, Roland (1977) *Image Music Text* Fontana Press London; Bourdieu, Pierre (1977) *Outline of a Theory of Practice* Cambridge University Press Cambridge
[111] Campbell (2002) Op.cit p.27
[112] Ibid p.28
[113] Ibid p.28
[114] John (2012) *Analysing Public Policy* Routledge London p.12
[115] Bevir (2006) Op.cit p.595..

preferences."[116] For 'new institutionalists,' the "organisation of political life makes a difference" and they define institutionalism as a set of "theoretical ideas and hypotheses concerning the relations between institutional characteristics and political agency, performance and change."[117] In essence, institutions – the state, society, courts, bureaucratic agency or legislative committee – are political actors in their own right. These two competing approaches are rooted in the ongoing discourse between the rational and the incremental, or the deductive and the inductive, in political science. This chapter now looks at each of these approaches in detail to see if they can help explain and analyse the case studies.

Rational choice theory: a repugnance for politics and the complexities of political life

Rational choice theory is rooted in this foundational ontology. Smith and May suggest that the debate between rationalist and incrementalist models of decision-making is essentially an artificial one – and that both approaches are lacking.[118] John says that "the main problem with the rational-incrementalist debate is that both models capture elements of decision making even though the textbooks present them as polar opposites."[119] Whilst the incrementalist model may be regarded as having some value as an "empirical model of how decisions are made", it lacks any real normative value. Rationalist models, on the other hand, "are empirically inaccurate or unrealistic" whilst purporting to be both normative and prescriptive. The question is whether either approach is of any value in an assessment of the efficiency of policy formulation and decision making.

For Hay, the appeal of rational choice theory "lies in its promise to deliver a naturalist science of the political. Crucial to this is the assumption of rationality, which effectively serves to render (political) behaviour predictable in any given context."[120]

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[116] Lowndes, Vivien (2010) 'The Institutional Approach' in Marsh, David and Stoker, Gerry (eds.) (2010) *Theory and Methods in Political Science* Palgrave Macmillan Houndmills Basingstoke pp.60-79 p.61

[117] March and Olsen (1984) Op.cit pp.746-747; March, James G and Olsen, Johan P (2006) 'Elaborating the "New Institutionalism"' in Rhodes, Rod, Binder.Sarah and Rockman, Bert (eds. (The *Oxford Handbook of Political Institutions* Oxford University Press, Oxford pp. 3-21 p.4

[118] Smith, Gilbert and May, David (1980) 'The Artificial Debate Between Rationalist and Incrementalist Models of Decision Making' *Policy and Politics* Vol.8 No.2 (1980) pp.147-161 p.154

[119] John (2012) Op.cit p.25

[120] Hay, Colin (2004) 'Theory, Stylised Heuristic or Self-Fulfilling Prophecy? The Status of Rational Choice Theory in Public Administration' *Public Administration* 82 39-62 p.39

Given their economistic roots, rational choice theorists make some simple assumptions to sustain this predictability. Hindmoor summarises this as methodological individualism; the use of models; rationality; self-interest and subjectivism, or political individualism. If rational choice theory is useful in explaining and analysing public policy, then it should be applicable to the three case studies under investigation.

There have been many variations and developments of the original rational choice theory that grew out of these deductive 'scientific' roots in economics (and, to an extent, mathematics). The thesis will look at whether or not, in the complex and highly developed world of politics, any of the starting assumptions of this theory – assumptions common to all of these variations – can be recognised as of any value to analysis.

These assumptions are adhered to rigidly by some proponents and more flexibly by others - as a rigidly deductive schema by some, with its assumptions about human behaviour as absolute, and as a starting point for the development of hypotheses by others. Methodological individualism means that political processes and outcomes are completely determined by the actions and interactions between individuals and, at its purest, takes no account of the surrounding environment, structures, history, culture or context. The use of models can be framed either by this deductive absolutism or by a more flexible approach. The purity of the model is of little use to the pragmatic politician or academic seeking to utilise models to explain, analyse, digest and learn from public policy-making.

The assumption of rationality is an instrumental one. Rationality means that actions are judged against the extent to which they constitute the best way to achieve goals. It is about means rather than ends and the maximisation of utility. Self-interest means precisely that – all actors are motivated by self-interest. This is rooted partly in a conviction that this is how people are and partly to assist in creating these deductive models. Other people matter, but only in the context of the individual achieving his or her own goals. The emphasis on self-interest has led some commentators to link a rational choice approach with the political right. Subjectivism means that 'what counts

for rational choice theorists is what people want.'[121] Sometimes, when people clash with government, there is a seeming mismatch or gap that emerges between, for example

> …public demands to limit immigration (together with the 'control' rhetoric of politicians) and the [political] reality of an increasing volume of immigration… [encouraged by the government or otherwise][122]

When this gap is clear, it is difficult to discern which 'rationality' prevails and how long the gap persists. Many suggest that the growing support for further control on immigration and the rise of right-wing parties has its roots in this gap.[123]

The thesis applies some of these starting assumptions to the reality of today's politics. Hay argues that the "self-serving, utility-maximising behaviour in situations of perfect or near-perfect information translates into collectively irrational outcomes."[124] For some, this implies an antithesis between a rational choice approach and collective provision or an antithesis between such an approach and benign view of the role of the state at all. Hay speaks of the 'almost natural affinity between public choice theory on the one hand and the new right's antipathy to the state' being plausibly rooted in the projection of such pessimistic assumptions onto public officials that the rationality implies.[125] The thesis also looks at this relationship and asks if this concept of rationality is relevant to today's politics? Or does it imply an antipathy to the role of the state and collective provision in general?

Neiman and Stambough argue that "rational choice theory is imbued with normative commitments…the most important of (which) derive from the typical rational choice practitioner's loathing of 'politics' as process and a kind of celebration of the private exchange of markets." They refer to rational choice theory as a 'flight from politics' and argue that 'at the very time that popular disquiet with "politics" as a means of making governing choices has reached a climax, the infatuation with rational models

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[121] Hindmoor, Andrew (2006) *Rational Choice* Palgrave Macmillan Basingstoke p.3-4
[122] Somerville, W and Goodman, Sara Wallace (2010) 'The Role of Networks in the Development of UK Migration Policy' *Political Studies* Vol. 58 pp.951-970 p.951.
[123] See Ford, Robert and Goodwin, Matthew (2014) *Revolt on the Right: Explaining Support for the Radical Right in Britain* Routledge, Abingdon; see also Mulvey, Gareth (2011) 'Immigration under New Labour: Policy and Effects' *Journal of Ethnic and Migration Studies* Vol.37 No.9 pp.1477-1493
[124] Hay (2004) Op. cit p.43
[125] Ibid p.43-44

has grown.'[126] Their point about the loathing of "politics" is a moot one. Survey data in the United Kingdom, at least, shows that in answer to a question about which occupational groups you 'would trust', 18% said 'politicians generally' in 1983 – not a wonderful score, but by 2013 the figure was still 18%. Sadly, this only goes to show that politicians have never been particularly trusted as there certainly was not a particular 'climax' of disquiet in 1998. [127] Some in the rational choice school have sought to deal with this by positing that politics is just another marketplace – imbued with the supposed rationality of such markets.

At least part of this distrust is rooted in the notion that politicians will do and say anything for a vote in such a market. So, it is important to look in detail at the idea of politics as a marketplace and, in particular, the spatial metaphor of the centre ground in politics as outlined by rational choice theorist Downs.[128] Hay contends that

> … a quite startling range of authors have … been impressed by the similarities between Labour's 'politics of catch-up', with its studious targeting of the 'median voter' and the Downsian logic of electoral rationality. [129]

Hindmoor's *New Labour at the Centre*[130] utilises a 'Downsian' analysis to explain how New Labour repositioned itself in the political centre ground in the 1990s especially under Tony Blair. But he moves the model on from Downs. He suggested that the centre ground the party seeks to occupy is not some pre-determined fixed 'centre ground' that a utility/vote maximising party moves towards, as under Downs' spatial theory. Rather he argued, that the centre can be constructed, shaped and defined. Hindmoor's work offers some insights into how a modification of some of the rigidities of rational choice theory can help the analysis of the public policy case studies.

Whereas Downs would recognise the pre-existing centre and would map how a party would move from either left or right to occupy the centre ground, Hindmoor sees

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[126] Neiman, Max and Stambough, Stephen (1998) 'Rational Choice Theory and the Evaluation of Public Policy' *Policy Studies Journal* Vol. 26 No.3 1998 (449-465) p. 450-451
[127] See Ipsos-Mori. 40 years on – www.ipsos-mori.com
[128] Downs, Anthony (1957) *An Economic Theory of Democracy* Harper Collins London. See also Hindmoor, Andrew (2005) 'Reading Downs: New Labour and *An Economic Theory of Democracy.'* *British Journal of Politics and International Relations* Vol. 7, pp.402-417
[129] Hay, Colin (1999) *The Political Economy of New Labour: Labouring Under False Pretences* Manchester University Press Manchester pp.76-77
[130] Hindmoor, Andrew (2004) *New Labour at the Centre: Constructing Political Space* Oxford University Press Oxford

things as much more complex. He sees them as much more flexible and, ultimately, much more rewarding than simply an anodyne drive to the centre to command votes regardless of policy. He makes use of a range of different approaches to explain how New Labour 'constructed a new centre ground.'[131] This centre ground is constructed through rhetoric, through innovation, through framing and through leadership. His notion that 'parties cannot simply move to the political centre by abandoning one set of policies and adapting another. They must construct the positions they seek to occupy.' Of course, there are limits to this process of construction, Hindmoor contends, and suggests that this difference to Downs' theory is a function of four factors – policy and position; creativity; spin and choice. [132] This is not 'spin' in the crude sense suggested by countless commentators throughout the government's time in office. [133] Just as

> …parties must convince voters that they are at the political centre, that their policies are moderate and that those of their opponents are extreme … spin is an essential part of the political process. [134]

Daddow has argued that establishing New Labour as a successful national movement '… entailed the reinvention of the language of the party's politics for public consumption' and that 'New Labour took the collapse of an already fragile distinction [between policy and language] … to new levels.'[135] Daddow's point about language and policy is well-made given, as we shall see, the importance of narrative.

Of all the variations of rational choice theory, Hindmoor's adaptation and reassessment of Downs is the most appealing. As will be seen later, one of the key contentions of this thesis is that some aspect of each of the three case studies under review was unpopular and policies that a party simply seeking to maximise its vote would not have pursued them. Many of the 'startling range of authors' that Hay referred as utilising Downs, claim that '…the driving force behind programmatic renewal in the Labour Party since 1987 has been the search for votes." [136] If this was the case, then the government would never have adopted policies that were so

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[131] Ibid pp. 6-9
[132] Ibid pp. 6-12, pp.12-15
[133] See, for example, Jones, Nicholas (2010) *Campaign 2010* Biteback London
[134] Hindmoor (2004) Op.cit. p.14-15
[135] Daddow, Oliver (2011) *New Labour and the European Union: Blair and Brown's logic of history* Manchester University Press Manchester
[136] Shaw, Eric (1996) *The Labour Party since 1945* Blackwell Oxford p.181

unpopular. Hindmoor's model is, as we shall see, utilised as part of the analysis of the case studies.

Critics have argued that the assumptions underpinning rational choice theory are simply wrong. People do not just act out of pure self-interest or utility maximisation, and nor do they do so in a world of perfect and comprehensive information. Further, rational choice theory can privilege structure over agency but only when accounting for incentives and ignores ideas completely when the real world is a synthesis between structure, agency and ideation.[137] Rational choice theory has, at best, a rather limited empirical record and, at worst, a very poor one.[138]

For, if the rational choice theorists are accurate in the assumption that people generally and political actors, in particular, are only self-interested, utility maximisers then this does not imply a predisposition to the collectively focussed, altruistically-driven politics of the left or centre-left. Indeed, Nieman and Stamborough claim that, with few exceptions, "rational choice theorists begin with a deep repugnance for politics as a means of making choice."[139] Downs' vote-maximisation theory, as adapted by Hindmoor, goes beyond this view. He argues that:

> …academic interpretations of New Labour have downplayed or ignored the very possibility of persuasion. This may be because they have been derived form a theory interpreted in such a way as to mean that parties can only increase their votes by changing position and can only change position by changing their policies.[140]

Using this to explore both the role of ministers and the decision-making and policy-making processes of government will help underline the importance of persuasion and a greater understanding of government – and goes beyond the shortcomings of rational choice.

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[137] Hindmoor, Andrew (2010) 'Rational Choice' in Marsh, D & Stoker, G (2010) *Theory and Methods in Political Science* Palgrave Macmillan Basingstoke p.54
[138] Green, Donald P & Shapiro, Ian (1994) *Pathologies of Rational Choice Theory* Yale University Press New Haven CT pp.5-7 pp.202-204
[139] Nieman and Stamborough (1998) p.451
[140] Hindmoor (2005) p.415

New institutionalism

Lowndes has argued that 'institutions matter' because they are central to an

> …understanding of political behaviour and political outcomes, not just for the purpose of post-hoc explanations, but to anticipate the shape and dynamics of ongoing political projects.'[141]

For March and Olsen, 'the organisation of political life makes a difference' and political institutions play a more autonomous role in shaping political outcomes.[142] They have argued that the norms and values embodied in political institutions shape the behaviour of individuals. Lowndes asserts that the 'new institutionalism' has emerged as a "reaction to the 'under-socialised' character of dominant approaches in the discipline".[143] However, the socialisation that she refers to is defined in a very broad context. The new institutionalism is concerned with the informal conventions of political life as well as with formal constitutions and organisational structures. It operates with a "more expansive (yet more sophisticated) definition of its subject matter and with more explicit (if diverse) theoretical frameworks." [144] For Goodin, political institutions are no longer equated with political organisations; 'institution' is understood more broadly to refer to a 'stable, recurring pattern of behaviour'. Of course, formal institutions – such as parties, legislatures, civil service, electorates and judiciaries – still matter, but the old focus on formal rules and organisations is enhanced by trying to understand informal conventions, relationships and networks.

Tony Blair visited the Home Office in May 2006 to introduce John Reid as the new Home Secretary. This was a turbulent time for the department in the wake of what became known as the 'foreign national prisoners' crisis'[145] and the sacking of the previous incumbent, Charles Clarke. Blair described the Home Office as unique amongst government departments in that all of its apparent 'client groups' had a negative relationship with it.[146] The ultimate 'customers' of the Home Office - criminals, asylum-seekers, prisoners, terrorists – all had an antagonistic relationship with the department. Its ultimate 'customer' – the public – had an entirely ambivalent

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[141] Lowndes et al (2013) *Why Institutions Matter: The New Institutionalism in Political Science* Palgrave Macmillan Houndmills Basingstoke p.199
[142] March and Olsen (1984) Op.cit. p.747
[143] Lowndes (2010) Op.cit p.61
[144] Goodin, R (ed.) (1996) *The Theory of Institutional Design* CUP Cambridge p.22
[145] See Wilson, Rob (2014) *The Eye of the Storm: the View from the Centre of a Political Scandal* Biteback Publishing London for more on this crisis
[146] Personal recollection of Author

relationship with the department, in that they only generally encountered it on negative terms – as the result of trouble. Its immediate 'clients' – police, prison system, intelligence services – all act as 'producer' interests and seek resources from the department. Understanding this elaborate web of both formal and informal interests is better done by new institutionalism which elaborates the granularity of reality.

As March and Olsen relate:

> … the bureaucratic agency, the legislative committee, and the appellate court are arenas for contending social forces, but they are also collections of standard operating procedures and structures that define and defend interests. They are political actors in their own right. [147]

Institutions are not inert, they possess active, participatory dimensions. The old institutionalism relied on descriptive-inductive methods, the new experiments with deductive approaches that start from theoretical concepts about the way institutions work. [148] The old had a real concern for formal written rules such as contracts, job descriptions, committee terms of reference, budget systems; the new would now include practices, unwritten conventions, informal norms and values, informal power networks, informal meanings and customs, informal impact of history and prior choices. It is important to understand how these formal and informal 'actors' relate to each other, especially within a department as complex as the Home Office and to understand both the formal and informal ways that actors develop strategies.

Hay and Wincott argue that:

> … actors are strategic, seeking to realise complex, contingent and often changing goals. They do so in a context which favours certain strategies over others and must rely upon perception of that context which are at best incomplete and which may reveal themselves inaccurate after the event. [149]

The difficulty in the political world is that it is a world of competing contexts in a world of contested terrain. Lowndes highlights a range of differing strains of new institutionalism to explain the role of these actors but accepts that they are probably now converging in many ways. [150] She looks at a range of features common to each of these differing strains overall approach.

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[147] Marsh and Olsen (1994) p.738
[148] Lowndes (2010) Op.cit. p.64-66
[149] Hay, C and Wincott, D (1998) 'Structure, Agency and Historical Institutionalism' *Political Studies* Vol. 46 pp.951-957
[150] Lowndes (2010) Op.cit. p.66-70; Lowndes and Roberts (2013) pp.40-45

The first such common feature among the varying strands of the new institutionalism is an advance on the initial shift from the formal to the informal. The very real concern for the informal as well as formal dimensions of organisational constraints has moved on to include discourse theory, narrative methodologies and studies of political rhetoric.[151] It looks at the ways in which institutions take the form of a collection of stories about the 'way we do things round here'. Home Office officials play an interesting game with new Home Secretaries – they constantly remind them how long they have been in office and how it compares to their predecessors. So, on a weekly basis, there are light-hearted conversations about how the incumbent Home Secretary is no longer the shortest in post, having just surpassed the tenure of one of his or her illustrious predecessors. But all the time the implicit message is '*Respice post te! Hominem te esse memento! Momento mori!*'[152], that is, 'Look behind you. Remember that you are a man. Remember you are mortal'. In other words, 'we now have a strong say over your political destiny and your political mortality.'

The second common feature within new institutionalism concerns a stability-dynamic continuum. Stability has always been seen as a key feature of organisations. Before new institutionalism, Huntington defined political institutions as "stable, valued and recurring patterns of behaviour"[153] There is a recognition that they are not stable as a result of some magical process and the key is to establish the processes and dynamics that allow institutions to remain stable, especially at times of change. This approach explains that the mechanisms for stability and destabilisation are the same. Stability is conditional on the continuing presence of particular forms of support. As Lowndes contends, "an institution is destabilised when change occurs in the institutional environment." This is particularly the case when the institutions with which it is connected are destabilised.[154]

Streeck (2001) argues that institutions are 'continuously established, restored, redefined and defended against all sorts of disorganising forces' – internal and

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[151] Lowndes (2013) Ibid pp.41-42 See also Feldman et al. (2004)
[152] Whilst there are many claims to the origin of this phrase from the classic world, none are substantiated. It is sometimes ascribed to Tertullian, but the provenance of such claims remains in doubt.
[153] Huntington, Samuel (1968) *Political Order in Changing Societies* Yale University Press New Haven, Connecticut
[154] Lowndes (2013) Op.cit. p.42

external, endogenous and exogenous.[155] During my three years in the Home Office, there were at least two major reorganisations and a constant review of departmental structures in the context of its continuing programme of legislation.

The third common feature is the use of power and critique inside institutions. For institutionalism, events and processes are described in the context of existing values norms and structures. Power is formal and clear and there is no room for any substantive discussion. Lowndes's second phase institutionalists understood that institutions reflect the values of society – including its power relationships – formal and informal, overt and hidden. What the institutionalists reported in neutral terms were in fact processes, procedures, structures and arrangements that embodied and reflected the politics, power relationships, challenges, contest and conflicts – formal and informal – inside each and very institution. The most mundane piece of information, the most routine of processes can be loaded with the power relationships that are determined both within and beyond institutions. The most mundane social interaction can reinforce norms and values. Pierson contends that 'every time we shake hands, the strength of [a] norm is reinforced'. He goes to say that:

> The same argument can be applied with considerable force to collective understandings – of how the world works, what is to be valued, what an individual's interests might be… who that individual's friends and enemies might be[156]

The new institutionalism also understands that institutions are 'messy and differentiated'.[157] There is also recognition that there are very different power resources within institutions and that there is no such thing as completely 'closed' institutions.

For institutionalists, it is institutions that determine, or at least shape, certain outcomes in political life. Nonetheless, Lowndes points to two sources of contingency. Firstly, she argues

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[155] Streeck, Wolfgang (2001) 'Introduction: Explorations into the Origins of Nonliberal Capitalism in Germany and Japan', in Streeck, Wolfgang and Yamamura, Kozo (eds.) *The Origins of Nonliberal Capitalism: Germany and Japan* Cornell University Press New York quoted in Lowndes (2013) Ibid p.42
[156] Pierson, Paul (2004) *Politics in Time: History, Institutions and Social Analysis* Princeton University Press Princeton and Oxford pp.39-40
[157] Lowndes (2013) Ibid p.43-44

> … understanding how any one political institution operates requires that we locate it within its wider institutional context and study its two-way linkages with other institutions – political and non-political, at the same and different spatial scales, and across the passage of time.[158]

Secondly, contingency is 'understanding [that] institutional dynamics requires an appreciation of the mutually constitutive character of agents and institutions,' that is to say although institutions are the product of human agency they constrain it at the same time. Lowndes calls this the 'Janus-faced' nature of institutions.[159]

The final common element to the various stands of the new institutionalism – structure and agency – is the recognition that actors within institutions must have some reflexive and strategic capacities. Actors, to at least some extent, must have the capacity to look back and learn from past experience and also be able to look forward and attempt to influence future events. In older models of institutionalism, the capacity for an actor to have any agency was entirely dependent on their position within the structure and forms, rules and norms within the institution. The new institutionalist analysis is more compelling and Lowndes point to other methodologies that new institutionalists are starting to utilise such as ethnography and case studies.[160]

Pierson notes that a path-dependency approach rooted in an institutionalist context is useful in studying the causal processes in institutions.[161] He quotes Sewell as defining path-dependence as

> … what has happened at an earlier point in time will affect the possible outcomes of a sequence of events occurring at a later point in time.'[162]

Yet, if there is such a causal dependency, not every element of the path is as important as the others. For Pierson, the 'earlier parts of a sequence matter much more than later parts' – timing matters.[163] He is also clear that an event that happened too late in the sequence may have no effect but would have done had it happened earlier. Equally, sometimes events that happen too early in a process, might be much more important had they happened later in the sequence. However, once a set of events are dealt with,

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[158] Ibid pp.44-45

[159] Lowndes (2013) Ibid. p.77

[160] See Dunleavy, Patrick (1991) *Democracy, Bureaucracy and Public Choice* Macmillan Basingstoke on game theory; Douglas, M (1987) *How Institutions Think* Routledge and Kegan Paul London, on ethnography

[161] Pierson, Paul (2000) 'Increasing returns, Path Dependence and the Study of Politics' *The American Political Science Review* Vol.94, No. 2, pp.251-267 pp.263-264

[162] Ibid. p.251

[163] Ibid. p.263 – quoted in Mahoney, Jim (2000) 'Path Dependence in Historical Sociology' *Theory and Society* Vol.29, No.4 pp.507-548 p.510

that is, decisions are made, then the 'probability of further steps in a particular direction induce further movements in the same direction.' In a path-dependent model, such action reinforces the path, and makes alternative decisions or the cost of exit from the path increase. Pierson describes this as an 'increasing returns process'.[164] Timing, the notion of a temporal dimension, does matter as we shall see in each of the policy areas to be discussed.

Sometimes, there occurs what is described, in institutionalist terms, as a 'critical juncture'.[165] Capoccia and Keleman describe such a concept as the moment when 'structural (economic, cultural, ideological, organisational) influences on political action are significantly relaxed for a relatively short period'[166] and times when political actors can [sometimes must] 'overcome the usual bias towards inertia caused by lock-in and feedback effects.'[167] Institutional change is characterised by 'long periods of path dependence punctuated by critical junctures, the origin of which lay in the institution itself.'[168] I share Consterdine and Hampshire's view that such critical junctures are useful for 'examining … case studies where a period of policy inertia is punctuated by a period of transformation which… leaves an enduring legacy.'[169]

When looking at the case studies, I have applied the concepts of path dependency and critical juncture. These concepts usefully inform my analysis of the case studies as an insider. The new institutionalism, in all its forms, emphasised far more readily than previous models that people and the informal dimensions of institutions matter, and this is also the core claim of the interpretivist approach to political science. Such an approach is rooted in an ethnography that owes much to anthropology and sociology rather than political science.

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[164] Pierson (2000) Ibid. p.252
[165] The phase was first coined by Lipset, Seymour and Rokkan Stein (1967) *Party Systems and Voter Alignment: A Cross National Perspective* The Free Press New York
[166] Capoccia, Giovanni and Keleman, R Daniel (2007) 'The Study of Critical Junctures: Theory, Narrative and Counterfactuals in Historical Institutionalism' *World Politics* Vol.59, No.3, pp.341-369
[167] Consterdine, Erica and Hampshire, James (2014) 'Immigration policy under New Labour: Exploring a critical juncture.' *British Politics* Vol.9 No.3 pp.275-296 pp.281-282
[168] Lowndes et al (2013) pp.202-203
[169] Ibid. p.282

Dahl's New Haven, Heclo and Wildavsky's Treasury and Public Money –
hints of an interpretivist 'turn'

Two early examples of the analysis and observation of political activity that have
focussed on the detailed study of governmental institutions are Dahl's work[170] on New
Haven and Heclo and Wildavsky's work[171] on the Treasury. Both were extraordinarily
innovative and pioneering works – Dahl in 1960 and the Treasury study in 1974 - but
are not without flaws. Domhoff contends that Dahl missed many important points
about the relationships between elites in New Haven and how they impacted on the
prevailing power structures in the city.[172] He showed that the social and economic
elites did overlap, although Dahl said they did not; that business leaders were not
interested in downtown urban renewal – they were; that, contrary to Dahl, the business
sector did have an impact; that Yale University was fully interested and powerful in
the affairs of New Haven; and that there was a downtown power structure – Dahl said
there was not. Domhoff concluded that Dahl was correct to suggest that Mayor
Richard Lee and his Redevelopment Administrator, Edward Logue, governed New
Haven, but the First National Bank of New Haven and Yale University ruled New
Haven. For Domhoff, Dahl started from the perspective of resisting the notion that a
dominant economic class had 'preponderant power' and allowed this to cloud his
ultimate judgement and miss the subtle distinction between those who govern and
those who rule.   Nonetheless, Dahl's approach was certainly innovative and reflected
elements of both institutionalism and ethnography. He has made a significant
contribution to our understanding of the power relations between elites, including how
those who govern actually govern and how to analyse local structures and institutions
and their relationship to power.

The pioneering work of Heclo and Wildavsky and their innovative study of the
Treasury did open doors on a previously largely cosseted and secret world – but it too
is not without its critics. It also contains hints of an interpretivist 'turn'. Weller argues
that it was probably one of the key forerunners of the interpretive approach to studying

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[170] Dahl, Robert (1960) Who *Governs? Democracy and Power in an American City* Yale University
Press New Haven Connecticut
[171] Heclo, Hugh and Wildavsky, Aaron (1974) *The Private Government of Public Money. Community
and Policy inside British Politics* Macmillan London and Basingstoke
[172] Domhoff, G. William (2014) *'Who Really Ruled in Dahl's New Haven?'* at
http://www2.ucsc.edu/whorulesamerica/local/new_haven.html [Accessed March 2016]

politics and government. They may not, he contends, "identify themselves as interpretivists ….but the innovative methodology lit the way for other researchers in the 1970s and afterwards."[173] Parry argues that the study lacked what he describes as the 'normally strong American angles', that is, "the rigorous analysis of quantitative data, discussion of the influence of key personalities, and delineation of the policy process on particular issues."[174]

Central to these pioneering studies was the notion, as Heclo and Wildavsky would have it, that in order to 'understand how political administrators behave we must begin by seeing the world through their eyes.'[175] All three case studies are rooted in the observation and analysis of the key actors. They represent, in their various fashions, significant progress in our understanding and knowledge and offer insight to an approach that I have taken further forward by utilising my perspective as participant as well as the researcher.

Up close and personal: interpretivism and ethnography

Rhodes has argued that one way to get to the core of these issues is to study political elites 'up close and personal'. He argues that academics must look well beyond the descriptive in order to understand these key factors such as networks, memories, rituals and symbols. Ethnography reconstructs the meanings of the actions of actors by recovering "other people's stories from practices, actions, text, interviews and speeches". It encompasses many ways of collecting qualitative data about beliefs and practices – for example, diary analysis, shadowing, elite interviewing and participant accounts.[176]

He has utilised this approach in a number of studies[177] and argues that the main difference between a 'mainstream' approach and his 'interpretive' approach is that that mainstream assumes that the beliefs and practices of elites such as minister and civil servants can be 'read off from their institutional positions and socioeconomic background'. An interpretive approach is far less deterministic. This entails political

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[173] Weller, Patrick (2014) 'Anticipating Interpretivism: Heclo and Wildavsky as Pioneers?' *Australian Journal of Public Administration* Vol.73, No.3, pp.331-339
[174] Parry, Richard (2003) 'The Influence of Heclo and Wildavsky's *The Private Government of Public Money' Public Policy and Administration* Vol. 18, No.4 pp.3-19
[175] Heclo and Wildavsky (1974) Op.cit p. xvii.
[176] Rhodes (2005) Op.cit p.5. See also Bevir, Mark and Rhodes, Rod A.W. (2010) Op.cit passim
[177] Rhodes, Rod A.W. (2005) Ibid; Rhodes, Rod A.W. (2011) Op.cit ; Rhodes, Rod A.W. (2012) 'Theory, Method and British Political Life History' *Political Studies Review* Vol.10 pp.161-176

scientists having to 'study the texts – the writings, lectures, interview transcripts and actions – of civil servants and ministers to identify their beliefs and use private documents as an invaluable check on public pronouncements.'[178]

Rhodes studied three ministries – the Department of Trade and Industry (DTI), the Department for Education and Skills (DfES) and the Department for Environment, Food and Rural Affairs – during the 2001-2005 Parliament. He reports on the government and departmental settings; the role of the key actors, the ministers and the permanent secretaries; and then looks at the 'departmental court'; protocols, rituals and languages; networks and governance and a specific ministerial resignation that occurred during the study. His account of the respective roles of minsters and permanent secretaries is based on an analysis of their 'engagement diaries, repeat interviews with ministers and a qualitative analysis of their work drawn from... (his) fieldwork notebooks.'[179]

By 'departmental court', Rhodes means both the ministerial court – the ministerial Private Offices, special advisers, press office and junior ministers – and the permanent secretary court – his/her Private Office, senior management team and director generals. He looks at the practices of this departmental court – its 'protocols, rituals and languages that make up the willed ordinariness of everyday life'.[180]

Gains[181] suggests that such an approach is "ideally suited to uncover the informal processes that accompany the formal rules of the game and serve to structure the processes of policy-making and policy delivery amongst elites and other policy actors."[182] For her, the strength of ethnographic enquiry is in the uncovering of meaning in previously un-researched, hard to reach or newly emerging areas of governance and policy-making. This is achieved, partly, by the codification and analysis of these 'protocols, rituals and languages' in each department, between departments and across government generally.

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[178] Rhodes (2005) Op.cit p.6
[179] Rhodes (2011) p.15
[180] Ibid p.16
[181] Gains, Francesca (2011) 'Elite Ethnographies: Potential, Pitfalls and Prospects for Getting 'Up Close and Personal'' *Public Administration* Vol.89 No.1 pp.156-166
[182] Ibid p.163

Rhodes believes that his ethnographic approach to understanding the behaviour of political elites opens up the 'black boxes of elite behaviour' and provides an important corrective to research methods where political scientists make assumptions about the beliefs and interests of these key political actors.[183] This is entirely right and is as important for the deconstruction and challenge to these assumptions about how politicians act and the beliefs and interests behind them, as it is for the insight it brings to the contents of the 'black box'.

Uncovering the understandings, beliefs and practices of actors in a governance setting can provide an "understanding of the meaning making of policy makers involved in policy framing; of policy deliverers, re-framing policy intent as they operationalise policy; of those who have demands and those to whom the policy is directed, to see if it has the desired effect."[184] It also provides texture, depth and nuance and lets interviewees explain the meaning of their actions, providing an authenticity that can only come from the main characters involved in the story. For the interpretive approach, narrative is a hugely important concept – and refers to both the stories by which the people studied make sense of their worlds and to the stories by which the researcher makes sense of the narratives and actions of the people studied.[185]

Bevir and Rhodes admit to an increasing interest in the growing literature on storytelling that is consistent with their 'use of narratives and an insightful way of analysing the everyday life of political actors.'[186] Such story-telling has three characteristics – a language game, performing game and management game. They report how political actors use "stories to make sense of the world, to gain and pass on information, to inspire movement, to persuade other to act in certain ways, and as their repository of the organisation's institutional memory."[187] Bates et al. have said that in building up such narratives they '… identify the actors, the decision points they faced

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[183] See Rhodes, Rod A.W t'Last, P and Noordegraaf, M (eds) (2007) *Understanding Government Elites: Up Close and Personal* Palgrave-Macmillan Houndsmills Basingstoke
[184] Gains Op.cit. p.165
[185] Bevir, Mark and Rhodes, Rod A.W. (2012) 'Interpretivism and the analysis of traditions and practices' *Critical Policy Studies* Vol.6 No.2 July 2012 pp.201-208 P.205
[186] See also Czarniawska, Barbara (2004) *Narratives in social science research* Sage London and Gabriel, Yiannis (2000) *Storytelling in organisations: facts, fictions and fantasies* Oxford University Press Oxford
[187] Bevir and Rhodes (2012) Op.cit. p.205

the choices they made, the paths taken and shunned and the manner in which their choices generated events and outcomes.[188]

Bevir and Rhodes also relate how government departments use stories as the 'repository of the organisation's institutional memory'.[189] Whilst I agree with this point, and the notion that the department is one of the actors concerned in any analysis, I would also contend that there are differing institutional memories. I was at the Home Office for almost three and half years and worked with three different Home Secretaries. At various stages of this time in one department, it would be fair to say that I became the ministerial keeper of the department's institutional memory – and probably has a different view of that memory than the permanent secretary did. There would certainly have been overlaps, but I suspect we would both have been worried if the memory was entirely the same. Superficially, the ethnographic researcher could pick up this nuance, but it might not have been obvious.

Ethnographic research has taken things further in terms of assisting our understanding of the multi-dimensional and multi-layered environment within which ministers operated, but also has its limitations. Rhodes recognised this. His main concern was about his role as a nonparticipant observer. He comments, 'I report the interviews as if I am neutral and as if the data are given to me in pure or unmediated form. I am not that naïve.'[190] He agrees that all observers construct their material drawing on prior theories, accepts that the department's story is his construction of how his interviewees see their world and 'that it is crucial to locate people's beliefs and practices against a background of traditions.' This is not to say that Rhodes' use of ethnography in pursuit of his interpretivist approach to understanding government and politics has not been useful – it has. But, if interpretivism is "useful in helping us understand the processes that social actors engage in to make sense of their reality and to guide their actions,"[191]

[188] Bates, Robert H. Greif, Avner Levi, Margaret Rosenthal, Jean-Laurent and Weingast, Barry R. (1998) *Analytic Narratives* Princeton University Press Princeton New Jersey pp.13-14
[189] Bevir and Rhodes (2012) p.205
[190] Rhodes (2005) Op.cit. p.20
[191] Feldman, Martha Skoldberg, Kaj Brown, Ruth Nicole and Horner, Debra (2004) 'Making Sense of Stories: A Rhetorical Approach to Narrative Analysis' *Journal of Public Administration Research* Vol.14, no.2, pp.147-70 p.167. See also Giddens, Anthony (1984) *The Constitution of Society* Polity Cambridge

it should also be remembered that the "interpretive processes used by social actors requires an act of interpretation on the part of scholars." [192]

Rhodes contends that interpretivism "takes a variously constructed world, the unintended consequences of human action and contingency of public affairs as its basic building blocks. It urges us to look for more and better ways of …. studying politics."[193] Others, such as Crewe and Rai, try to understand and explain so that, perhaps, we all might live in the world of politics. They seek to deconstruct the world of politics and make it more tangible for the non-expert observer and student. Rai and Crewe's recent works have focussed more readily on parliamentary rather than the governmental or legal institutions such as on the House of Commons and the House of Lords.[194] This is more easily done by the insider, the participant. This is not just the case in terms of the equivalent of the local 'argot' or 'patois' – the discernible local language of bureaucracies – but also the local 'contextual knowledge'. Yanow argues that this is the "knowledge that develops in interaction among people with their programs, operations or objects (physical artefacts) that are specific to a local context, such as a work practice in an organisational setting….and much of it is tacitly known."[195] Hafner describes it as a "kind of nonverbal knowing that evolves from seeing and interacting with someone over time—there's something about actually seeing people and experiencing whatever it is they're carrying with them that gives you a sense of how they're feeling that day."[196] Yanow reinforces this when describing local knowledge as 'the very mundane, yet expert understanding of and practical reasoning about local conditions derived from lived experience."[197] The point is that to understand this array of differing planes of truth, knowledge and understanding, the researcher needs to get as close as possible to the subject as possible, for as long as possible. As we have already seen, this relationship between "the particular [*that is,*

[192] Feldman et al (2004) Ibid. p.167
[193] Rhodes (2012) Op.cit p.174
[194] Rai, Shirin M (2010) 'Analysing Ceremony and Ritual in Parliament' *Journal of Legislative Studies* Vol.16 No.3 pp.284-97; and Crewe, Emma (2015) *The House of Commons: An Anthropology of MPs at Work* Bloomsbury Academic London; Crewe, Emma (2005) *Lords of Parliament: Manners, Rituals, and Politics* Manchester University Press Manchester
[195] Yanow (2004) 'Translating Local Knowledge at Organisational Peripheries' *British Journal of Management* Vol.15 No.1 S9-S25, p.p. s11-s12
[196] Hafner, Katie (1999) 'In Real Life's Shadows, Virtual Life Can Pale.' *New York Times* August 26 1999 at http://www.nytimes.com/1999/08/26/technology/in-real-life-s-shadows-virtual-life-can-pale.html?pagewanted=print
[197] Yanow (2004) Op. cit. p. S12

local knowledge] and the universal is closely related to his (Geertz's) arguments concerning 'thick description."[198] But, as an insider, I need also to resist the attraction of Riddell's 'private patois'.[199]

Geertz refers to the 'interpretive turn' in theorising as

> … turning from trying to explain social phenomena by weaving them into grand textures of cause and effect to trying to explain them by placing them in local frames of awareness.[200]

In reality, both approaches are needed to fully explain what has happened and why. In terms of this thesis, there does need to be an understanding of the 'grand textures of cause and effect' within which the policy options in each of the three case studies are developed. However, there also needs to be a full understanding of the 'local frames of awareness' and the local knowledge and texture. Geertz understands this as he talks of 'a rather dialectical movement, tacking between…. the small imaginings of local knowledge and the large ones of cosmopolitan intent.'[201] Flyvbjerg contends that researchers have to "begin their work by phenomenologically asking 'little questions' and that such a process, whilst it 'may often seem tedious and trivial,' was essential. This focus on minutiae is rooted in the notion that 'small questions often lead to big answers." [202] This approach is 'marked less by a perfection of consensus than by a refinement of debate … what gets better is the precision with which we vex each other.'[203]

I have both 'been there' and observed my colleagues and now seek to relay these 'stories' in the role of dispassionate researcher. Hammersley and Atkinson state that ethnography 'captures the meaning of everyday human activities' and encourages the researcher to 'get out there and see what actors are thinking and doing.'[204] They summarised the concept of ethnography by saying

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[198] Yanow (2004) Op.cit p. S12. The term 'thick description was borrowed from Ryle – see Ryle, Gilbert (1968) 'The thinking of thoughts: What is 'Le Penseur' doing?' Reprinted from *'University Lectures',* No.18, 1968, University of Saskatchewan at http://lucy.ukc.ac.uk/csacsia/vol14/papers/ryle_1.html Downloaded 11-1-16 and Geertz (1983) Op.cit.

[199] Riddell cited in Diamond (2011) Diamond, Patrick (2011) 'Governing as New Labour: An Inside Account of the Blair and Brown Years' *Political Studies Review* Vol.9 pp.145-162 p.145

[200] Geertz (1983) *Local Knowledge* Basic Books New York p.6, p.15-16

[201] Ibid p.15-16

[202] Flyvbjerg, Bent (2003) 'Making Organisation Research Matter: Power, Values and Phronesis' in Czarniawska, Barbara and Sevón, Guje (2003) eds. The Northern Lights: Organization Theory in Scandinavia. Liber, Abstract, Copenhagen Business School Press, 2003, Stockholm, Oslo, Copenhagen. pp. 357-381

[203] Geertz, Clifford (1973) *The Interpretation of Cultures* Basic Books New York Chapter 1.

[204] Hammersley, Martyn and Atkinson, Paul (1995) *Ethnography: Principles in Practice* Routledge London

> … the ethnographer participates, overtly or covertly, in people's daily lives for an extended period of time, watching what happens, listening to what is said, asking questions; in fact, collecting whatever data are available to throw light on the issues with which he or she is concerned.[205]

Gains argues that it is "ideally suited to uncover the informal processes that accompany the formal rules of the game and serve to structure the processes of policy-making and policy delivery amongst elites and other policy actors." [206] Westbrook suggests politics 'however and by whoever conducted, is done in accordance with some set of beliefs held by the powerful, an imagination of what can, and should be done.' [207] Ethnographic enquiry can prioritise and uncover these factors. It has 'strengths in uncovering meaning in previously un-researched, hard to reach or newly emerging areas of governance and policy-making, a 'method of discovery' to allow for grounded theorising.' [208] As Gains indicates

> … uncovering the understandings, beliefs and practices of actors in a governance setting can provide an understanding of the meaning making of policy-makers … involved in the policy making process[209]

Such an approach can also inform a detailed look at the innards of government. It can show how rituals, symbols, language, rhetoric and practice can all usefully inform our understanding of policy processes within parliaments.

In addition to these three key approaches, it is also important to understand the literature on policy failure. Central to this is the notion that success and failure are not simply reductionist options, but rather sit on a continuum. As McConnell postulates

> … "failure" resides at the extreme end of a success/failure spectrum where it is characterised by absolute non-achievement. Such a situation will be unusual … failure is rarely unequivocal and absolute … even policies that have become known as classic policy failure also produced small and modest success.[210]

Whilst it may be convenient for political pundits and the media in general to measure the success or failure of a policy in stark black and white terms, the reality is much more complicated. As we shall see, each of the case studies under discussion in this

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[205] Ibid. pp.2-3

[206] Gains, Francesca (2011) 'Elite Ethnographies: Potential, Pitfalls and Prospects for Getting 'Up Close and Personal'' *Public Administration* Vol.89 No.1 pp.156-166

[207] Westbrook David (2008) *Navigators of the Contemporary: Why Ethnography Matters* University of Chicago Press Chicago Illinois p.129 Quoted in Gains (2011) op. cit p.164

[208] Fielding, Nigel (2008) 'Ethnography' in Gilbert, Nigel (ed) (2008) *Researching Social Life 3rd Edition* Sage London

[209] Gains (2011) Op.cit. pp.164-165

[210] McConnell, Alan (2015) 'What is policy failure? A primer to help navigate the maze' *Public Policy and Administration* Vol.30 3-4 pp.221-242 p.231

study can be seen as both, to varying degrees, successful in some ways and failing on others.

Policy Failure

As an active participant in the political world and from my ministerial perspective, I can identify a range of factors that I would expect to be central to the decision making and policy making process of the public policy case studies that are the subject of this thesis. This experience allows me, as insider, to bring a 'theoretical sensitivity' to the research process, that is, an 'ability to recognise what is important in data and to give it meaning. It helps to formulate theory that is faithful of the phenomena under study.'[211] This range of factors is now considered within the context of both this ministerial experience and the literature on policy failure.

The epistemological roots of the policy failure literature are rich and varied. They range from discussion on policy evaluation and improvement which is very process and outputs focussed; the concept of 'public value' as originated by Moore in defence of the role of government;[212] writings on good practice in the process of policy making and management; writings on the political aspects of policy and the implication for political success; a limited body of work on the explicit treatment of policy success; and an extensive literature on failure including policy 'fiascos', scandals, crises and disasters.[213] The purpose in this section is not to rehearse all the various arguments in the literature but to draw out the dimensions that will be of use in this study.

McConnell concludes that there are three forms of policy failure – processes, programmes and politics - and this is a useful starting point for considering the utility of the policy failure literature for this study.[214] It can be argued further, that the three forms dovetail neatly with the notion that to understand phenomena completely – and

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[211] Glaser, Barney (1978) *Theoretical Sensitivity* Sociology Press, Mill Valley California quoted in Strauss, Anselm and Corbin, Juliet (1990) *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* Sage London pp.42-46

[212] See Moore, Mark (1995) *Creating public value: Strategic management in government* Harvard University Press, Cambridge, Ma.

[213] McConnell (2015) Op.cit. and Howlett, Michael (2102) 'The lessons of failure: learning and blame avoidance in public policy-making' *International Political Science Review* Vol.33 No.5 pp.538-555. See also Howlett, Michael Ramesh, M and Wu, Xun (2015) 'Understanding the persistence of policy failure: The role of politics, governance and uncertainty.' *Public Policy and Administration* Vol.30, 3-4, pp.209-220 and McConnell, Alan (2010) 'Policy Success, Policy Failure and Grey Areas In-Between' *Journal of Public Policy* Vol.30. No.3., pp.345-362

[214] McConnell (2015) Op.cit p232-236

certainly beyond the realms of rational choice – one needs to understand the roles of structure, agency and ideation.[215]

The model suggested in Figure 2:1 is rooted in the work of McConnell and others but is offered only in a very general sense as a device to further explain the case study policy areas that this thesis. I recognises that these distinctions are blurry at best and not as rigid as some would have it. Each of the public policy case studies will be assessed within the context of McConnell's 'processes, programmes and politics.' I argue that there are also overarching factors that need to be taken into account when looking at policymaking processes in general and policy failure in particular.

Figure 2:1 – POLICY FAILURES AND EVALUATION		
ELECTORAL (AND OTHER TEMPORAL) PRESSURES		
STRUCTURE	Process	Prepare Ground Protect Ground
IDEATION	Programmes (Policies)	Missing Middle Hiding in Plain Sight Joined-up Government
AGENCY	Politics	PM and the rôle of No.10 Strong Ministerial Sponsor
POLITICAL PROCESSES		
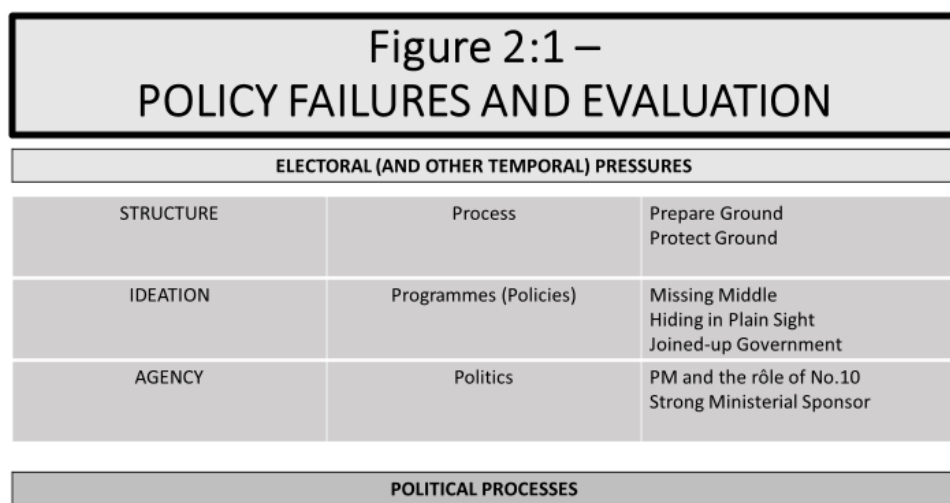
In Figure 2:1, these overarching factors are electoral (and other temporal) pressures and political processes in general. These are important beyond the narrower focus of structure, ideation and agency – or indeed, process, programmes and politics – and the factors I have identified in the third column are related to these dimensions. These factors are rooted in both the academic literature and my extensive experience as a former government minister.

I argue that to understand structure and process it is necessary to understand the 'political ground', that is the context, historical, political and structural. As we have seen, neither decisions nor policies are made in a vacuum. McConnell argues that 'governments engage in processes to produce policy decisions.' Importantly, understanding the failure of these processes may be the key to understanding a specific policy failure. He goes on to suggest that 'process failures can be dissected … in order

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[215] Hindmoor (2010) Op.cit. p.54

to help us grasp key aspects of such failures, as well as providing us with standard criteria for assessment.'[216] Such process failures can help us understand the paucity of preparation or protection of the structures needed to implement policy ideas in the first place and link back clearly to an absence of rigour in the design of processes and both each stage of Kingdon's policy streams and Campbell's discussion on the process of framing policy processes as discussed above.[217]

The political ground has to be prepared well to elicit consensual decision and policy making. An example that illustrates poor preparation would be the rebellion by government backbenchers on welfare benefits for single-parents in December 1997.[218] The ground had not been well prepared and 47 Labour MPs voted against the government, with at least 60+ abstaining.[219] How the cuts in these benefits fitted in to the wider perspective of welfare reform policy and how much better off single parents might have become after the full policy was implemented were not explained. Failure stemmed from lack of preparation of the political ground. The political ground also needs to be protected, there must be an ability for a policy and its proponents to garner support to protect their ground from both friends and foes.

For McConnell, the policies that government produce are always designed to succeed. They are designed to address goals and achieve outcomes. They are the result, arguably, of ideational struggle both about the ends and the means to be achieved. Programme (or policy) failure

> can be characterised by varying degrees of failure to be implemented as intended, achieve desired outcomes, benefit target groups, meet criteria which are highly valued in the public domain… and attract opposition to, and attract little or no support, for either the policy goals and/or the means of achieving them.[220]

This implies that there are alternatives at every stage in the policy process and that the role of the policy entrepreneurs and advocates referred to earlier is a very real one in the development and potential success or failure of policy. Further, as discussed above, framing matters to. As Béland (2005) maintains:

> Policy entrepreneurs succeed in imposing certain policy ideas partly because they appeal to the public through the mobilization of political symbols ever-present in the shared ideological repertoires available in their society.[221]

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[216] McConnell (2015) Op.cit. p236
[217] Kingdon (1995) Op.cit p.122. See also Béland (2005) pp.9-11 and Campbell (2002) Op.cit p.24-27
[218] BBC News (1997) Blair suffers in benefits revolt, 11th December 1997 at
http://news.bbc.co.uk/1/hi/uk/38656.stm
[219] See Cowley. Philip (2005) *The Rebels: How Blair Mislaid His Majority* Politico's London

[220] McConnell (2015) Op.cit. p236-237
[221] Béland (2005) Op.cit p.10

It matters too in the context of policy failure. Edelman argues that a policy failure 'is a creation of the language used to depict it; its identification is a political act, not a recognition of fact.'[222] In other words, the ideational contest continues throughout the life of the policy. That is

> … the verdict about a public policy, programme or project is shaped in ongoing 'framing contests' between its advocates and shapers on the one hand and its critics and victims on the other.[223]

The assessment of the relative success or failure of a policy is as rooted in framing and discourse as is the analysis of the policy alternatives and agenda in the first place. This is an important regard in the assessment of both the policy making process and the success and failure of the policy.

The development of policy is important too. The ideational dynamic of framing and assessing paradigms, generating alternatives and ensuring that all stages of the development work are carried out are all important. It is essential that there is no 'missing middle', no missing level of policy development or missing links in the process overlooked that could prove to be problematic or dysfunctional later in the process. Politicians also need to be clear too that they are not only asking the right questions, but also finding the right answers. This sounds straight forward, but often, either the problem identified is not described appropriately, or the solutions offered do not address it. The real problem or solutions are 'hiding in plain sight' and are overlooked with invariably dysfunctional consequences further down the line.

As the housing and planning minister in 2002, I had innumerable meetings about the number of new houses that local councils would commit to allowing in their planning documents. This was not a commitment to actually build anything, but agreement of the numbers to include in local plans. Sometimes, very acrimonious meetings on policy development would end up in litigation and court cases. It seemed, at times, that both department and the local councils spent more time, energy and resources on the detail of these numbers than on the work entailed in actually building houses.[224] It seemed to me that sometimes the department spent more time on developing the rules and regulations around private housing developments than it did on supporting

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[222] Edelman, Murray (1988) *Constructing the Political Spectacle* University of Illinois Press Chicago, Il. P. 31

[223] Bovens, Mark and 't Hart, Paul (2016) 'Revisiting the study of policy failures.' *Journal of European Public Policy Vol.23 No. 5 pp.653-666 p.654.* See also Boin, Arjen, t'Hart Paul and McConnell, Alan (2009) 'Crisis exploitation: political and policy impacts of framing contests.' *Journal of European Public Policy* Vol. 16 No.1 pp.81-106

[224] Personal recollection of Author

developments in the council and social housing sector, so houses could actually be built. The lack of affordable housing in the social sector was a problem 'hiding in plain sight.' Equally, it was never completely clear that all aspects of government were committed to the same policy that joined-up government was anything other than always talked about, but rarely achieved.

Many policies were increasingly delayed, modified, resisted, watered down or scrapped because the 'joined-up' elements were too difficult. As a Home Office minister there were few examples of policy development or implementation that were completely and only the purview of the Home Office. Every other government department, to some degree, had a view or were impacted upon by counter-terrorism policy, immigration policy, or indeed policing. I had, for example, extensive meetings with the Department for Environment, Food and Rural Affairs (DEFRA) prior to a European Council I was attending as the security minister over the level of nitrates in fertilisers. The Home Office Council wanted to restrict the level of materials that could and indeed had been used as a key ingredient in explosives, but DEFRA's interests were more readily about the commercial agricultural sector. The Home Office, of course, prevailed.

As transport minister, I was the sponsoring minister for the British Transport Police (BTP) force and one of the key policies I developed with them was the creation of a police authority for the force. This was a largely non-contentious issue and was welcomed. The only problem was that, as the BTP was not a recognised police force under police legislation, the authority was not created under the laws that pertained for Home Office forces. This might have not been an issue, except that the police authorities which oversaw the activities of forces recognised under law by the Home Office were exempt from VAT – the BTP was not. This would cost £4m per year[225] which had not been provided for. A system that had 'joined-up government' much more readily bedded into the intra-government structures and processes would have picked this up automatically.

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[225] House of Commons Transport Committee (2004) British Transport Police Twelfth Report of Session 2003–04 Supplementary memorandum by the Chief Constable of British Transport Police (01A) Ev22-Ev26 at
https://publications.parliament.uk/pa/cm200304/cmselect/cmtran/488/488.pdfs://publications.parliament.uk/pa/cm200304/cmselect/cmtran/488/4032408.htm

Thirdly, McConnell maintains that politics represents the final form of policy failure. He argues that 'public policies can shape and be shaped by politics from the careerism of public officials to the pursuit of ideologies.'[226] Politics in the context of the policy making process is essentially the situated agency of the key players. People are central to the politics of policy making and are not

> … autonomous, so their agency is always situated against an inherited web of beliefs and practices … [that] draw on inherited tradition.'[227]

Agency matters as well, but individuals operate in hierarchies and power relations prevail. In my experience, it was always useful if a policy had both a strong ministerial sponsor, usually within the originating department, and at least the tacit support of Number 10 and the Prime Minister. However, neither of these alone is a guarantee of success. All players come to a policy process with their own situated agency, but senior politicians matter more in politics and possess an array of beliefs, practices and narratives. A strong internal ministerial sponsor may still have difficulties with the rest of government – for example, Charles Clarke and tuition fees or Alan Milburn and foundation hospitals.[228] Equally, the position of the Prime Minister and Number 10 on a particular policy can be very important, but it does depend on part on the relative strength of the PM and the electoral and temporal pressure. The support of Blair, for example, in the spring of 2007 was less effective than at any other stage in his premiership. Much more than I observed at the time, the impending changeover between Blair and Brown was a real *fin de siècle* moment – and the end of an era, rather than the smooth internal transition of leadership from one to the other.

In Figure 2.2, I have presented the seven key variables as a schematic, analytical framework based on my ministerial experience that complements the theoretical framework outlined in this chapter. It makes clear the interdependent nature of the relationships. All these variables need to be developed in the policy process to ensure success and governments do not organise for failure, but failures happen. All of the variables presented here are important, as are the substantive contextual factors – electoral and temporal pressures, and political processes. The importance of a policy

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[226] McConnell (2015) Op.cit. p.236

[227] Bevir, Mark Daddow, Oliver and Hall, Ian (2013)'Introduction: Interpreting British Foreign Policy' *British Journal of Politics and International Relations* Vol. 15, pp.163-174 p.167

[228] In both of these cases, the ministerial sponsors were seen to be too close to Blair as Prime Minister and faced real difficulties in trying to secure legislation – not least because of objections by Gordon Brown and his supporters. See Rawnsley (2010) Op.cit. and Richards (2010) Op.cit. for further details.

Figure 2:2 Schematic Analytical Framework

Policy Development: Hiding in Plain Sight

Policy Development: the Missing Middle

Policy Development: Joined-up Government

Preparing the Political Ground

Protecting the Ground: The Lay of the Land: Friends and Foes

Prime Minister and the Role of No.10

Potential of a Strong Ministerial Sponsor

Case Study Narrative
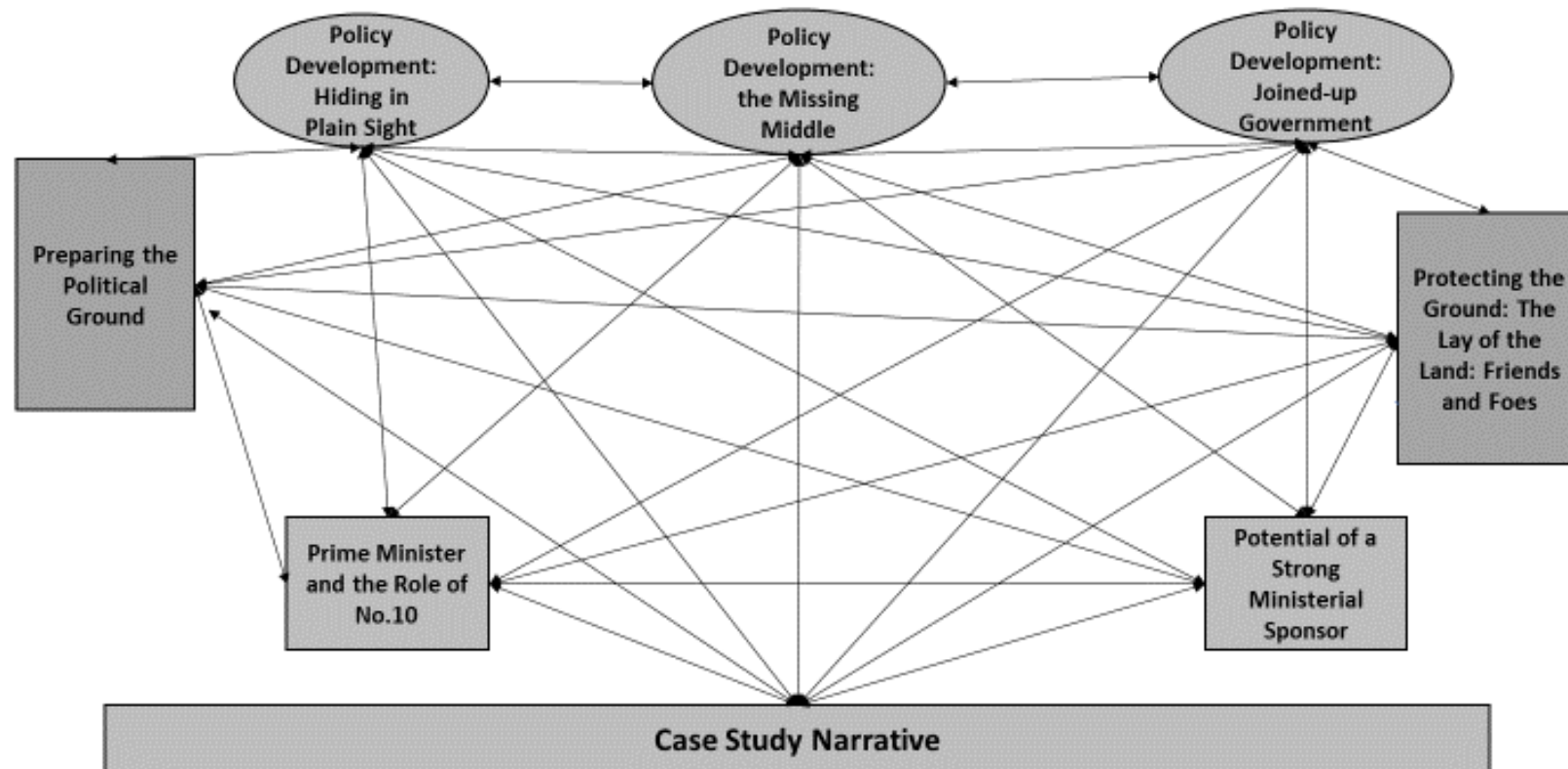
matters in the context of the start, middle or end of the government's term of office; the accession of a new leader; the perceived reasons for the success or failure of a policy; the role of ministers and other similar variables. Sometimes, but rarely, failure may be fatal and can only be recovered from if there is either a change of government or a change of leadership.[229] Recovery will also depend on the stock of political capital that the minister or government possess; how cogently the failure is explained and framed; how long they have been in office; and, crucially, whether the prevailing view is that the causes rested with the government (endogenous) or were beyond the government's fault (exogenous).[230]

These three forms of policy failure sit comfortably with an interpretive approach – albeit with an understanding of the contribution that new institutionalism can make. It is important to understand that there is a clear role for situated agency as discussed above but if an inherited web of beliefs and practices matter, then so does the prevailing history, context, informal and informal processes within institutions. It is equally important to understand that the policy failure literature does not, in an ontological sense, sit easily with a rational choice approach.

McConnell offers three substantive outcomes for policies to 'help us think about degrees of failure and their relationship to success.'[231] These are a 'tolerable failure' (or resilient success); a 'conflicted failure' (or conflicted success); and an outright failure (or marginal success). In essence a tolerable failure does not impede the attainment of goals, a conflicted failure is one whereas many goals are achieved as not achieved with as much defence as criticism, and outright failure does not achieve the goals that it set out to achieve with opposition optimal and support virtually non-existent.

The thesis will look at each of these elements in more detail in each of the chapters on the public policy case studies. It will also consider the model offered by Hudson et al in the context of persistence policy failure.[232] They offer four broad contributors to policy failure: overly optimistic expectations; implementation in dispersed governance; inadequate collaborative policymaking; and the vagaries of the political

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[229] Howlett et al. (2015) Op.cit. p.218
[230] See Boin et al. (2009) Op.cit. p.100 for further explanation of these factors.
[231] McConnell (2015) Op.cit. p.237
[232] Hudson, Bob Hunter, David and Peckham, Stephen (2019) 'Policy failure and the policy-implementation gap: can policy support programs help?' *Policy Design and Practice,* 2:1, pp.1-14 pp.2-5

cycle. It may well be that the seven factors offered in Figure 2:2 fit naturally into these contributing factors. Optimism, for example, implies an absence of either preparing or protecting the political ground in a policy area; dispersed governance implies elements such as 'the missing middle' or 'hiding in plain sight'; inadequate collaborative policymaking is essentially the role of 'joined-up government' and, to an extent, the role of No.10 and ministerial sponsors; and the vagaries of the political cycle is similar to the electoral and temporal pressure and the political processes discussed earlier.

Summary

This discussion of the three core approaches of rational choice theory, new institutionalism and interpretivism, and the analysis and review of the academic literature in the field has shown that there may indeed be some political science theories that can usefully be deployed to analyse the case studies. These are the informal dimensions of interpretivism, such as the beliefs, practices, norms and values of a decentred approach; and a path-dependence and critical juncture approach from new institutionalism. Although I have established that Hindmoor's interpretation of the Downsian spatial framework and vote-maximisation model will also be very useful in discussing how policies are arrived at and how narratives are developed to explain, support and promulgate a policy, the same cannot be said for rational choice theory in general.

Central to both the discussion on these theories and the analysis of the policy failure literature has been the notion that structure, agency and ideation matters – and that the most successful and worthwhile theoretical framework will be based on a hybrid of these three areas. Rational choice theory is too prescriptive, its assumptions too positivist and naturalistic and its commitments too normative. As Daddow maintains the interpretivist perspective allows us to

> … focus not only on the ideational structuring effects of traditions but also on the part individuals play in responding to – and remoulding – those traditions as they respond to perceived dilemmas. In doing so … [it] … is explicitly historicist in encouraging an appreciation of the significance of 'situated agency' and attentiveness to the history of events.[233]

This approach, together with the key elements of the new institutionalist approach and the most important aspects of the literature on policy failure, form the building blocks

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[233] Daddow, Oliver (2013) 'Margaret Thatcher, Tony Blair and the Eurosceptic Tradition in Britain.' *British Journal of Politics and International Relations* Vol. 15, pp.210-227

of the theoretical framework of this thesis. All of these factors will need to be considered within the context of the theoretical schema outlined in this chapter. The next chapter looks at the methodological framework used in this thesis – how we are going to take matters further and analyse these case studies more fully and add to our understanding of the development of policy and the art of decision making.

Chapter Three

Methodological Context: case studies, elite interviews, and ethnography

Research design

In his insider view of life at the centre of the Labour Government, Diamond argues that it felt as though it was a "search for a coherent story and narrative about the government's strategic purpose." A search that, he contends, was a "constant, ultimately irresolvable preoccupation."[234] The search for strategic purpose is easier looking back and on reflection than it is at the time – when, clearly, getting on with governing itself takes precedence.

The purpose of this chapter is to explain the methodology used in the research design and why it was chosen as the most appropriate for the thesis. Diamond's work comes from a similar ontological standpoint as this thesis, although, there are very real differences between the insider perspective of an official – he worked as a special adviser and then in the Prime Minister's Policy Unit – and that of a government minister. It will be argued that the perspective of a minister is also different from the perspective highlighted in the ethnographic, interpretivist research of Bevir and Rhodes and can therefore offer insights that both complement and go beyond their ground-breaking work.[235]

The research design for this thesis involves the use of case studies that concern key aspects of the formulation, development and implementation (successfully or otherwise) of government policy during my time as a minister in the Home Office. The research material that makes up the case studies has been drawn from a wide range of different sources. It comes from primary official departmental sources; the recollections, reflections, notes and meetings schedules of the author as participant; secondary sources – such as media, newspaper and TV coverage and analysis of events; output from academics both in general as well as specific to the case study subject areas; memoirs and other written material by politicians, journalists and public

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[234] Diamond (2011) Op.cit p.150.
[235] Rhodes (2005) Op.cit. p.5 . See also Bevir and Rhodes (2006) ; Rhodes (2011); Rhodes (2012) ; Bevir and Rhodes (2008) ; Bevir and Rhodes (2009) ; Bevir and Rhodes (2010) ; Bevir and Rhodes (2012)

officials; and a series of interviews with a range of participants in these events - ministers, MPs, civil servants and others. The interviewees include other former government ministers – both those involved in the case studies and those in wider and more senior leadership posts; civil servants – both those in leadership roles and those policy specialists in the areas of policing, immigration and counter-terrorism; special advisers – both across government as well as in the specialist areas of the case studies, in the Home Office and beyond; and journalists and academics – both broader political generalists as well as specialists in home affairs and law and order. This combination of key sources and the key reflections of the author as participant makes this a unique piece of work that will add significantly to our broader knowledge and understanding of policy making in government.

The purpose of this chapter is to explain in further detail why this is the most appropriate research design for this project. It will discuss the issues surrounding the use of case studies and the cross-comparison of different case studies. It will look at the potential problems with the use of case studies and the accumulation of the material necessary to inform them. It will then explore the issues surrounding the process of interviewing elite participants as well as the problematic dimensions of using interviews at all. It will consider in more detail the policy making process that is at the core of this thesis, the policy context within which the case studies were developed and the role of the ministers within these processes and this context. It will also look at the notion of ideas as frames and the sub-texts and undercurrents of policy development that occur as paradigms unfold and alternatives emerge.

This study will then examine the role of the researcher as participant – the 'auto-ethnographic' dimension of the thesis. It will focus on the issues that arise when the author is a participant in the political events under discussion as well as being the academic carrying out the research. While these issues are not unduly problematic, they need to be understood and recognised.

As indicated in chapter two, there is a growing use in political science of ethnographic techniques that principally come from anthropological and sociological traditions. Bevir and Rhodes argue that 'while no method can guarantee the accuracy of data and stories' there are heuristic contexts for checking the veracity and reliability of data.[236] Crucially, Bevir and Rhodes do not rely simply on elite interviews alone. They

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[236] Bevir and Rhodes (2006) p.171

interviewed others beyond ministers and permanent secretaries, and they had access to written records of meetings. They also carried out fieldwork and used this 'non-participant' observation as a way of corroborating some of the claims of those interviewed. The ethnographic researcher as participant adds another dimension to the corroboration and validation of these processes. Arguably it offers greater insight than their non-participant model does, whilst also presenting more challenges.

Case Studies: Why and how to use them

The use of the case study in political science is not undisputed. Some argue that it undermines the entire purpose of social science. Gerring recognises that the case study "occupies a vexed position in the discipline of political science."[237] He describes how a 'range of methodologists view the case study method with circumspection' whilst the 'discipline continues to provide a vast number of case studies, many of which have entered the pantheon of classic works.'[238] He contends that the method of the case study is 'solidly ensconced and, perhaps, even thriving.' It would certainly be accurate

Table 3:1
Gerring's categories of what a 'case study' might mean

a). that its method is qualitative, small-N
b). that its research is ethnographic, clinical, participant-observation, or otherwise 'in the field'
c). that the research is characterised by 'process-tracing'
d). that the research investigates the property of a single case
e). that the research investigates a single phenomenon, instance or example

(Source: Gerring, John (2004) 'What is a Case Study and what is it good for?' *American Political Science Review* Vol 98 No 2(May 2004) pp.341-354)

to say that the use of the case study in political science has grown in recent years. For Gerring, the term 'case study' is a "definitional morass". [239] He describes a range of definitions, as in Table 3:1 but dismisses all of them as inadequate.[240] The first three

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[237] Gerring, John (2004) 'What is a Case Study and what is it good for?' *American Political Science Review* Vol 98 No 2(May 2004) pp.341-354 p.341
[238] Ibid. p.341
[239] Gerring (2004) Op.cit. p.342
[240] See Cases a. and b - Yin, Robert K. (2014) *Case Study Research: Design and Methods* 5th edition Sage Newbury Park California; Case c. - George, Alexander and Bennett, Andrew (2004) *Case Studies and Theory Development* MIT Press Cambridge, Massachusetts ; Case d. - Campbell, Donald

are inadequate because they are not inclusive enough and might be subtypes of case studies, the fourth because it equates the case study with a single case, whilst the fifth definition is more accurate, it also remains ambiguous.

The case studies that will be used in this thesis – specific policy development on immigration, police force mergers and pre-charge detention – do not readily fit any of these definitions. Clearly, there are elements of the first three in them – they could each be described, to a degree, as qualitative, ethnographic and concerned with process-tracing – but each go beyond these narrow definitions. Each of the case studies goes beyond a single case – the fourth option - or, at least, is rooted in a prior case or cases. The discussion of the introduction of the points-based system for immigration in the United Kingdom, for example, can only be fully understood in the context of the immigration policy that has gone before, the prevailing political context within which the policy had been developed and the context of the presumed impact on the policy area foreseen by the politicians and the officials. The fifth option is appropriate but ambiguous – what is the instance or phenomenon?

Gerring offers an alternative definition of case study as an "intensive study of a single unit for the purpose of understanding a larger class of (similar) units". A 'unit' connotes a 'spatially bounded phenomenon – e.g. a nation state, revolution, political party, election or a person - observed at a single point in time or over some delimited period of time.'[241] In terms of each of the case studies under review, this definition is appropriate and can be used. Each policy area represents a single unit, limited over time, with a limited number of people involved and with a view to adding to our understanding of the wider policy process. Although there are variables specific to each of the case studies, how they can translate to and inform our broader knowledge of policy development and process is central to this thesis.

Notwithstanding this, Flyvbjerg reports that some say that 'you cannot generalise from single case' and 'social science is about generalizing' or that the case study 'is subjective, giving too much scope for the researcher's own interpretations'[242] He

and Stanley, Julian (1963) *Experimental and Quasi-Experimental Designs for Research* Houghton Mifflin Boston and Eckstein, Harry [1975] (1992) 'Case Studies and Theory in Political Science' in *Regarding Politics: Essays on Political Theory, Stability and Change* University of California Press Berkeley

[241] Gerring (2004) Op.cit. p342

[242] Flyvbjerg, Bent (2006) Five Misunderstandings About Case-Study Research *Qualitative Inquiry* Vol. 12 Number 2 pp.219-245 p.219

challenges conventional scepticism about the validity of case studies and outlines five misunderstandings about case study research, as seen is Figure 3:1.

Figure 3:1 Five Misunderstandings about Case Studies
General, theoretical (context-independent) knowledge is more valuable than concrete, practical (context-dependent) knowledge.
One cannot generalise on the basis of an individual case; therefore, the case study cannot contribute to scientific development.
The case study is most useful for generating hypotheses; that is, in the first stage of a total research process, whereas other methods are more suitable for hypotheses testing and theory building.
The case study contains a bias towards verification, that is, a tendency to confirm the researcher's preconceived notions.
It is often difficult to summarise and develop general propositions and theories on the basis of specific cases.

Source: Flyvbjerg, Bent (2006) Five Misunderstandings About Case-Study Research Qualitative Inquiry Vol. 12 Number 2 pp.219-245 p.221

The first misunderstanding is that critics of the use of case studies argue that 'general, theoretical (context-independent) knowledge is more valuable than concrete, practical (context-dependent) knowledge.'[243] He contends that 'proof is hard to come by in social science because of the absence of 'hard theory', whereas learning is certainly possible. Learning requires the type of context-dependent knowledge to allow people to develop from 'rules-based beginners to virtuoso experts' and in the study of human affairs, 'there appears to exist only context-dependent knowledge which thus presently rules

out the possibility of epistemic theoretical construction.'[244] In other words, context-dependent knowledge is more valuable than the vain search for predictive theories and universals. Case studies help us to 'learn' and not to 'prove' – case studies are not meant to be predictive, to suggest otherwise is either a misunderstanding or oversimplification.

The second misunderstanding highlighted by Flyvbjerg follows from this. Critics would argue that if the knowledge in the case study is not context-independent and therefore predictive, then one cannot generalise on the basis of an individual case. If one cannot generalise, then the case study cannot contribute to scientific development.

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[243] Ibid. p.224
[244] Ibid. p.224

Flyvbjerg contends that generalisation is overrated as a source of scientific development whilst the 'force of example' is underestimated. He also invokes Popper's notion of falsification – 'all swans are white' - and argues that the case study is well suited for identifying 'black swans' because of its in-depth approach. What appears to be 'white' often turns out on closer examination to be 'black'.[245] He argues that the case study can be used to generalise. Eckstein maintains that 'it is impossible to take seriously the position that case study is suspect because problem-prone.' And continues that

> … aiming at the disciplined application of theories to cases forces one to state theories more rigorously than might otherwise be done – provided that the application is truly 'disciplined' i.e. designed to show that valid theory compels a particular case interpretation than others.

He laments the notion that this is rare in political study not least because of the lack of compelling theories. Case studies do have value and are able to inform our greater understanding, not least of the public policy process.[246]

The third misunderstanding is that if the case study cannot be generalised from then it is of little value in hypothesis testing and theory building even if it might be of value in generating hypotheses. If, as established, one can generalise from the case study, then is can be useful for both the generating and testing of hypotheses as well as contributing to theory building.

The fourth misunderstanding about case study research is that the method maintains a bias towards verification – in other words a tendency to confirm the researcher's preconceived notion. That, once again, the study is of 'doubtful scientific value' – that it is seen as less rigorous than quantitative, hypothetico-deductive methods. Flyvbjerg contends that, if anything, case study researchers have a greater bias towards falsification of preconceived notions than towards verification as the process demands prerequisites for advanced understanding and intense observation.[247] Such prerequisites lead to challenges of existing preconceived notions, not to bias.

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[245] Ibid. p.228 See also Popper, Karl (1959) *The logic of scientific discovery* Hutchinson London

[246] Eckstein, Harry (1975) 'Case Study and Theory in Political Science' pp.103-104, 116, 131 in Greenstein, Fred. W and Polsby, Nelson. W *Handbook of Political Science* (Vol. 7, pp.79-137) Addison-Wesley Reading Massachusetts

[246] Eckstein, Harry (1975) 'Case Study and Theory in Political Science' pp.103-104, 116, 131 in Greenstein, Fred. W and Polsby, Nelson. W *Handbook of Political Science* (Vol. 7, pp.79-137) Addison-Wesley Reading Massachusetts

[247] Flyvbjerg (2006) Op.cit. p.234-236

The final misunderstanding is that it is often difficult to summarise and develop general propositions and theories on the basis of specific case studies – partly because good case studies often contain a substantial element of narrative. He argues that good narratives typically approach the complexities and contradictions of real life and such narratives may be difficult or impossible to summarise into 'neat scientific formulae, general propositions, and theories.'[248] This makes for some difficulties in summarising case studies, especially as concerns case process, but it is less correct as regards case outcomes. He also argues that good case studies should be read as narratives in their entirety not least for fear of losing Bourdieu's 'virtuoso social actors' and their studied reality.[249] Over-summarising a case study may mean that 'something' gets lost and some case researchers tend to be sceptical 'about erasing phenomenological detail in favour of conceptual closure.'[250]

Clearly, one can draw conclusions from case studies without losing the detail of Geertz's 'thick description'. Bates et al. describe the process of developing this 'thick description' as "we identify the actors, the decision points they faced, the choices they made, the paths taken and shunned, and the manner in which their choices generated events and outcomes."[251] They go on to move from 'thick' accounts to 'thin' forms of reasoning – in other words, they

> … tread the tightrope between the general and the particular, the ahistorical and the antiquarian, to essay Geertzian 'thick description' but with theoretical overtones.[252]

This 'thick description' is rooted in observation and will form a central part of this study. For Bevir and Rhodes, the everyday phrase is 'seeing things from the other's point of view', interpreting the meanings that particular actions have for social actors and saying what these thick descriptions tell us about the society in which they are found.[253]

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[248] Ibid. p237
[249] Ibid. p.239 and Bourdieu, Pierre (1977) *Outline of a Theory of Practice* Cambridge University Press Cambridge p.8-15
[250] Ibid p.239
[251] Bates, Robert H. Greif, Avner Levi, Margaret Rosenthal, Jean-Laurent and Weingast, Barry R. (1998) *Analytic Narratives* Princeton University Press Princeton New Jersey pp.13-14
[252] Bale, Tim (1999a) *Sacred Cows and Common Sense The symbolic statecraft and political culture of the British Labour Party* Ashgate Aldershot p.31 and in Goodin, Robert E (1980) *Manipulatory Politics* Yale University Press New Haven and London p.33.
[253] Bevir and Rhodes (2010) Op.cit pp.104-105

Case studies in the real world

Developing, studying and analysing these case studies can illuminate subsequent policy processes. This means that the iterative way in which policy is determined can be better informed and repetition of mistakes obviated. It may also help limit the 'carousel' nature of policy development. Across successive governments and across separate policy areas, the British polity is locked into policy cycles where the same issues, problems and solutions come up again and again. Now, of course, the environment within which policies are determined is ever changing, ever complex and fast moving, but this militates in favour of a greater understanding of what has gone before, not less. There is a greater need to understand such processes precisely because more change, more complexity, and less time to react means that it is no longer appropriate to constantly relearn and reinvent the policy making process. Such an understanding is better found, it can be argued, in the detailed analysis of case studies determined by a participant as researcher, then it is through the usual post-hoc rationalisation of the civil service or the political world. It is certainly the case that the 'evaluative feedback loop' has never been the strongest aspect of the UK polity.[254]

Care needs to be taken in constructing retrospective narratives in the course of creating case studies. As Yanow contests '…policy analysis often involves trying to identify cause and effect patterns in the action of politicians and officials after a decision has been made without ever being certain that such patterns existed at the time.'[255] Watkins argues that in 'the history of all governments there come times when their characteristics, good or otherwise, are, as it were, suspended for inspection.'[256] He goes on to say that 'the insect can be briefly pinned down. A slice can be detached and put under the microscope.'[257] This is essentially the approach that this thesis is seeking to follow. His commentary, however, contains serious warnings about such an approach. He continues by saying that '…political observers can go wrong in selection [of the events]' and that

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[254] For further recent discussion on this theme, see King and Crewe (2013); Barber, Michael (2007) *Instruction to Deliver: Tony Blair, Public Services, and the Challenge of Achieving Targets.* Politicos London; Barber, Michael (2015) Op.cit

[255] Yanow, Dvora (1996) *How Does a Policy Mean? Interpreting Policy and Organisational Action* Georgetown University Press Washington DC Quoted in Wilkinson, Katy (2011) 'Organised Chaos: An Interpretive Approach to Evidence-Based Policy Making in Defra.' *Political Studies* Vol.59 pp.959-977 p.961

[256] Watkins, Alan (1968) *News Statesman*, 1/3/68 quoted in Bale (1999a) p.33

[257] Ibid.p.33

… political events which appeared significant or typical at the time can recede in importance…conversely a seemingly minor episode can assume a retrospective importance.[258]

Atkins contends that 'to maximise its chances of success, a party must consider a number of factors when formulating an argumentative strategy to promote a new policy initiative.'[259] Such factors include the history of the policy area, the need for a degree of consistency between their chosen arguments and the 'party's core values, the prevailing political climate and the audience they will address. Essentially, there needs to be a full analysis of the paradigms in the area and the policy alternatives available. She also contends that scholars "must take these same factors into consideration if they are to supply a full account of the dynamics of political justification."[260] It is important that the case studies chosen for this thesis have a relevance to today's politics and today's decision and policy makers.

The case studies have been chosen on four key criteria: –

- they reflect important and substantial events in the history of the Labour Government;
- the author played a significant role in each of them;
- they all contain lessons of partial success and ultimate failure that add to our knowledge of that particular government and to politics more broadly; and
- they all have domestic and international ramifications and remain relevant to the ability of both the government and the UK polity to respond to globalisation, interdependency and the broader efficacy of politics.

They vary in that they represent different forms of policy failure and are different in content and context – the immigration case study highlights systemic failures across government and a failure of leadership and narrative; the policing case study represents a failure of the centre to recognise the agency and power of its constituent bodies and the wider community; and the counter-terrorism case study represent a failure of learning on the part of government and elements of groupthink. All these differences will be explored in detail as varied forms of policy failure. The discussion will go far beyond the concerns of Bovens and t'Hart who maintain that:

> The analysis of policy failures is, by definition, not a neutral endeavour, since policy fiascos are not neutral events. Moreover, they are often, usually implicitly, but sometimes explicitly, permeated with prosecutorial narratives, blame games and a search for culprits.[261]

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[258] Ibid. p.33
[259] Atkins, Judi (2011) *Justifying New Labour Policy* Palgrave Macmillan Basingstoke p.1
[260] Ibid. p.1-2
[261] Bovens, Mark and 't Hart, Paul (2016) 'Revisiting the study of policy failures.' *Journal of European Public Policy Vol.23 No. 5 pp.653-666*

Indeed, it could be argued that such analysis perpetuates policy failure as it promotes the risk averse at the expense of the policy innovators. Such an analysis has to be as much about how these various sources relate to each other as well as their individual contribution. Interviewing the key participants involved in these processes is another key source of the information needed to develop the case studies in full.

Interviewing elites: whose truth?

Bevir and Rhodes note that 'to write a story that vexes the reader' draws on three sources of information – custom, interview and documents.[262] Or, as Oakeshott would have it, "the pattern of practice, talk and considered writing – the first is the most reliable, the second is the most copious and revealing and the third is the most difficult to interpret."[263]

As with Bevir and Rhodes, for this study, the 'practice' is the observations and reflections of the researcher – but, unlike them, from the dual perspective of a participant and researcher. This perspective is that of someone at the centre of the networks and power relationships that underpin the narratives of the case studies. In any sense, this must influence and underpin the development of the case studies – certainly in phenomenological terms as well as in the ontological context. The 'talk' is the interviews with a range of the participants in each case study and the 'considered writing' is the range of documentary sources. Bevir and Rhodes tentatively describe Oakeshott's approach as triangulation, as can be seen in Figure 3:2. These three key sources form the base of the information that will help explain the decisions, processes, and outcomes under discussion.

The narratives that emerge for each case study will synthesise the information as they explain and analyse the events concerned. To achieve this, one of the key tasks has

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[262] Bevir, Mark and Rhodes, Rod A.W. (2010) *The State as Cultural Practice* Oxford University Press Oxford pp.104-105

[263]Oakeshott, Michael (1996) *The Politics of Faith & the Politics of Scepticism* Yale University Press New Haven and London. p.x

Figure 3:2 Oakeshott's triangulation (as suggested by Bevir and Rhodes.)
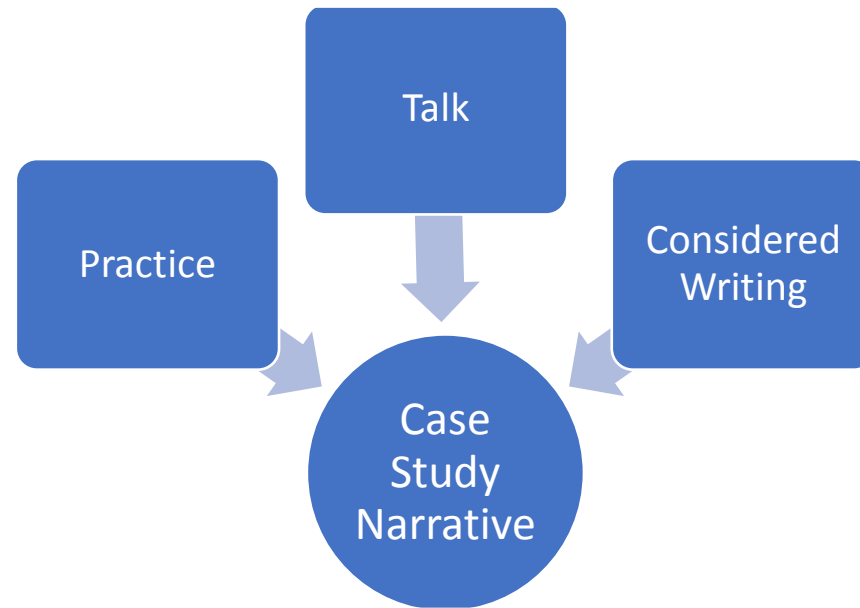
Source: Bevir and Rhodes (2010) and Oakeshott (1996)

been to interview the key participants involved. Yet, interviewing elites can be problematic in general and is, perhaps, even more so when the interviewer was a key participant as well as the researcher some years later.

The use of interviews to assist in the study of political elites is not a new phenomenon – it is a long-established tool for researchers. Seldon suggests that "...warm vivid contemporary history has almost always been written by authors who have conducted interviews; dull clinical history is often produced by those who have buried themselves away in libraries and archives."[264] Whilst this might be a touch unfair to the deskbound archivist, it does suggest, as Lilleker would have it, that 'interviews are only necessitated when a researcher wishes to produce a work with textural depth as well as empirical strength.'[265] That said, Seldon understands the limitations of interviewing. He reports that "…the author frequently had reason to wonder whether some former ministers had served in the same administration so at variance were their accounts of the way coordination took place at the heart of Whitehall." [266] The recollection of politicians is often as frail, as selective, or as self-serving as the rest of the population's. The purpose of these types of interviews is to understand the interviewee's perceptions and memories of events – it is not necessarily to establish the chronology or the facts of any particular event.

Lilleker notes that

> ...interviews do provide insights into events about which we know little: the activities that take place out of the public or media gaze, behind closed doors.[267]

He goes on to caution against 'exaggerations or even falsehoods' but accepts that interviews can 'provide immense amounts of information that could not be gleaned from official published documents or contemporary media accounts' but that 'interviewing does have severe limitations which means they (sic) cannot be relied upon as the sole methodology.'[268] Hunter argues that politicians have many secrets and are not often trustworthy, which means that their backstage may have a further

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[264] Seldon, Anthony (1988) *Contemporary History* Blackwell Oxford and London p.9
[265] Lilleker, Darren G (2003) 'Interviewing the Political Elite: Navigating a Potential Minefield' *Politics* Vol.23 (3) p.208
[266] Seldon, Anthony (1995) 'The Cabinet Office and coordination 1979-87' in Rhodes, Rod A.W and Dunleavy, Patrick *Prime Minister, cabinet, and core executive* Macmillan Houndmills and London pp.125-48 p.126
[267] Lilleker (2003) Op. cit. p.208
[268] Lilleker (2003) Op. cit. pp.207-214, p.208

backstage – and it is the backstage where the power itself is often most wielded.[269] Whilst this is not 'to argue that there is an infinite regress of backstage', Geddes cautions that, 'researchers must remain alert at all times in their research and should not become complacent in their position'[270] – and should understand the various dimensions at play.

So, interviews can be important – but not without support from other sources and not if taken at absolute face value. Interviews can also help in interpreting documents – especially if the actors who commissioned them, or indeed, the authors themselves, can be interviewed. They can also help to build a picture of the relationships between various actors that are party to the events under discussion. They can provide information not yet public, or not yet released in quite the terms that have been elicited from the interview. They can help the researcher understand where the interviewee fits into to the events studied and also where they fit with the emerging picture of the networks and relationships that have developed as part of the narrative of these events. As Richards states "…they can help you to understand the context, set the tone, or establish the atmosphere, of the area you are researching."[271] Interviews can add colour, context, and tone in ways that Seldon's dull archivist could never achieve – but it is a colour, context and tone that is unique to the interviewee and may well differ from the next interviewee.

The problems with interviews are therefore varied – but they do not militate against using them. The researcher needs to understand both the limitations of the process and what they want to achieve from the process. They need to have sufficient interviewees to make the process both legitimate in methodological terms and worthwhile in constructing the narrative needed. It is the task of the researcher to ensure that they have interviewed enough of the key actors and players to make the research and the emerging narrative robust enough to withstand criticism and answer the research questions posed. The researcher is not writing a memoir or a set of biographies of some sort but must have insight from enough of the key actors to add to the overall

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[269] Hunter, A (1995) 'Local Knowledge and Local Power: Notes on the ethnography of local community elites', in Hertz, R and Imber, J (eds.) *Studying Elites Using Qualitative Methods,* Sage, London pp.151-170 p.153-4

[270] Hunter (1995) ibid. and also quoted in Geddes, Marc (2014) 'Interpreting Parliament, but how? An assessment of the value of participant observation in parliamentary research.' Paper presented to the PSA Annual Conference, Manchester 2014. p.19

[271] Richards, David (1996) 'Elite Interviewing: Approaches and Pitfalls' *Politics* Vol. 16 No. 3 pp.199-204 p.200

knowledge of events, provide a defensible narrative of them and to analyse, explain, assess and understand the events in the broadest context – for this thesis, in the context of the new Labour Government 1997-2010 and the broader field of political science. Famously, the distinguished biographer of President Lyndon Baines Johnson, Robert Caro, sought to interview every single person at every single meeting of any import that LBJ attended before writing up his account as he wanted to be as comprehensive as possible. Seemingly, only death was accepted as an excuse for not being interviewed. This is fine for the biographer – but it means that he has spent over forty years at his task – he began in 1974 and is yet to complete the project. Four volumes later – with 8, 12 and 10 years between them - LBJ has only just become President.[272] I do not have forty years to develop the narratives for these case studies – and have chosen those I wanted to interview very carefully. This thesis is about the role of minister and the processes they are involved in – so the pool of interviewees has been almost self-selecting. Those interviewed were significant participants in the matters under discussion – as politicians, policy officials, civil servants, special advisers or other public officials.

As Richards contends, 'the reliability of the interviewee is sometimes questionable' and not always for nefarious reasons.[273] The interviewee may have a failing memory, events may have been some time ago, or they may have simply changed their view on events and have confused their role at the time because of their new view. Seldon suggests that ex-politicians 'often encounter pathological difficulties in distinguishing the truth, so set have their minds become by long experience of partisan thought' whilst civil servants 'tend to be dispassionate creatures by nature and profession…. they observe action, storing the information in mental boxes that can yield a rich harvest to those who take the trouble to prise them open.'[274] This is probably both unfair on the ex-politicians and unduly favourable a view of the civil service, but nonetheless the point is well made – know your interviewee and know what you require from the interview. During the course of the interviews for this thesis, I have found as many civil servants keen to offer a partisan perspective with concern for their

[272] Caro, Robert (2012) *The Years of Lyndon Johnson: The Passage of Power* the Bodley Head London; Caro, Robert (2002) *The Years of Lyndon Johnson: Master of the Senate* Knopf New York; Caro, Robert (1990) *The Years of Lyndon Johnson: Means of Ascent* Knopf New York; Caro, Robert (1982) *The Years of Lyndon Johnson: The Path to Power* Knopf New York
[273] Richards (1996) Op.cit. p.201
[274] Seldon (1988) Op. cit. p.10

legacy as I have encountered former politicians objectively seeking a dispassionate truth regardless of their legacy.

Crucially, an interview is interrogative, but it is not an interrogation. The interviewee may change their view on events and their role within the events if pushed too far in any one direction by the interviewer, particularly one who was a participant in the process. The interviewer needs to be very aware of this and his own subjectivity. Equally, the interviewer needs to be robust enough to secure the information required from the interview. If the interviewer is too deferential, then the interview will only elicit the information that the interviewee wants to give. Richards is clear that there is an issue of power relations in any interview. He says that

> … an interviewee concerned with presenting his/her viewpoint may want to control and dominate the interview. If so, the interviewer may not be able to control the format, or direction of the interview.[275]

Ultimately, the interviewee has the power in any interview which is why it is so important that the interviewer carefully considers the approach to the interview. It should be a semi-structured affair – with enough scope to get the interviewee to open up on the matters that the interviewer wants, but also enough scope for the interviewee to get his/her points across.

So, in summary, the power of the interview is as a key contribution to the narrative. It is how the results of the interviews combine with the results of all the other aspects of documentary analysis – of primary, secondary, official sources and memoirs – and the results of the participant observation and reflections – that adds up to a powerful method. It is only in this combination that each element works validly as a research method.

Triangulation of sources

Lilleker maintains that ultimately the safeguard is to 'corroborate facts, where possible, using primary or secondary sources and to compare the results gained systematically.'[276] More routinely, as Davies suggests, 'the optimum solution appears to be a triangulation triad of primary sources (interviews, published first-hand accounts; and documentary sources (published or archival)), with published

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[275] Richards (1996) Op. cit p.201
[276] Lilleker (2003) Op.cit p.211

secondary-source information available in cautious reserve'[277] as in Figure 3:3. In addition to Davies' triangulation of sources, this study has to add the unique dimension of the researcher as participant as well as academic. This implies a primary filter – that of the insider's perspective – on every leg of Davies' triangle. This secondary filter will add further dimensions to his 'goal of triangulation' which is to 'provide a parallax view upon events.'[278] This 'parallax paradigm' colours all aspects of how sources are used in this study.

Morris says that it is important that interviewers are clear and explicit in the ontological and epistemological assumptions on which their research is based and that they should approach the research process self-critically and reflexively.[279] Reflexivity refers to the 'recognition of the influence that the researcher brings to the research process' and this is all the more important for the researcher that brings the experience of a participant in the events and narratives that are being studied. Kuper et al go on to suggest that such reflexivity

> … highlights the potential power relationship between the researcher and the research participant…. It also acknowledges how a researcher's [characteristics]…influence the choices made within the study, such as the research question itself and the methods of data collection.'[280]

The level of 'reflexivity' that I have to bring to the process is all the more heightened as all the interviewees are known to me, I have already met them all, even if my respective relations with them now – ten or more years on from the events – is different from what is was then. This special degree of 'reflexivity' will not do the researcher's job, but it certainly helps. The researcher/participant also has various dimensions to explain and reflect on as seen in Figure 3:4.

My reflections and recollections – my 'memoir' – is an important dimension and is duly sourced in the text of the narratives of the case studies, where appropriate. This 'memoir', it could be argued, is the result of an ongoing debate or 'interview' that I have had for this thesis with the 2005-2008 ministerial version of myself.

There are also secondary sources and documents that reflect my ministerial role at the time and my participation in these events. In order for the reflexivity to be of any

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[277] Davies, Philip H.J. (2001) 'Spies as Informants: Triangulation and the Interpretation of Elite Interview Data in the Study of the Intelligence and Security Services.' *Politics* Vol.21 (1) pp.73-80 p.77-79
[278] Davies (2001) Op. cit. p.75
[279] Morris, Zoe Slote (2009) 'The Truth about Interviewing Elites' *Politics* Vol.29 (3) pp.209-217 p.214
[280] Kuper, A., Lingard, L and Levinson, W (2008) 'Critically Appraising Qualitative Research' *British Medical Journal* 337, pp.687-689

Figure 3:3 Triangulation of sources

Interview ⟷ Interview

Secondary Sources

Memoirs

Documents

Original source: Davies, Philip H.J. (2001) 'Spies as Informants: Triangulation and the Interpretation of Elite Interview Data in the Study of the Intelligence and Security Services.' *Politics* Vol.21 (1) p.78
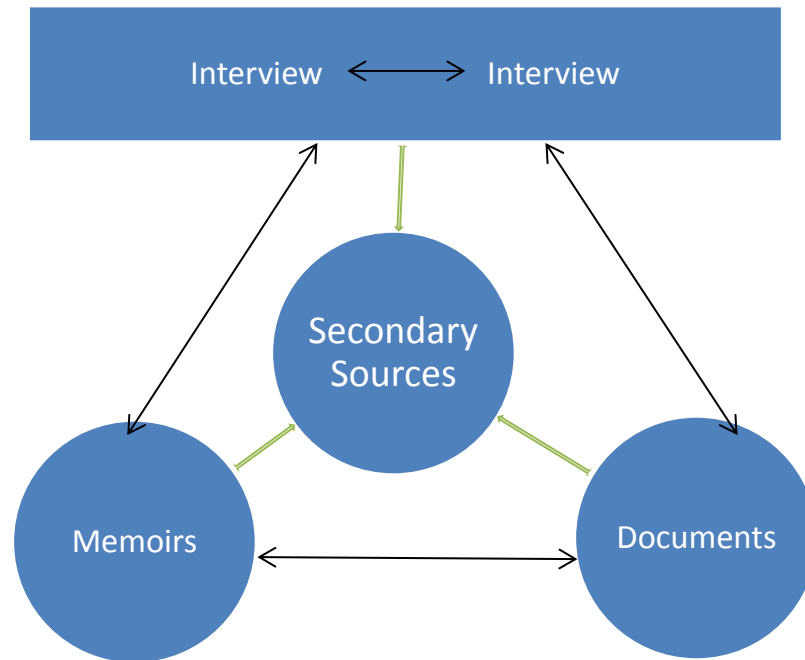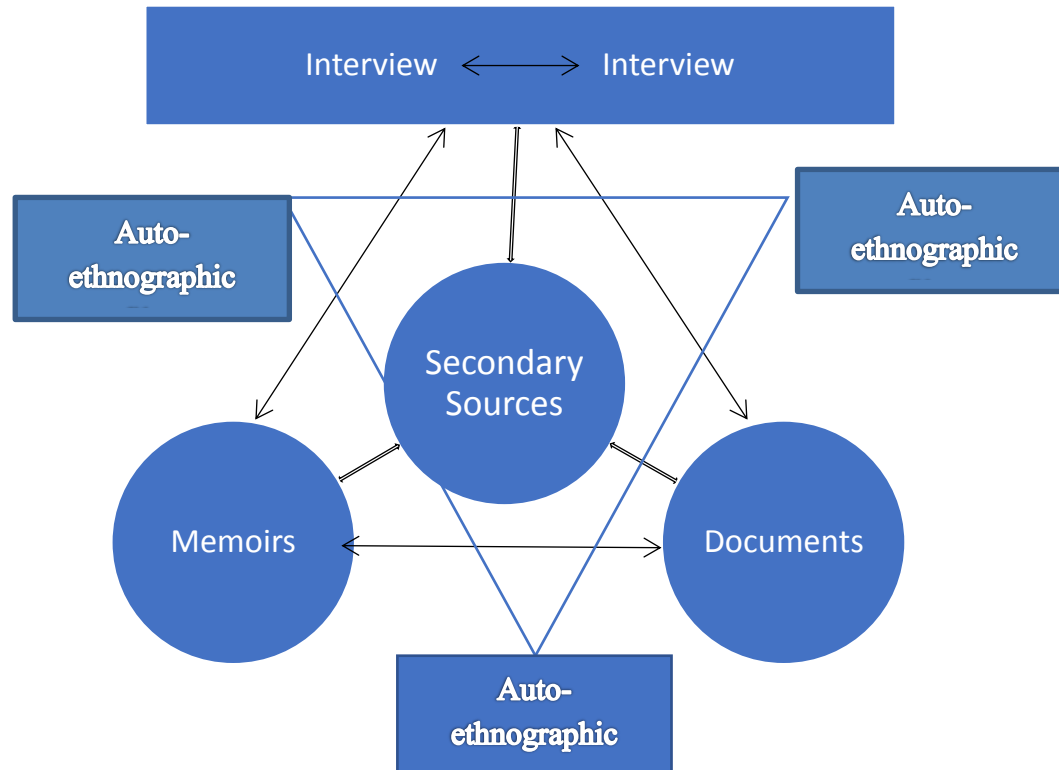
Source: Davies, Philip H.J. (2001) 'Spies as Informants: Triangulation and the Interpretation of Elite Interview Data in the Study of the Intelligence and Security Services.' *Politics* Vol.21 (1) p.78 - modified by author.

epistemological value, I have also, where appropriate, had to be critical of my role then – as a participant – as I develop and analyse the narratives for the case studies under review now – as a researcher. If all researchers have to be imbued with the spirit of this reflexivity – then the researcher participant has to be all the more cautious to sustain the necessary rigour and validity. This is also why, in addition, to the use of case studies and interviews, it is important to understand both the context of policy formulation and how an ethnographic approach as a research methodology helps the researcher who is also a participant in the events under analysis and discussion. But before returning to the subject of ethnography, it is important to look a little deeper into the role and value of memoirs.

Memoirs: reflections of 'court' politics?

Richards and Mather note that there is a 'long-established tradition of ministers providing memoir-style accounts of their experience of government, most commonly in the form of either autobiographies or diaries.'[281] McGrath argues that they tend to be characterised by 'their self-serving perspective' and are concerned with establishing the 'author's self-defined role in the history books.'[282] More crudely, in his review of Thatcher's memoirs, Nigel Lawson described them as "setting standards of self-regard hitherto unknown". [283] Gamble agrees that 'not all memoirs are equally useful' and that perhaps 'even the majority, offer relatively little to the political scientist.'[284] He suggests that, at worst, they can be deemed as poor sources which are little more than "self-serving, bland and highly selective." [285] He does concede that the best of memoirs can offer a range of insights into three areas – political ethos and style; argument and doctrine; and policy formulation and implementation. He also

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[281] Richards, David and Mathers, Helen (2010) 'Political Memoirs and New Labour: Interpretations of Power and the 'Club Rules'' *British Journal of Politics and International Relations* Vol.12 pp.498-522. See also Gamble, Andrew (2002) 'Political Memoirs' *British Journal of Politics and International Relations* Vol.4 No.1 April 2002 pp.141-151. Early such output includes Cook, Robin (2003) *The Point of Departure* Simon & Schuster London; Mowlam, Mo (2002) *Momentum: The Struggle for Peace, Politics and the People* Hodder & Stoughton London; Blunkett, David (2006) *The Blunkett Tapes: My Life in the Bear Pit* Bloomsbury London. Later works included Blair, Tony (2010) *A Journey* Hutchinson London; Mandelson, Peter (2010) *The Third Man: Life at the Heart of New Labour* HarperPress London; Darling, Alistair (2011) *Back from the Brink: 1000 days at Number 11* Atlantic Books London
[282] McGrath (2002) Op.cit. pp.71-84
[283] Lawson, Nigel *The Evening Standard* (27 October 1993) quoted in Gamble (2002) Op.cit p.146
[284] Ibid p.142
[285] Gamble (1994) 'Political Memoirs' *Politics* 14 (1) pp.35-42

argues that whilst these 'inside stories' are useful as "valuable sources on the inside story" they often have less to say, "on the outside story, the wider context in which governments operate, in particular the structures of power that shape British society and the British state.'[286]

There is, then, value in such memoirs, but it is limited. They are not scientific accounts of the truth rooted in evidence, but they offer "heavily skewed, agency-centred construction of Westminster's court politics" and, often, central to their production is an abiding concern for the 'legacy' of the author – their 'historical impact', as Richards and Mathers would have it. [287]

For Gamble, although 'court politics and its follies are always entertaining' focussing on them too much can mislead'. If the dominant model of memoirs is that of an "historical-impact (legacy-seeking), agency-centred account", then the key methodological question is how can these accounts, rooted in an often "idealised view of the core executive power relations they tend to depict", be interpreted. [288]

The danger with memoirs is that political scientists may want them to be much more than they are. The political scientist wants to look at them in the context of their "usefulness as "evidence" and whether they meet "political science's standard of reliability, validity, accuracy and objectivity."[289] It is commonly agreed that despite the plethora of ministerial biographies, autobiographies, memoirs and diaries 'few are of much use to the student of Whitehall'.[290] Notwithstanding this apparent disappointment, memoirs should be viewed for the contribution, albeit limited, that they can make – and, crucially, the context within which they are made. They should not be viewed as a scientific assessment of a minister's role and actions – anyone searching for a definitive truth should not look in this direction at all. Memoirs are what they are – a view, a social construct, a version of history drafted by a participant in the interest, perhaps, of their legacy, their 'historical impact'. Rhodes is right to contend that "if intellectual respectability is the goal, then biographers must engage

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[286] Gamble (2002) Op.cit. p.150
[287] Richards and Mathers (2010) Op.cit p.502
[288] Ibid p.502
[289] Rhodes, Rod A.W. (2012) 'Theory, Method and British Political Life History' *Political Studies Review* Vol.10 pp.161-176 p.164
[290] Ibid p.164

with the broader literature on theory and methods."[291] He discusses this in the context of the interpretive cause and qualitative research methods in general and suggests that memoirs or more specifically, life histories, are seen as incompatible with 'modern-empiricist political science'.[292]

Although assorted memoirs have, with varying degrees of success, offered some insight into ministerial life and many of the policy and decision-making processes of government, most have been very thin on analysis or intellectual rigour, sometimes on veracity too. The same is the case with diarists, an increasingly rich tradition for former Labour officials and ministers. The cautionary approach suggested by Richards et al[293] is well made. They state that 'scattered throughout such reflections are a variety of criticisms of the machine, the way it functions and, in particular, frustration over ineffective delivery.[294] They go on to suggest that, as with their illustrious predecessors such as Benn, Castle and Crossman, they

> …can only provide a narrative on events as they unfold; they do not offer coherent blueprints for reform or restructuring.[295]

It is quite disconcerting occasionally to sometimes read a version of events in someone's memoirs or diaries in which I was involved and know that the version reported is completely untrue. The academic world does not take memoirs or diaries as seriously as their authors do, but nevertheless appreciates, as does this study, that some do have an insight to offer.

Up close and personal: interpretivism and ethnography revisited

Interpretive approaches, and the use of an ethnographic methodology, seem to be a useful way to help analyse the contextual and organisational development of case studies. As Rhodes suggests, such an approach begins with the insight that in "order to understand institutions, the researcher needs to grasp the relevant meanings, the beliefs and preferences, of the people involved."[296] By choosing case studies that I

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[291] Ibid p.166

[292] Ibid p.164.See also Bevir, M (2006) 'Political Studies as Narrative and Science, 1880-2000' *Political Studies* Vol.54 pp.583-606

[293] Richards, David Blunkett, David and Mathers, Helen (2008) 'Old and New Labour Narratives of Whitehall: Reactionaries and Defenders of the Westminster Model.' *The Political Quarterly* Vol.79, No.4, pp.488-498

[294] Richards et al (2008) Op.cit. p.495

[295] Richards et al (2008) Ibid p.495

[296] Rhodes (2008) Op.cit. p.438-439

was fully involved in personally as a minister, I am seeking to provide 'constructions of my own and other people's constructions of what I and my compatriots were up to', as Geertz would have it, [297] in the development of public policy.

As far as possible, I am doing so as both a dispassionate academic inquirer and researcher as well as an active participant. In other words, an auto-ethnographic, interpretivist approach with the author as both subject and researcher will be used – with, perhaps, an element of what Rhodes describes as 'para-ethnography' too. He defines this as involving a "critical reading of technical documents to reconstruct a decision" and that "given that observer and observed both interact and are inseparable, a full understanding needs a reciprocal, dialogical relationship." [298] This is further complicated by what Van Maanen describes as his 'phenomenological war whoop' declaring that 'there is no way of seeing, hearing, or representing the world of others that is absolutely, universally valid or correct.' He adds that 'ethnographies of any sort are always subject to multiple interpretations. They are never beyond controversy or debate."[299]

As indicated earlier, not everyone agrees with the efficacy of the interpretivist approach. As Smith contends 'rational choice theorists suggest that there is little point in gathering the view and beliefs of officials because of the 'they would say that' principle.' Bevir and Rhodes disagree and use ethnography 'to provide evidence of the action and beliefs of key actors, and historical narratives to provide explanations of why they hold these beliefs and so perform these actions.'[300] They argue that analysing these beliefs and practices is central to understanding the people involved in these processes and this is central to understanding change in the public sector. For them, the relationship between ministers and public servants may be shaped by the traditions of the department, but it is not determined by that history.[301] They accept that the researcher must tread wearily between Geertz's 'diary disease'[302] and Van Maanen's 'doctrine of immaculate perception'[303]. They are also keenly aware that that

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[297] Rhodes (2008) Ibid p.438 – quoting Geertz (1973) Op.cit p.9
[298] Rhodes, Rod A.W. (2014) ''Genre Blurring' and Public Administration: What Can We Learn from Ethnography.' *Australian Journal of Public Administration* Vol. 73 No. 3 pp.317-330 p.324
[299] Van Maanen, John (1988) *Tales of the Field: On Writing Ethnography* University of Chicago Press Chicago and London p.35
[300] Bevir and Rhodes (2006) Op.cit p.109
[301] Ibid p.109
[302] Geertz (1988) Op. cit. p.90
[303] Van Maanen (1988) Op. cit. p.74

'too little reflection and there is no point. Too much reflection and there is a danger of provoking the response, 'I don't care.'[304]

It is clear that all approaches have their limitations. An ethnographic approach must be used fully in the knowledge of the 'contested terrain' of each meeting, each decision, each event and the success or failure of each policy and each policy area. Bevir and Rhodes understand this too and state that 'every method has limits and weaknesses. Observation is no exception. All any researcher can do is come clean and face up to those limits and weaknesses.'[305]

Summary

Heclo and Wildavsky quote Sir Samuel Goldman, the Second Permanent Secretary at the Treasury from 1968-1972, as saying "No government has so far yet been prepared to display to Parliament or to the public the actual processes by which it reaches decisions in this field…"[306] Notwithstanding the advances that have been made in terms of access, scrutiny and the role of the media – especially the Cockerell-esque fly-on-the-wall endeavours - the processes still remain fairly obscure. This study will offer some significant insight on the work of a government minister. It has been shown that, in methodological terms, by utilising the case studies and creating narratives; interviewing a broad range of participants and commentators; using and understanding the value of, but also the limitations of, memoirs; understanding the context within which policies are made; and an overall ethnographic approach – the research framework is robust and rigorous. It will help to explore, explain, assess and analyse these key areas of public policy. All these assorted sources will be both triangulated to take into account the key filter of the researcher as participant – auto-ethnography – and the narratives of the case studies that result will form the core academic analysis of the study.

By carrying out such a detailed analysis, our knowledge of how policies are determined and developed within government will be enhanced as will our ability to determine why some policies succeed, and others fail. Central to the thesis is whether or not political science and politics can have the dialogical relationship that Béland identifies between policy paradigms and alternatives, that Rhodes sees between

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[304] Bevir and Rhodes (2010) Op.cit p.209
[305] Ibid. p.209
[306] Quoted in Heclo and Wildavsky (1974) Op.cit. p.xii. The quote is mistakenly cited as being said on the 23/3/1791 rather than 1971, although it is correctly referenced as Hansard H.C. 549 (1970-1971), para. 116

observer and the observed and that Diamond argues can and should happen. That is, politics can inform political science and political science can inform politics. Before looking in detail at each of the case studies in turn, it is important to briefly set them in the broader context of the new Labour Government. The next chapter will locate the three case studies in the context of the overall strategy, outlook and approach of the government.

Chapter Four

New Labour in Context: the contested terrain of home affairs

New Labour: schools of thought

This chapter will look briefly at the context within which New Labour was developed. It will then set the development of its home affairs agenda in general, and its policies in the three areas under discussion in particular. Whilst there has been extensive discussion of the historical roots and origins of the New Labour phenomenon,[307] there has been relatively little academic consideration of its Home Affairs agenda and a growing body of academic work in the specialist areas of immigration, policing and counterterrorism and then mainly in terms of civil liberties and human rights. [308]

More often than not, Labour leaders invoke the past and the future in the cause of their vision and leadership. All have , to varying degrees, followed Gaitskell's edict that they should

> … remember that we are a Party of the future, not of the past; that we must appeal to the young as well as the old–young people who have very little reverence for the past. It is no use waving the banners of a bygone age.[309]

Many considered that New Labour was intent on destroying the 'banners of a bygone age' and were wholly embarrassed by its history. Much of the discussion on the party revolves around claims on its history and legacy. There are broadly three main schools of thought about New Labour. The first stresses the reformist works of the 1997-2010 governments and sees them as 'in continuity with the reforms undertaken during the two major periods of Labour government.'[310]It sees them as an updating or modernisation of Labour and a continuity with 'Labour's post-war social democratic

[307] See, for example, Hay, Colin (1999) *The Political Economy of New Labour: Labouring Under False Pretences* Manchester University Press Manchester; Shaw, Eric (2007) *Losing Labour's Soul? New Labour and the Blair Government 1997-2007* Routledge Oxford and Heffernan, Richard (2011) 'Labour's New Labour Legacy: Politics after Blair and Brown' *Political Studies Review* 9, pp.163-177
[308] See Klug, Francesca (2011) 'New Labour and the Distribution of Power: Constitutional Reform, Human Rights and Civil Liberties', *The Political Quarterly*, Vo.81 (S1) pp. S77-S95
[309] Gaitskell, quoted in The Labour Party, Report of the 58 Annual Conference held in the Opera House, Winter Gardens, Blackpool, 28 and 29 November 1959, 107. Jobson, Richard (2013) 'Waving the Banners of a Bygone Age', Nostalgia and Labour's Clause IV Controversy, 1959–60' *Contemporary British History*, 27:2, 123-144 p.199
[310] Faucher-King, Florence and Le Galès (2010) *The New Labour Experiment: Change and Reform Under Blair and Brown* Stanford University Press Stanford California pp.2-4

politics.'[311] The second broad school of thought argues that Labour 'had fallen under the spell of Thatcherism' and was 'accommodating itself to the New Right.' [312] The third broad school of thought takes a more historical perspective and, in its various forms, argues in the space between the two previous perspectives.

Modernise or die

One of the key architects of the New Labour 'project' posited that, by the early 1990s Labour had become a party to be feared. Gould reported that just before the 1997 elections, a woman told him that when she was a child she was scared of a wardrobe in her bedroom. She was always scared that one night, out of the blackness, a monster would emerge. She told Gould, 'That is how I think of the Labour Party.'[313] He argued that this was a typical response on the run-up to 1997 and that Labour had become 'the party of the shadows; of deep irrational anxiety. Only modernisation would save it.'[314] Gould saw such modernisation as 'the need to build a new Britain, and the need to build a new model of social democracy.'[315] He wanted a 'completely new model of social democracy as 'halfway solutions linking old models don't work…New Labour must be positioned at the centre.'[316]

Some contend that New Labour was only ever an electoral machine. For Heffernan, it began, 'in essence, as an electioneering strategy.'[317] Electoral considerations certainly influenced the development of New Labour and its modernisation project. For Blair, 'the worse thing about opposition is its impotence …however beguiling, never forget what matters. Not passing resolutions or winning debates but taking power and changing lives for the better.'[318]

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[311] Driver, Stephen and Martell, Luke (2006) *New Labour* Polity Press Cambridge pp.3-4
[312] Driver and Martell (2006) Op.cit. p.3. See also Clarke, J (2004) 'Dissolving the Public Realm? The Logics and Limits of Neo-liberalism.' *Journal of Social Policy* Vol. 33 No. (1), pp. 27-48. doi:10.1017/S0047279403007244
[313] Gould, Philip (2011) *The Unfinished Revolution: How New Labour Changed British Politics Forever* Abacus London pp.18-19
[314] Gould (2011) Ibid. p.19 See also Finlayson, Alan (2003) *Making Sense of New Labour* Lawrence & Wishart London especially Ch.3.
[315] Gould (2011) Ibid. pp.245-246
[316] Ibid. p.246
[317] Heffernan (2011) Op.cit. p.163
[318] Gould (2011) Op.cit. pp.xxiv-xxv.

At its most extreme, the modernisation school is represented by the 'Third Way'.[319] By 1994, Labour had not won an election outright for twenty years – and then only by a majority of three. The last significant outright Labour victory with a large majority was in 1966 – 28 years before Blair took over as Labour leader[320] and 'Labour's share of the vote fell from a high of 48% in 1966 to only 27.6% in 1983…'[321] The concept of the Third Way helped Labour to '… resolve a crucial dilemma … the need to accept some of the key reforms introduced by Thatcherism, while not turning away from the tenets of social democracy.[322]

In other words, a view that whilst Labour could not simply return to the certainties of the pre-Thatcher world, neither should it just take on in full the new certainties of Thatcher and her political heirs. Indeed, 'while all agree that the policy paradigm enacted by Thatcherism… played some role in the emergence of New Labour's political stance,'[323] only the most ardent New Labour supporter would resist the notion that the party was not influenced at least in part by the 1979-1997 governments.

Equally, some 'have taken the Third Way rhetoric at face value and concluded that New Labour has indeed abandoned its social democratic values and traditions.'[324] In other words, it is a politics beyond class. It implies that 'the theorists of this new politics [including Giddens] think that we are now living under conditions of 'reflexive modernisation' where the adversarial model of politics, of us versus them, does not apply anymore.'[325] That is the Third Way as a way of 'superseding ideology and

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[319] See for example Giddens, A (1998) *The Third Way: The Renewal of Social Democracy* Polity Press Cambridge; Giddens, A (2000) *The Third Way and its Critics* Polity Press Cambridge
[320] See Butler, David and King, Anthony (1966) *The British General Election of 1966* Macmillan London; Butler, David and Kavanagh, Dennis (1974) *The British General Election of February 1974* Macmillan London
[321] Gray, Robin (2003) 'A Natural Centre-Left Majority?' *Politics* Vol.23 No.1 pp.21-30 p.23
[322] Richards, David and Smith, Martin J (2004) 'The 'Hybrid State': Labour's Response to the Challenge of Government' in Ludlum, Steve and Smith, Martin J. (2004) (Eds.) *Governing as New Labour* Macmillan Press Houndmills Basingstoke pp.106-126 p.109
[323] Heffernan (2011) Op.cit. p.165.
[324] Kelly, John – Op.cit. in Andersson et al. (2011) p.110
[325] Laclau, Ernesto and Mouffe, Chantal (1985) *Hegemony and Socialist Strategy; Towards a Radical Democratic Politics* Verso London pp.xv-xvi. See also Finlayson (1999) 'Third Way Theory' *The Political Quarterly* Vol. 70 pp. 271-279 for a useful discussion on the 'Gramscian' roots of the Third Way and its links to the Marxism Today/New Times project of the 1980s.

partisanship as central forces in the process of policy-making' and as a prelude to Burnham's 'politics of depoliticisation'.[326] For others, the Third Way is

> … a metaphor for centre-left parties … to help them to forge 'political settlements' that combined a recognition of the increasing importance of the global economy with attention to the importance of social cohesion.[327]

The implication, for detractors, was that globalisation mattered more than cohesion. Adherents of the Third Way would argue the opposite, namely that the key motivation was how to achieve social cohesion in a globalised world that was here to stay.

Others have recognised in New Labour that 'beneath the rhetoric of radical change and new policies for "new times," it is possible to detect significant continuities with a number of Labour traditions.'[328] There was, then, an acceptance that the world had changed so the party had to change with it. Whatever one's view, the notion of 'socialism in one country' had long passed – globalisation had seen to that. Competent economic management would provide the resources to expand welfare and provide the funds for other social and political projects.

So, the modernist interpretation of New Labour revolves around the degree to which there is an acceptance that it is a continuation of Labour's values and traditions or a departure from them. In the same fashion, the starting point for many on the accommodationist side revolved around the distance from or absence of Labour values and traditions in New Labour – but both schools are on continuums, not simply binary choices or positions.

Accommodating Thatcher and neo-liberalism

For this school of thought, Blair and his governments were neo-liberal 'gravediggers of the Labour Party, consolidators of the results of Thatcherism, and the most rabid defenders of market mechanisms.'[329] As some would have it, however,

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[326] Mair, Peter (2013) *Ruling the Void: The Hollowing of Western Democracy* Verso London pp.50-51. See also Burnham, Peter (2001) 'New Labour and the politics of depoliticisation' *British Journal of Politics and International Relations* Vol.3 (2) pp.127-149
[327] Newman, John (2001) *Modernising Governance: New Labour, Policy and Society* Sage London p.2
[328] Kelly, J Op.cit. in Andersson et al. (2011) p.110. See also Fielding, Steven (2003) *The Labour Party: Continuity and Change in the 'making' of New Labour* Palgrave Macmillan Basingstoke; Finlayson, Alan (2003) *Making Sense of New Labour* Lawrence & Wishart London
[329] Faucher-King and Le Galès (2010) Op.cit. p.3-4

> there is an undoubted tendency … to deploy a rather ambiguously sketched concept of neo-liberalism as a catch-all analytical framework for understanding the present. 'Neo-liberalism' too often here means 'everything we don't like.' [330]

Whatever vestiges of Labour values and traditions existed were largely decorative or seen as necessary to secure electoral advantage on some sort of 'Downsian desire to meet electoral preferences.'[331] All views and opinions on the Labour Government were seen through this distorted 'neo-liberal' prism, and the accommodation of Thatcherism was complete and unremitting.

One commentator argues that '…New Labour's ideology was closer to a hybrid than to social democracy *because of its uncritical embrace of market capitalism and its acceptance of inequality…*' [332] Looking back, the economic data does not entirely sustain this view either. It is clear that much more could have been done in terms of inequality but nonetheless:

> Between 1997-98 and 2010-11, there was an £18 billion annual increase in spending on benefits for families with children and an £11 billion annual increase on benefits for pensioners by 2010-11. As the IFS pointed out, '…child and pensioner poverty would either have stayed the same or risen…had there not been these big spending increases.[333]

The tax credit regime was redistributive and raised nearly 2m children out of poverty. It could be said that, 'If New Labour can be said to have 'crashed the car'… it is on inequality'[334] As a participant in both the Labour Party and the subsequent Labour government, I do not recognise this description – in terms of market capitalism or in terms of inequality. To assert that, by implication, New Labour under Brown and Blair had little or no regard for equality, democracy and community is an assertion too far,

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[330] Hilton, Matthew Moores, Chris and Sutcliffe-Braithwaite, Florence (2017) 'New Times Revisited: Britain in the 1980s' *Contemporary British History* Vol.31, No.2, pp.145-165 p.149

[331] Kelly, John – Op.cit. in Andersson et al. (2011) p.108. For an elaborate and detailed account of Labour and the 'spatial model of party competition' see Hindmoor, Andrew (2004) *New Labour at the Centre: Constructing Political Space* Oxford University Press Oxford; Hindmoor, Andrew (2005) 'Reading Downs: New Labour and *An Economic Theory of Democracy.' British Journal of Politics and International Relations* Vol. 7, pp.402-417. The original thesis is in Downs, Anthony (1957) *An Economic Theory of Democracy* Harper Collins London.
[332] Goes, Eunice (2016) *The Labour Party under Ed Miliband: Trying but failing to renew social democracy* Manchester University Press Manchester pp.12-13
[333] Bloodworth, James (2014) 'Inequality: where Labour really did 'crash the car.' *Left Foot Forward,* 8th October 2014 at https://leftfootforward.org/2014/10/inequality-where-labour-really-did-crash-the-car/

[334] Ibid. See also The Guardian (2009) 'Is it Fair ?' *The Guardian John Hills* Wed 25 Feb 2009 at https://www.theguardian.com/society/2009/feb/25/social-exclusion-policy and Sloman, Peter (2015) 'Activation or redistribution? The mystery of tax credits' November 2015 at http://blogs.lse.ac.uk/politicsandpolicy/tax-credit-cuts-mystery/

notwithstanding that the fight against poverty and inequality could have gone further. Figure 4:1 shows the varied record of the government on relative poverty rates. [335] Whilst it would certainly be fair to say that the government's record was a 'mixed' record, evidence shows that it did not neglect inequality in the way suggested.

Figure 4:1 Relative poverty rates since 1996-97

Notes: Years refer to financial years. Poverty line is 60% of median income. Incomes measured before deducting housing costs.
Source: Family Resources Survey.
Joyce, Robert and Sibieta, Luke (2003)
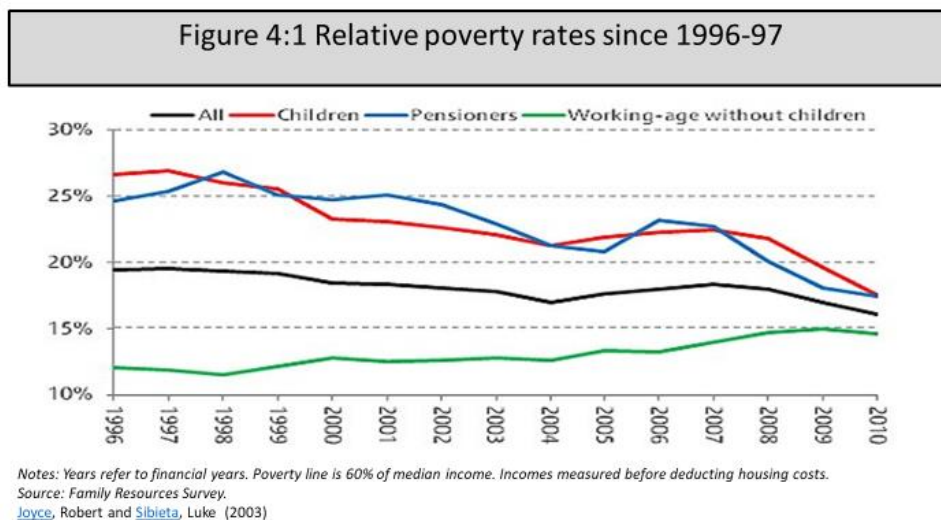
Academics that ascribe to a broadly accommodationist view start from a similar perspective to the modernisers – that is, how to facilitate social democracy in a post-Thatcher world. They accept that New Labour takes as read that the state is smaller and there is a smaller central core to the state and the public sector should be reduced. Further, that there had to be an accommodation with globalisation. This needed flexible labour markets and a low tax base. There was broad acceptance, it was argued, that the ideal view of the electorate was for a Scandinavian style welfare state, with a US style low tax base and a broadly authoritarian streak on matters like law and order.[336] Elements of the package presented by New Labour emphasised macro-economic stability, not least because of the legacy of Labour's previous economic

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[335] Joyce, Robert and Sibieta, Luke (2003) 'Labour's record on poverty and inequality.' *Institute of Fiscal Studies* IFS London at https://www.ifs.org.uk/publications/6738

[336] See variously Hay, Colin (1999) *The Political Economy of New Labour: Labouring Under False Pretences* Manchester University Press Manchester; Heffernan, Richard (2001) *New Labour and Thatcherism: Political Change in Britain Palgrave Macmillan Basingstoke:* Shaw (2007); Shaw, Eric (2012) 'New Labour's Faustian Pact?' *British Politics* Vol.7, 3, pp.224-249

failures in office and public service efficiency (for the same reasons). Shaw contends though that it was not the

> …legacy of the party's past as such that permeated the New Labour mentality and so governed its behaviour in office – it was that past as re-imagined and reconstructed in a very particular way.[337]

In other words, New Labour proponents were reacting to their own view of previous Labour governments and this view of Labour's history was one of the contributing lodestars to the develop of their new perspectives. As Bale contends, 'New Labour needs Old Labour. A new improved version must have an old unimproved one from which to distinguish itself.'[338] It is instructive that subsequent critics of New Labour have done the same thing. They have created their own re-imagined and reconstructed view of what New Labour was in order to critique it. Sometimes this is presented in so reductionist a fashion that 'neo-liberal' sums ups this entire period of Labour in government. Diamond argues that the party's revisionist dimension would have be better served if 'New Labour's debt to the past had been properly acknowledged.'[339]

At its most extreme, the accommodationist view would have it that all New Labour was about is the 'search for votes' and the politics of 'what works'.[340] Accommodation becomes convergence and there is little to distinguish between the parties. As part of this process, accommodationists would argue that the leadership attempted to 'paint a portrait of their own Party's [past] in which accuracy was sacrificed not to enhance but to belittle the original [Old Labour].' They did this so as

> …to engage in pre-emptive auto-strikes acknowledging the truth of much of the tabloid version…demonstrating that 'New Labour' had learnt its lessons and wiped the slate clean.[341]

Some contend that not only did New Labour run away from its historical legacy in this way, but also that in the rush to accommodate the immediate post-Thatcherite world, it endorsed the same broadly neo-liberal approach as the Conservatives as a matter of political choice, not electoral or pragmatic accommodation. The accommodation was

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[337] Shaw (2007) Op.cit. p.152
[338] Bale, Tim (1999b) 'The logic of no alternative? Political scientists, historians and the politics of Labour's past.' *British Journal of Politics and International Relations* Vol. 1, No. 2, pp.192-204 p.199
[339] Diamond, Patrick (2005) *Equality Now: The Future of Revisionism* Fabian Society London p.3
[340] Mair (2014) Op.cit. p.51
[341] Shaw, Eric (1996) *The Labour Party since 1945* Blackwell Oxford p.217 – Quoted in Bale (1999b) Op.cit. p.200

not just with Thatcherism, but with neo-liberalism and some described it as a 'social democratic neo-revisionism'. [342]

A hybrid Third Way?

Generally, this school of thought is termed the 'historical critique' approach. This school argues that both the modernisation approach and the accommodation approach ignore historical continuities and the pragmatic nature of Labour in office. Some historians, sympathetic to a purer socialist strand, would have it that the modernisation school affords New Labour too much weight and it is does not represent the unbroken continuity of Labour traditions and values that it suggests. They argue, in essence, that the parliamentary road to socialism inevitably fails as the system does not need reform it needs transformation.[343] Further, that such a view underplays 'the impact of Thatcherism on Labour in the 1980s and 1990s' [344]

Historians of the social democratic and revisionist school would argue that the accommodationist approach affords the rhetoric of New Labour too much weight. They assert that the reality and substance of what the Labour government actually did belies the simplicity of New Labour as the scion of Thatcherism. Equally, they would argue that casting New Labour as 'Thatcherism Mark Two' and an accommodation to neo-liberalism overplays the impact of Thatcherism on Labour.'[345] These broader and more sophisticated approaches are probably more useful than the binary views – social democrat vs. neo-liberalism, Labour vs. Thatcherites and similar dichotomies.

Heffernan argues that the two approaches could in fact be complementary. He contends that it may be that 'New Labour, while reflecting a genuine form of 'modernisation', was thus at the same time a form of 'accommodation' to Thatcherism'. That is, New Labour can and does have its roots in Labour's values and traditions, but it has made some accommodations to the reality of a post-Thatcher, post-eighteen years of a Conservative government. Often in the course of discussion

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[342] Goes (2016) Op.cit. p.25
[343] Laclau and Mouffe (1985) See also Miliband, R(1972) *Parliamentary Socialism: A Study in the Politics of Labour* Merlin Press London
[344] Driver and Martell (2006) Op.cit. p.3.
[345] Driver and Martell (2006) Ibid. p.3.

on New Labour, the presumption has been that its predecessor, was 'supposedly homogenous'.[346] It was not. As Meredith continues

> … Labour's has always been a complex political culture of systematic and recurrent intra-party struggle and competition between different traditions, strands, tendencies and groups over assorted understandings, interpretations and applications of party principles and policy.[347]

In this context, both social democracy purity and neo-liberalism that owed nothing to Labour's traditions and values are too simplistic and are redundant as serious arguments, but useful nonetheless as bookends for the continuum representing dimensions of New Labour and its political origins. It may also be the case that '… although at the time many denied it was a social democratic government at all, in retrospect its social democratic character is likely to become more and more obvious.'[348] This may prove to be the case, but for now, the important point for this thesis is that there are a variety of views about the ideological and historical nature and antecedents of New Labour.

New Labour as post-Thatcherite

Driver and Martell eschew these simplistic approaches and define new Labour as 'post-Thatcherite.' They argue that the modernisation argument that New Labour is merely a continuation of Labour tradition is unrealistic. Having understood the 'changing economic, social and cultural conditions of the contemporary world and how that world should be governed',[349] the Party knew it could not simply return to the politics of the post-war social democratic consensus. By accepting this, it meant that there had to be some engagement with the politics of the New Right too – if only to understand it in order to combat it. As a result, they argue

> …New Labour drew a line under many of the political, theoretical and policy arguments of the 1980s and the 1990s… most clearly seen in questions between the balance between state and market in policy-making. Post-Thatcherism, social democracy would never be the same again.[350]

This immediately feels like a much more sophisticated and intellectually rigorous argument about the roots of New Labour. Driver and Martell are clear, however, that

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[346] Meredith, Stephen (2003) 'New Labour: 'The Road Less Travelled' *Politics* Vol.23., No.3, pp.163-171 p.166
[347] Ibid. pp.166-167
[348] Gamble, Andrew (2010) 'New Labour and political change' *Parliamentary Affairs* Vol.63 (4) pp.639-652 p.651
[349] Driver and Martell (2006) Op.cit. pp.3-4
[350] Ibid. pp.4-5 and Chs. 1 and 8, pp.10-29 and pp.194-216

'New Labour has not simply acceded to some neo-liberal consensus on how to run the country.'[351] It was certainly more neo-liberal than Labour had been before 1994 but was not neo-liberal in the Thatcherite sense. In addition, like all governments, the party in power experienced a range of successes and failures in each area. Both accommodationist and modernising schools can therefore find elements of the performance of the government to justify their ontological perspective.

For Faucher-King et al, the government should be judged on its 'actions, on the policies that have been implemented and on their impact on British politics and society.'[352] They talk of the importance of the desire of New Labour to transform society within the context of an understanding of history; a mobilisation of the state that differs from the traditional social democratic version but eschews a 'neo-liberalism aiming for the retreat of the state' and also a 'societal project for the middle classes'.[353]

In purely demographic terms, Labour thought it could no longer rely simply on its working-class base to secure power and targeted middle England.[354] Its views of the 'legacy of the party's past' as Shaw [355] would have it, meant that 'Labour had to demonstrate its competence to govern after the disastrous performance of the last Labour government (1974-1979). Hence, Brown's insistence as Chancellor… on sound economic management, refusal to raise taxes, courting of the business community and particular indulgence of … the City'[356] or, as Shaw described it - Labour's 'Faustian Pact.'[357]

There is also much debate about the nature of the economic programme of New Labour. Clift and Tomlinson thought it was essentially Keynesian although this could not be 'definitively demonstrated because of the absence of a severe deflationary shock'.[358] Hay demurs and argues that 'Keynesian' is 'perhaps one adjective we

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[351] Ibid pp.4-5 and
[352] Faucher-King, Florence and Le Galès (2010) *The New Labour Experiment: Change and Reform Under Blair and Brown* Stanford University Press Stanford California pp.4-5
[353] Ibid. pp.8-9
[354] For a greater elaboration see Gould (2011)
[355] Shaw (2007) Op.cit. p.152
[356] Breckenridge, George (2007) 'Book Review: The New Labour Experiment: Change and Reform under Blair and Brown.' *Political Science Quarterly* Vol.126, No.1 pp.141-142 p.142
[357] Shaw, Eric (2012) Op.cit. pp.224-249
[358] Clift, Ben and Tomlinson, Jim (2011) 'Complexity, Constraint and New Labour's Putative Neo-Liberalism: A reply to Colin Hay' *British Journal of Political Science* Vol.37 No.2, pp.378-381 p.381.

should associate with New Labour with extreme caution'. [359] Keynesian or otherwise – for a variety of reasons, the new government was given a much freer rein on the economy for much of its first two terms than most governments experience.

The Conservative opposition had been traumatised by the 1997 defeat and had little to say on the economy. Given Labour's position, the only 'safe space' the Conservatives had for any sort of policy discourse was on Europe and the potential entry of the UK into the European Currency system – the Euro. Beyond this policy area, the disunity and trauma of defeat, in 2001, as well as 1997, prevailed. By 2007, they had moved to a much more consensual position with the government when Osborne[360] confirmed that a 'possible Conservative government would not only match the overall spending plans of the Brown government but also increase public spending.'[361]

Faucher-King et al. contend that New Labour was indeed

> … a hybrid of economic liberalism inspired by American reforms, the legacy of English-style social democracy, illiberal policies in the political sense (that is, those that coerce individuals), and openness or democratisation, the whole being seasoned by a marked taste for experimentation.[362]

They allude to the notions of coercion and illiberal policies – the home affairs agenda – as part of this hybrid model. Whilst the description of these policies as 'illiberal policies' is a point of debate they are right to point to the area of home affairs as an increasingly 'contested terrain.'

In order to fully understand the complexities of New Labour home affairs agenda, we need therefore to look at a liberal-coercive dimensions of policy as well as an accommodationist/modernising dimensions. Figure 4:2 represents this view diagrammatically – each quadrant of the diagram represents a dimension of Labour policy at the time.

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[359] Hay, Colin (2007) 'What's in a name? New Labour's Putative Keynesianism.' *British Journal of Political Science* Vol.37 No.1 pp.187-192 p.192
[360] Shadow Chancellor 2005-2010 and MP for Tatton.
[361] Hay, Colin and Payne, Tony (2015) 'It's the political economy, stupid!' *speri.comment: the political economy blog* University of Sheffield
[362] Faucher-King et al. (2010) pp.4-5

Figure 4:2 Dimensions of New Labour : policy choices

Coercive/conservative

Accommodationist/
Neo-liberalism

Modernist/Third Way

Liberal
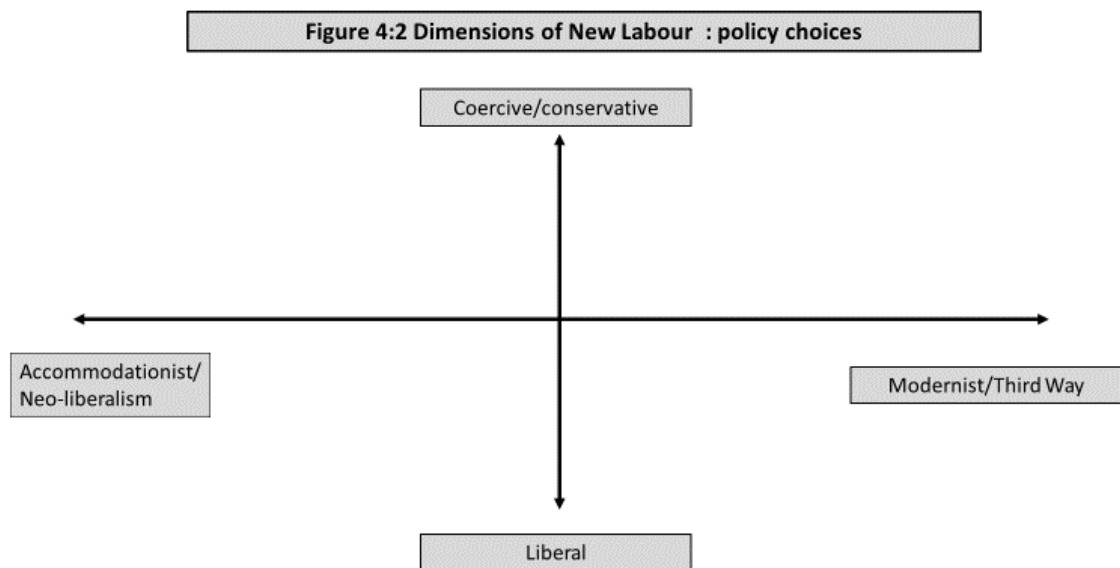
The Home Affairs narrative : a contested terrain

 Whilst it is clear that home affairs did become the 'contested terrain' of UK politics, to claim that it did so as a result of Labour's overall electoral strategy appears to be simplistic. The notion that because the Labour Party needed the middle-classes to support it in securing power and that the price was less 'social democrat red blood' in its economic policy ignores the complexities of the changing psephology. Labour has always needed a broad coalition of class support to secure power. This view gives insufficient weight to the political and economic ambitions of the middle classes. Equally, the notion that the working-class voter base, having been disappointed with Labour's economic timidity in power would be brought off by an increasingly authoritarian outlook on home affairs, is a limiting and simplistic view.

Klug has argued precisely this. In discussing New Labour and the distribution of power, Klug notes that as New Labour

> … increasingly disappointed much of its 'core' constituency on tax and income redistribution policies, it could appeal … to a section of its traditional supporters with tough anti-crime initiatives and a burgeoning prison population.[363]

She relates that many of the 'harshest measures' were 'in the context of the severe pressure the government faced in the aftermath of 9/11 and 7/7' and that the New

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[363] Klug, Francesca (2011) Op.cit. pp.S86

Labour years might have had a different flavour if these atrocities had not happened. She also notes that it is a 'matter of speculation whether other parties in power would have acted differently.'[364]

As with other commentators, Klug mistakes rhetoric for action. For example, she cites Reid's call for 'reform [of] our human rights' because the 'world has changed'.[365] She does not go on to say that no such reform was ever proposed or that all of the government's policies had to be, and were, Human Rights compliant. She does not go on to say that there were extensive debates inside the government and reform of human rights, dropping the Human Rights Act or derogating from any article of the ECHR were never seriously discussed in government. [366] It is very easy to 'hear what you want to hear'. More appropriately, she quotes Blair saying, 'the rules of the game are changing',[367] a frame that certainly informed the government's view on counter-terrorism legislation for some time to come.[368]

A narrative developed that placed the Home Affairs agenda pursued by the New Labour Government in the context of an authoritarian approach that historically had been quite common on the Left.[369] Table 4:1 summarises much of this narrative.

One version of this narrative sees the overall policy as a manifestation of 'tough on crime and tough on the causes of crime' Or, that there is an ongoing contest between the liberal and the coercive. Others claim that the government was far too statist and relied far too much on the state for defence of civil liberties. This is a classic critique of social democracy. It argues further that this was a traditional leftist authoritarianism rooted in a deep rift between 'the left' and 'what might be called [a] 'radical' or 'progressive' liberalism and that it reflected in an inconsistent approach by Labour to the values of civil liberties … and a neglected attitude to the power of the state.'[370]

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[364] Ibid. p.S86
[365] Quoted in Klug (2011) Ibid. p.S87
[366] Personal recollection of Author
[367] The Guardian (2005b) 'The rules of the game are changing' 5/8/05 at
https://www.theguardian.com/uk/2005/aug/05/july7.uksecurity5
[368] See also his 12-point plan at The Guardian (2005a) *The Prime Minister's 12-point plan at*
https://www.theguardian.com/politics/2005/aug/05/uksecurity.terrorism2
[369] Klug (2011) Op.cit. p.S88-89
[370] Ibid. p.S88

Table 4:1 A New Labour Home Affairs Narrative?

- Tough on crime, tough on the causes of crime
- A Modern Social Democratic Response
- Traditional leftist statism
- Traditional leftist authoritarianism
- New Labour neo-liberalism and the coercive state
- Third Way triangulation gone mad
- 'Deaf to broader ethical challenges and humanitarian ideals'
- Rooted in Globalisation

Many felt that Labour was playing tough in order not to look soft and that the government utilised both rhetoric and declarative law in lieu of clearly thought out policy. By 'declarative' laws, I mean laws that are as much about declaring a position or preferred outcome as concrete legislation. These declarative laws were laws that sought to 'make a point' rather than make a law. Examples included a proposal to remove passports or driving licences from recalcitrant fathers who did not pay child support, and a law that would permit police to fine drunks instantly and permitted police to 'frogmarch' them to cash machines to collect the fine.[371] Often ill-thought out, such declarative laws made the headlines but were impractical. Sometimes, 'Labour's Respect' agenda [based on the eradication of anti-social behaviour and low level crime particularly in the poorer areas of the country] angered those who invariably see the criminal or the vandal as victim, not perpetrator.'[372] The Respect agenda, the challenge of anti-social behaviour and the use of anti-social behaviour orders (ASBOs)[373] and the use of local community-based police officers to deal with

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[371] Blair, Tony (2010) *A Journey* Hutchinson London pp.279-280
[372] Heffernan (2011) Op.cit. pp.167-168
[373] Atkins, Judi (2011) *Justifying New Labour Policy* Palgrave Macmillan Basingstoke pp.141-144

Table 4:2 An authoritarian narrative?

Criticisms	Retort
Over 3000 new 'offences' since 1997	Violent crime down over 40% 1997-2010
Illiberal DNA database	Cold cases solved – including rape and murder
Criminalising a generation of young people with ASBOs	Less than 25,000 ASBOs from 1999-2013
Increased police powers – impact on communities	Highest numbers of police officers ever – significant investment in neighbourhood policing
Pre-charge detention limit increase to 28 days	Only six people come close to the limit ever, none since 2006
Highest level of CCTV and surveillance in Europe	Overwhelming private sector – largest CCTV in public sector is public transport network

them, was, for others, all about addressing the needs of those communities left behind in a world that was now 'global' in outlook. It was rooted in a 'localism' and communitarianism that was eschewed and dismissed by the civil liberties lobby.

Table 4:2 outlines the key criticisms offered of some of the key areas of home affairs. Considered together, they offered the beginnings of a cogent narrative that could point to an authoritarian focus by the government. But those who wanted to challenge each criticism felt they had answers to them. As a participant, I can certainly point to evidence that refutes them. The figure – variously of over 3000 to 4300 new criminal offences – is based on research by the then Liberal Democrat spokesperson on Home Affairs, Chris Huhne, and is always used without qualification and out of context.[374] Many of these new 'offences' are repeat offences, specific to new legislation or are replacement offences updating outdated laws. There is no doubt that, at times, the government confused 'legislating with governing', but for all these new offences, violent crime went down 40% over the period. [375]

Many objected to the growth in the DNA data base, but more and more 'cold cases' were being solved – including rapes and murders. Critics accused the government of

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[374] The Independent (2008) 'More than 3,600 new offences under Labour', Nigel Morris, Home Affairs Correspondent, Thursday 4 September 2008 at https://www.independent.co.uk/news/uk/home-news/more-than-3600-new-offences-under-labour-918053.html This and other articles utilises Huhne's research – unchallenged.
[375] See Seldon, Anthony (ed.) (2007) *Blairs Britain 1997-2007* Cambridge University Press Cambridge especially Ch.15

'criminalising a generation of young people with ASBOS – although barely 25,000 ASBOs were issued from 1999-2013.[376] By any measure, this does not represent the 'criminalisation of a generation'. Whilst there was an increase in police powers, this was also a time when there were record numbers of police officers and a huge investment in community and neighbourhood policing. Although the pre-charge detention powers were increased to 28 days (from first seven and then fourteen days), only six people have ever been held for more than 14 days since 2006.[377] The UK has supposedly the highest level of CCTV and surveillance in Europe – yet these are overwhelmingly on private buildings in the private sector or, for example, throughout modernised transport fleets of buses and trains. The narrative of an authoritarian approach is, at the very least, debateable, if not 'contested terrain'. Labour's Home Office was not embattled or the 'Millwall'[378] of departments – that is 'No-one likes us, and we don't care' – as suggested by Davies. [379]

The bifurcation of the Home Affairs agenda

In their discussion of a 'bifurcation of politics,' Jennings and Stoker posit the existence of 'two Englands' and this would seem to be a concept worth exploring further . They contend there is

> … a growing divide in the political outlook of citizens in different places…some citizens are living in cosmopolitan areas of growth, and others in provincial backwaters experiencing decline. This bifurcation of experience and circumstances is already impacting political outlooks and behaviour.[380]

They argue further that with the 'decline of traditional class cleavages and associated political loyalties, place-based experiences provide a new dynamic that is pulling cosmopolitan and backwater locations further apart and increasingly framing the political choices of citizens.' Superficially, this looks like a variation on New Labour's 'Middle England' strategy – that is, Labour's core has nowhere to go and will stick with Labour, so the appeal had to be to the middle classes. I would posit that there is

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[376] Ministry of Justice (2104) Statistical Notice: Anti-Social Behaviour Order (ASBO) Statistics – England and Wales 2013. 18 September 2014 at
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/355103/anti-social-behaviour-order-statistical-notice-2013.pdf
[377] See Chapter Seven for more details on this and subsequent attempts at legislation
[378] Famously Millwall football supporters have adapted this view as a regular chant
[379] Davies, William (2016a) 'The Protective State' *Juncture* Friday 7th October 2016 IPPR at
http://www.ippr.com/juncture/the-protective-state/
[380] Jennings Will and Stoker, Gerry (2016) 'The Bifurcation of Politics: Two Englands.' *The Political Quarterly* Vol.87 No.3 pp.372-382

a similar bifurcation when it comes to Labour home affairs agenda. The 'cosmopolitans' are 'global in outlook, liberal and plural in identity', the 'backwaters' are 'inward-looking, relatively illiberal and English in identity.' [381]

The 'cosmopolitans' would broadly agree with the New Labour government's home affairs agenda on the liberal half of Table 4:3, the 'backwaters' on the coercive half. New Labour's overwhelming desire, within its electoral strategy or the development of its home affairs agenda was to win support from both sections of the community.

Table 4:3 The Bifurcation of New Labour's Home Affairs Agenda

Liberal	Coercive
• Human Rights Act	• Policing Powers
• Freedom of Information	• Immigration
• Devolution	• Asylum
• Abolition of hereditary peers	• Security and counter-terror
• Race Relations Amendment Act	• Prisons
• Equality Act	• Criminal Justice-3,000
• Civil Partnerships	• Anti-Social Behaviour/Respect
• Equality and Human Rights Commission	• CCTV and surveillance
	• DNA database / ID cards

The bifurcation is not always as neatly delineated as it is in the example given by Jennings and Stoker. Many 'backwaters' would baulk at supporting the more liberal aspects of Labour's asylum and immigration record. As we shall see in the next chapter, Labour was trying to develop a positive message on a system of 'managed migration' that meant a liberal disposition based on a points-based system but with strong controls to implement the law strongly. Equally, not all 'cosmopolitans' would resist the strong anti-crime measures of the government or the strong counter-terrorism measures. Some of the extensions to policing powers would be welcomed by both groups, some would be rejected by both.

For every criticism of its home affairs agenda by those of a 'cosmopolitan' persuasion, there was an answer in its broader narrative for home affairs. Its policies were not just

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[381] Jennings and Stoker (2016) Op.cit. p1.

about rhetoric and declarative laws[382], but also about substance, for example in the decline of crime figures and the record number of police officers. Some would argue that, as in other areas, the rhetoric and declarative laws were spun much more than the actual reality that prevailed underneath it. In Figure 4:3, the rhetoric and spin might put New Labour in one of the four corners, but the reality was likely to be much closer to the centre of the diagram. For Hindmoor, the government's task was to persuade

Figure 4:3 Dimensions of New Labour – Rhetoric and Reality
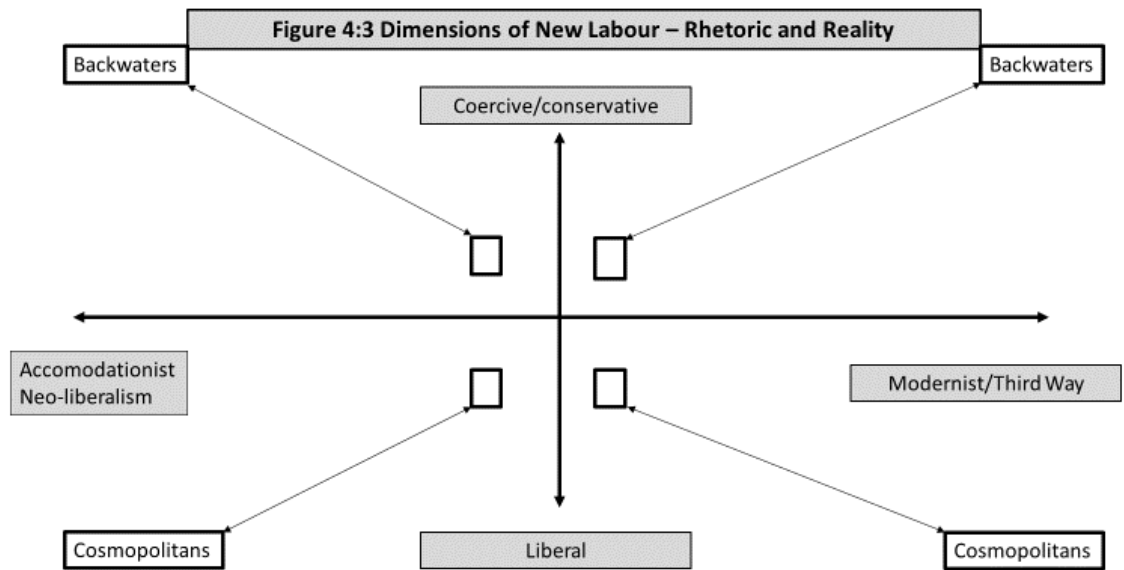
the public who gravitated to one of the four corners to come more towards the centre – through a mixture of policy and position, creativity, spin and choice.[383]

In common with Jennings and Stoker, some would argue that it is entirely fair to contend that Labour spent more time concerned about the 'gap' between reality and rhetoric in the bottom 'liberal' half of the schema in Figure 4:3 than it did in the top half.[384] This may well be the case – the core of their submission is that 'backwater' England had been left behind and that 'Labour is … struggling to develop a policy platform that reflects the concerns of backwater areas' [385]

In reality, Labour was trying to placate both sides. Much of its natural base sat in both camps. The notion that Labour only had to appeal to its own class base to succeed was

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[382] See above for my definition of 'declarative' laws.
[383] Hindmoor, Andrew (2004) Op.cit. pp.6-15
[384] Klug (2011) Op.cit. p.S86-89
[385] Jennings and Stoker (2016) Op.cit. p.6

simply no longer the case, if it had ever been. Labour had always been most successful when it combined its middle-class and working-class support. New Labour's strategy was in this similar vein and, historically at least, not that new but more a reflection of the increasing demographic reality of the late twentieth century. Its appeal to middle England was about securing power as much as it was about changing the nature of the party – a reflection of the accommodationist/modernising continuum.

It would be wrong to see the emerging narrative that arose from the concerns around these two Englands, the two continuums, as simply a function of Shaw's 'search for votes.' [386] I know from my experience in government that Labour wanted to secure all of its policy objectives – the liberal and coercive – as highlighted in Table 4:3. They formed the core of a narrative that was concerned about all aspects of safety and security as much as it was about equality and social reforms, such as civil partnerships. It was just as concerned about all aspects of the communities left behind through crime as it was about rights – and responsibilities. It wanted to develop a managed migration system as well as bring in a Human Rights Act; it wanted freedom of information legislation and devolution of power from the centre as well the development of anti-social behaviour orders and the Respect agenda; it wanted equality legislation and a new race relations framework as well as counterterrorism legislation that it thought would keep the public safe. It had developed a narrative rooted in responsibilities as well as rights and security as well as freedom.

The Case Studies

A very useful example of this policy bifurcation is in the area of immigration. Labour was seeking to develop a narrative that Jennings and Stoker alluded to many years later, saying '…it is possible that a compromise over immigration policy could be designed to appeal in both cosmopolitan and backwater areas.'[387] On taking power, the outlook was both very coercive for example, changing the law so as to remove people who had either failed to secure asylum, and therefore refugee status, and seeking to remove undocumented migrants and liberal, for example the instant

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[386] Shaw, Eric (1996) Op.cit. p.181
[387] Jennings and Stoker (2016) Op.cit. p.7

removal of the primary purpose law.[388] But the emphasis was more towards a 'backwater' rather than a 'cosmopolitan' view.

As the government 'fixed and repaired' the asylum and immigration system, it then developed a more confidently liberal narrative around 'managed migration' and the economic value of migration – a shift towards the 'cosmopolitans'. Then, despite developing a 'points-based' system for migration, the narrative shifted back to language that was all about control, back, in fact, towards the 'backwaters'.

Thus, a cogent story which contained a synthesis of elements that would be supported by both halves of the Jennings and Stoker bifurcation – both Englands – was, it will be argued, undermined by a lack of will or confidence in propagating the narrative.

Figure 4:4 Dimensions of New Labour – the case studies

Coercive/conservative

Accomodationist
Neo-liberalism

Modernist/Third Way

A – Points Based System - Immigration
B – Police Mergers
C – Pre-Charge Detention

Liberal
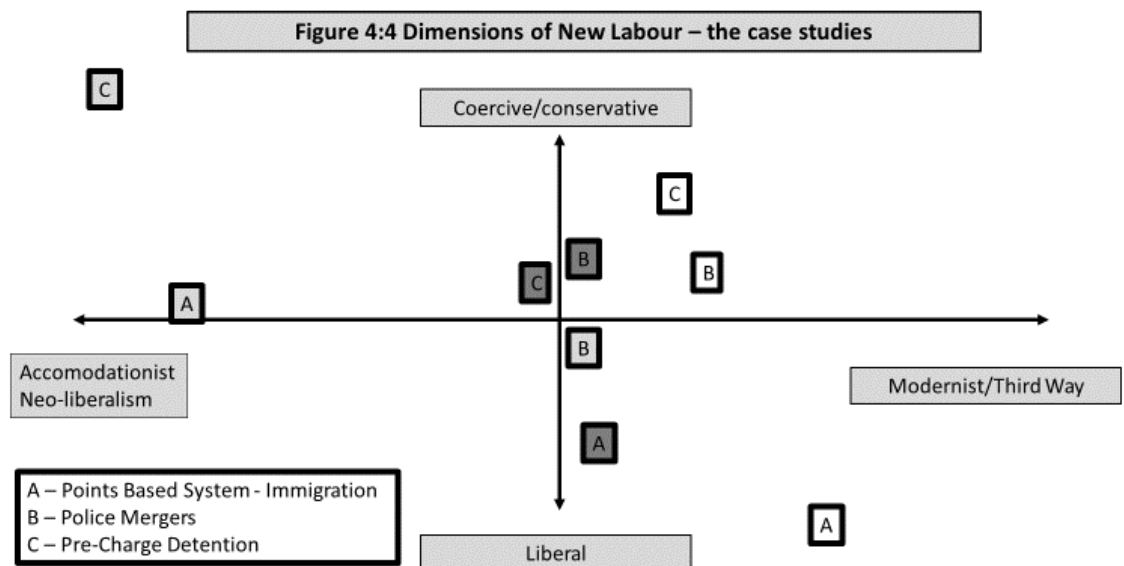
Sometimes it was too 'cosmopolitan', sometimes too 'backwater' – and in the end pleased no-one. Detractors were allowed to paint it as an era of 'open borders.' A policy that could be positioned as the dark A box in Figure 4:4[389] could be painted as either much more liberal and much more rooted in the modernising school, almost a Third Way policy, as at the white A box, or as a policy rooted in the neo-liberal exploitation of migrants in a globalised world, as at the lighter A box.

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[388] See Chapter Five below for more detailed discussion
[389] In Figure 4:4, the white box reflects a modernising position, the lighter box an accommodationist position and the darker box represents my view of the making of the Labour narrative actually.

In terms of the police mergers case study, the three B boxes are much closer together than the other areas. This reflects, in part, the notion that this policy was much more of a technocratic response than a matter debate. This is certainly the case save for one crucial point – locality. The 'cosmopolitan' areas of the Jennings and Stoker bifurcation consist largely of urban England, big city urban England. Many of these areas were already policed by strategic forces – West Midlands, Greater Manchester, Merseyside and the various Yorkshire forces, for example – so the key debate was lost on them. Indeed, often, as we shall see in Chapter Six, many of the smaller forces threatened by the mergers would use the argument about being 'swallowed whole' by large urban forces or of mergers being 'takeovers' by urban forces rather than mutually-based mergers.

Many of the 43 forces in England and Wales that were faced with extinction played up this local identity dimension and this played well with the 'backwaters' who would have resisted change as a matter of course. They would have seen mergers as a top-down policy imposed from outside by a political elite that had left them behind. They would have seen it as a policy that was an administrative convenience for the urban 'centre' that could not care less about their local 'backwater' communities. Worse than this, just as the Labour government was doing something they supported – implementing neighbourhood policing – they were threatened with the nonsense of mergers, and the loss of local police.

The counter-terrorism policy is spread as far as it is possible to be across Figure 4:4. The white box reflects a broadly modernising position – a recognition that such policies were more coercive than liberal, but that they were considered essential for the protection of the public. The lighter box more readily reflects an accommodationist view – that the policies were inherently coercive and a result of a neoliberal view of the relationship between the state and the citizen. This means an increasingly small state still retains coercive policies to supress freedoms. The darker box, close to centre of the diagram, reflects what, I would suggest, was broadly the actual government view – that these policies were certainly more coercive than liberal, but were a matter of necessity rather than choice because of the government's commitment to public safety.

As explored in Chapter Seven, there were discernible periods of counter-terrorism policy and legislation during this government's time in office – up to 9/11, 9/11 to 7/7, post 7/7 to 42 days and post 42 days. In the case study, I explore in detail the debates over both 90 days pre-charge detention and the provision for 42 days. However, the discussion is firmly within the wider context of the threat and an acceptance that there needed to be a balance between liberty and the law, between defending the public and defending rights .

Summary

Thus, the development of a points-based system (PBS) for immigration needs to be put in the historic and political context of the government's immigration policy and narrative. There also needs to be an understanding of how this policy related to another key government decision - not to impose transitional controls on the free movement for work of the A8 nations citizens in 2004.[390]

The policy on police force mergers needs to be put into a broader historical context as well as within the government's overall policy narrative. How the policy evolved and came about will be discussed as well as how it related to the other key policing policy – the implementation of neighbourhood policing. Clearly, and intuitively, the mergers policy had an inherent relationship with neighbourhood policing policy in much the same way that the PBS had with the decision on A8 nationals.

The development of counterterrorism policy needs to be understood in the context of the broader home affairs agenda and narrative that we have discussed in this chapter. In particular, as Klug would have it, how did Labour go from 'the party of Freedom of Information Act…the Human Rights Act… to a party…'casual'…about civil liberties … and an advocate of anything from 42 to 90 days detention without charge?'[391] Unlike the other two case studies, this one is much more focussed on legislation and the Commons, and on two distinct events – the 2005 proposals for 90 days in the aftermath of 7/7 and the 2008 proposals on 42 days. There were a number

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[390] The 'A8' nations were the next eight countries ready to accede to the European Union – Malta and Cyprus – and six of the former Communist countries of Eastern Europe – the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia. For greater discussion on these countries, see chapter five below.
[391] Klug (2011) Op.cit. p.S78

of occasions when the government could have shifted its narrative and moved away from this legislative path, as we shall see, but on each occasion, it chose not to do so.

Stuart Hall contended that '*one law of the Medes and Persians*'[392] is that 'Labour is *always* more cautious, more conservative, in office than before it' and continued by saying that

> … the 1970s immigration legislation was the paradigm case where, having failed to campaign to educate its own…while out of office, it found itself driven in office hurriedly to legislate in a basically anti-immigrant and racist way.'[393]

Whether the legislation was racist or otherwise is a matter for debate but having been out of power for almost twenty years, the Labour Party was given the chance to revisit the subject of immigration law in office and to effect change if needed. It faced a very different world and context from that which it had inherited in 1974 – the last time it had acceded to power. In the next chapter I look at whether Labour had learnt any lesson in opposition about immigration or indeed, whether it had 'failed to campaign to educate its own' on the issue – and how it faced Jennings and Stoker's 'two Englands'.

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[392] The emphasis here on the 'law of the Medes and Persians' is mine – it is simply a phrase that mean 'an unalterable law'. The emphasis on 'always' is Hall's and is more contentious.
[393] Hall, Stuart (1995) ' Parties on the edge of a nervous breakdown', *Soundings* Vol.1, pp.19-34 at https://www.lwbooks.co.uk/sites/default/files/s01_02hall.pdf   pp.30-31

Chapter Five

Case Study

Immigration: What is the point of a Points-Based System?

Labour's Achilles Heel ?

The purpose of this chapter is to explain how an apparently successful policy intervention – the development of a points-based system for non-EU migration into the UK – has come to be seen as part of an enormous failure by the last government in the whole area of asylum and immigration. Many of the officials involved in this area reported that it was not a period where the government was 'soft on immigration… there was no permissive attitude to immigration.'[394] The apparent failure was caused, at least in part, because EU migration was seen as somehow different from other migration – at least by the political world. As a key official relayed, this was not 'just a Labour party view, a Labour government view, it was … the whole political establishment.'[395] The problem was, as we shall see, that this was not the public's view and the Labour government failed to develop and sustain a narrative that might have persuaded an antipathetic public that its immigration policy was the right approach. This chapter also looks at why the impact of these two clearly linked aspects of policy – EU migration and the points-based system for non-EU migration – were not accounted for and assessed together.

A former special adviser reported that the whole issue of immigration was problematic for the party at the advent of power and that he thought Blair knew that it was Labour's 'Achilles heel.'[396] For some in the party 'any policy on immigration is racist' and so little advance work had been carried out in the policy area.[397] The former special adviser was also clear that where the party had done a significant amount of policy work prior to the 1997 election, in areas such as constitution, the economy, defence and some aspects of criminal justice, it was successful in the first term of the government. [398] No such advance work was carried out in this area, but it was an area

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[394] Interview with Author 2016-2017 (F1) and (F22)
[395] Interview with Author 2016-2017 (F1)
[396] Interview with Author 2016-2017 (F25)
[397] Ibid.
[398] Ibid.

of increasing importance to Labour's support base.[399] This was one of the key dilemmas of the new government as it assumed power. According to Rob Ford

> … public opposition to immigration is widespread and is particularly intense among the less educated, the working classes and those who feel migrants represent a threat to the national culture.[400]

This is another dimension to Labour's dilemma on immigration. The people that were part of the traditional support base for the party were those most opposed to immigration. Notwithstanding this view, and the 'bifurcation' of Jennings and Stoker's 'cosmopolitan' and 'backwater' Englands,[401] - the Labour Party decided to make 'a decisive break with the previous policy model.'[402] The previous policy model had been rooted in the sort of 'coercion and control' policy. The decisive break was, counter-intuitively perhaps, towards a more liberal and permissive policy of 'managed migration.' Before we can begin to understand the reasons for the success or failure of such a shift in policy, we need to look at its origins.

Some commentators suggest that, notwithstanding some early liberal noises on immigration, the government developed and 'intensified' 'tough policies towards asylum-seekers' and 'followed rather than contradicted restrictive public preferences'[403] There is certainly no doubt that the emphasis was on asylum in the first term and that the approach was one of control and seeking to 'get a grip' of significant increases in the number of applications for asylum.[404] This coercive approach to asylum, some argued, provided a 'certain amount of political cover for the more liberal approach to economic immigration.'[405] This is not quite right. In looking at the emerging narrative for the government on these issues and, given my experience as Immigration Minister from 2005-2006, I would argue that the government was developing both coercive and liberal policies on each aspect of immigration and asylum as a matter of strategy. It was trying to build a complex consensus on these

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[399] See discussion of salience of issues with MORI and others below.

[400] Ford, Robert (2011) 'Acceptable and Unacceptable Immigrants: How Opposition to Immigration in Britain is Affected by Migrants' Region of Origin.' *Journal of Ethnic and Migration Studies* Vol.37, No.7, pp.1017-1037 pp.1017-1018

[401] Jennings and Stoker (2106) Op.cit pp.372-382

[402] Somerville, W (2007) *Immigration under New Labour* The Policy Press Bristol pp.29 and passim. Chapter One.

[403] Consterdine, Erica and Hampshire, James (2014) 'Immigration policy under New Labour: Exploring a critical juncture.' *British Politics* Vol.9 No.3 pp.275-296 pp.277-278

[404] See Figure 5:4 below

[405] Mulvey, Gareth (2011) 'Immigration under New Labour: Policy and Effects' *Journal of Ethnic and Migration Studies* Vol.37 No.9 pp.1477-1493 pp.1479-1480

issues – with an accompanying narrative that was just as complex. It wanted a strategy that both allayed some of the fears of the 'cosmopolitans' that the government was being too harsh and too coercive, and the concerns of the 'backwaters' that the government was being too lenient and pursuing an open-door policy on immigration and asylum.

Neither the policy nor the strategy was completely formed when the government took power. The government developed immigration policy from a restrictive 'coercive' model to an economistically-driven, liberal, 'managed migration' model. For this model to succeed, it had to develop procedures that both facilitated a welcome for the migrants that were needed by the economy and processes that controlled, and eventually removed, those who were not required. [406] It would also have to develop a narrative that explained this complex policy on all its different levels. .

A confused narrative or just another New Labour triangulation?

Whilst it is easy to discern the negative, coercive, elements in the policy on asylum and immigration and criticise the government for such an approach, I would contend that this is not entirely fair. There was a clear and discernible strategy, and corresponding narrative, that ran through the government's record like a 'golden thread.' It is the rhetorical equivalent of Blair's 'tough on crime, tough on the cause of crime' language in the area of law and order. Simply put, in a very difficult and sensitive area for the Party, the government sought to develop positive policies and a compelling narrative on both asylum and immigration. This included the welcoming of refugees, the celebration of the role and contribution of migrants and the need and desire for further immigration for the economy to grow and prosper. This would require fair and efficient processes to deal with applications and the management and control of these processes were central to getting a positive message heard. It felt that this positive message would only break-through if the government took control of what could be termed 'abuses' in both the areas of immigration and asylum. It would have to discourage those who sought the asylum route simply in preference to economic migration and deal as well with the significant backlogs of asylum applicants then in an administrative limbo. It would also have to deal with the issue of undocumented migrants who had overstayed or were in the country illegally, the need to streamline the appeals processes and thirdly, increase the efficacy of removals and

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[406] See Ibid. and Consterdine and Hampshire (2014) Op.cit. and Somerville (2007) Ch.1.

deportation procedures. In short, the government had to demonstrate its competence on the coercive side as well as on the more liberal side. This competence bought the government the space to develop the liberal dimensions of the policies.

The problem with this approach by the government was that it required the narrative to be hardwired into the policy framework. The development of the government's policy change needed to be reflected in the overarching and overriding narrative. From my ministerial perspective, I would argue that the government frequently overemphasised the negative aspects – its coercive, control and enforcement (CCE) aspects - to the detriment of the more liberal, managerial and consensual aspects (LMC). This was at a cost to the overall message and strategy.

Figure 5:1 Dimensions of New Labour strategy : immigration and asylum

Coercive, control and enforcement (CCE)

| 1. Coercive Asylum Policy e.g. Detention and Removal | 2. Coercive Immigration Policy e.g. Fortress Britain |
| 3. Liberal Asylum Policy e.g. Permission to work | 4. Liberal Immigration Policy e.g. Points Based System |

Liberal, managerial and consensual (LMC)
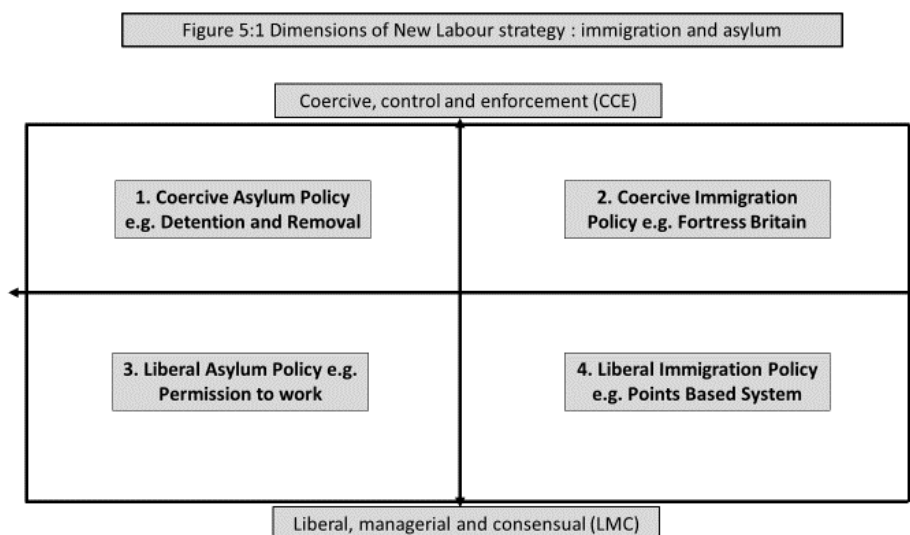
Figure 5:1 sets out the spatial relationships of the strategy and shows how each aspect of the strategy relates to the others. The strategy represents a sophisticated attempt to calm public disquiet on the issue. However, to succeed, it requires that all aspects of the strategy to treated equally. A combination of 1 and 2 or 3 and 4 would be logical strategies but in the early days of the government something more like 1 and 3 were being pursued, but before the development of the points-based system. It caused confusion.

The government needed to be careful to distinguish between each element of the narrative and its relationship to the whole strategy. Asylum is very distinct from

immigration as a route in the UK. It is governed by international treaty[407] and a set of rule and obligations that were very different from the routine paths into the country through the migration process. As will become clear, language matters and how it is used to craft frames, images and narratives can be the difference between the success and failure of a policy.

Further, such a complex narrative was dependent on the government not only being efficient and competent across all of the processes involved but also being seen to be efficient and competent. Furthermore, if the language of government spokespeople and ministers consistently problematised some or other aspect of the integrated policy, then this had an impact on the whole narrative.

The evolution of a policy

Somerville suggests that there were two distinct policy phases between 1997 and 2007 – 1997-2001 and 2001-2007.[408] With the passage of time and based on my experience, I would suggest three periods. I agree with him that 1997-2001 was the first such period and that this was broadly an 'efficiency drive,' as he describes it. Its focus was on dealing with the legacy issue from the previous government, particularly the huge increase in the number of asylum applications. The second phase, 2001-2006, was the more liberal period – when a managed migration approach was developed, and a correspondingly positive narrative was crafted. The third phase, 2006-2010, began to respond to growing public disquiet, at least in tone and rhetoric, by developing a more coercive narrative around controls and borders.

This case study looks at these three discernible policy phases largely within the context of the duality between the development of the points-based system and the decision not to impose transitional controls on migrants from the A8 nations in 2004. It also looks at the tone and narrative of the government's rhetoric on these issues and argues that during the 1997-2001 period, Somerville's 'efficiency drive' was weighted towards the coercive elements (CCE in Figure 5:1) of the strategy and narrative, with only some shading towards the liberal (LMC in Figure 5:1) elements.

The real shift came in the 2001-2006 period. Although the coercive elements were consolidated , there was a discernible shift towards the liberal elements – and a more positive message on immigration. This was rooted in the development of the points-

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[407] The 1951 UN Refugee Convention
[408] Somerville, W (2007) Op.cit. pp.20-24

based system at the heart of the 'managed' dimension of 'managed' migration. It was also firmly influence by the decision not to impose transitional controls on the A8 nations. At the time, many of those involved did not feel as though it had any relationship at all to the area of immigration.

It will be argued that such tolerance faded in the 2006-2010 period and the balance of rhetoric reverted back to the coercive elements despite the developing implementation of the points-based system, based, as it is, on the liberal side of the equation. The government faced a real dilemma across this period. This dilemma, it will be argued, had its roots in the ineffective and disjointed way that it developed strategy and narrative in the area. Just as the points-based system was implemented in full in 2009, the government's rhetoric had reached the level of Prime Minister Brown talking about 'British Jobs for British Workers' – hardly the most liberal of sentiments. It was dismissed by a former senior cabinet minister as 'dishonourable and wrong' and it '…gave a licence to others to criticise' the government.[409]

The chapter looks at these three phases in detail, but first it is important to clarify the facts behind the discourse, in terms of the categories of pathways into the country and the numbers and trends with each category.

What exactly are we talking about?

Paths

Figure 5:2 highlights the four key migration pathways into the UK – work-related, family reunion, study and 'other ways'. It also shows that work and study are the two most important migration pathways.

It is too easy to use phrases such as 'immigration' and 'asylum' interchangeably but to do so is completely wrong. Asylum is not a migration pathway, applicants are fleeing oppression and seeking refuge. It is easy to discern the difference between a 'migrant' and a 'refugee'. Things get a little more difficult when one tries to discern the difference between economic migrants and non-economic migrants, highly-skilled migrants and low-skilled migrants, legal and illegal migrants, documented and undocumented migrants, overstayers and other individuals who have broken rules but

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[409] Interview with the author 2016-2017 (P1)

Figure 5:2 Long-Term International Migration estimates of immigration to the UK, by main reason for migration, 2006 to 2015 (YE December 2015) Source: ONS (2016)

Immigration
(thousands)

— Work Related — Accompany / Join — Formal Study — Other — Not Stated

```
350

300                                                          × × ×    ×

250

200                                                          × ×
                                                                   × ×
150

100                                                          × × × ×
                                                                   × × ×
 50                                                          × × × ×
  0
  Q4 2006  Q4 2007  Q4 2008  Q4 2009  Q4 2010  Q4 2011  Q4 2012  Q4 2013  Q4 2014  Q4 2015
                                    Rolling years
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YE = Year ending
Q1 = YE March
Q2 = YE June
Q3 = YE September
Q4 = YE December
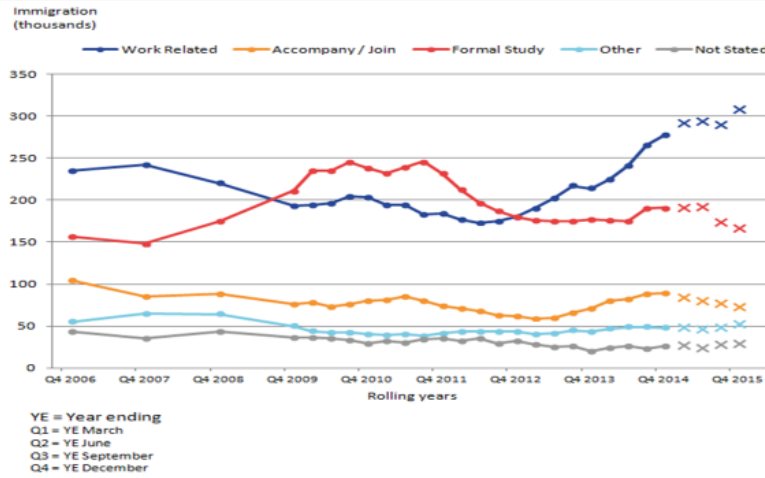
are not necessarily illegal – and the list goes on.

In Figure 5:3, the term 'illegal' is used for those who are undocumented or overstaying – both of which statuses are strictly illegal. There is no such thing as an 'illegal' asylum

Figure 5:3 – Types of Migration				
Removal/Dispersal/Temporary				
Asylum	**Economic Migrant**	**Study**	**Family Reunion**	**European Union A8**
'Failed' Asylum Seekers	*'Illegal' – undocumented overstayer*	*'Illegal' - undocumented overstayer*	*'Illegal'- undocumented overstayer*	*'Illegal' - undocumented*
The Twilight Zone				
Refugees	Migrants	International Students	Regularised Reunion	Regularised/ Treaty Rights
Integration/Consolidation/Permanent				

Coercion & control — *'Failed' Asylum Seekers* ... *'Illegal' – undocumented overstayer* ...

Managed & Consensus — Refugees ... Migrants ...

asylum seeker under the convention[410] only successful applicants (refugees) or failed applicants, hence the phrase, 'failed asylum seeker' (FAS). Whilst the main focus of this case study is the points-based system, that is the formal system of migration to work and its relationship with the accession of the new EU nations into the European Union, careful analysis of these aspects of public policy demands at least some

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[410] The 1951 UN Refugee Convention

reference to the other categories. The five categories are – Asylum, Economic Migrant, Study, and Family Reunion and the A8 nations route.

The top half of Figure 5:3 shows how these categories relate to the 'coercion and control' functions of the state. This layer of the diagram shows the 'illegal' dimension of these pathways to the UK and shows that the state's response is to remove, disperse or at least ensure only temporary provision in the UK.

The black band across the middle of Figure 5:3 has been entitled 'The Twilight Zone' and would contain those applicants, in each category, who have yet to get a decision on their application. An example might be a putative asylum seeker whose application has failed but who cannot be safely returned to their country of origin or a family reunion applicant still going through the process. This Twilight Zone is where much of the casework that MPs face in their constituencies in the areas of asylum and immigration sit. It is here where decisions end up stalled for some reason or other – sometimes for up to 15-20 years.[411]

The lower part of the diagram reflects the more 'managed and consensus' based functions of the state in relation to the applicants in each category. In this part of the process, the successful applicants face integrating into broader society, consolidate their role in the UK and do so on a permanent basis. Both of these dimensions of the decision-making process – 'coercion and control' and 'managed and consensus' – can be prone to dysfunction.

Some have argued that the core of Labour's difficulties on these issues is much more 'one of governance' rather than substance and that this is can be evidenced across each of the five categories. If Labour had 'staked its credibility on having a rules-based policy for management and enforcement' then when it goes wrong, it is because 'they [the Labour Government] have not properly enforced what they have set up.'[412] Confidence and competence would prove to be important in this area and would certainly influence the public's assessment of the success or otherwise of the policy. Too often, the Labour government responded to the growing salience of these issues amongst the public with ill-thought out or under-resourced initiatives. These

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[411] Personal recollection of Author
[412] The Guardian (2004) Kettle, Martin There is no need for Labour to panic over immigration 6th April 2004 at https://www.theguardian.com/politics/2004/apr/06/society.immigration

invariably failed on competency and governance grounds and therefore, as explained later in the chapter, ultimately fuelled the salience of the issues amongst the public. Although this study will concentrate on the path to work - economic migration - it is essential to look at some of these other areas as a prelude to the broader discussion of the relationship between the points-based system (economic migration) and the A8 decision. Above all, we need to be clear not to use these five distinct pathways interchangeably – as many often do. The difficulty with this, as we shall see, is that the broader public narrative conflates each of these pathways into one. Equally, it is difficult to discuss the development of economic migration and a managed system, without relating this path to the other paths, especially the asylum path as well as the 'A8' path. As we shall see, whether they conflated all these different pathways or not, the one thing the Labour government could not be accused of is ignoring the debate entirely and doing nothing about it. But before we look at the policy development, decisions and activities in these policy areas by the Labour Government, it is helpful to understand what happened to the numbers.

Numbers

The concerns here are not for the detailed numbers, but the trends that they indicate. When Labour came to power in 1997, the annual rate of asylum applicants was trending upwards from about 20,000 applicants per year as shown in Figure 5:4.

Figure 5:4 Number of Asylum Applications (Excluding Dependents) Received in the United Kingdom, 1997 to 2008

Source: Somerville et al. (2009)
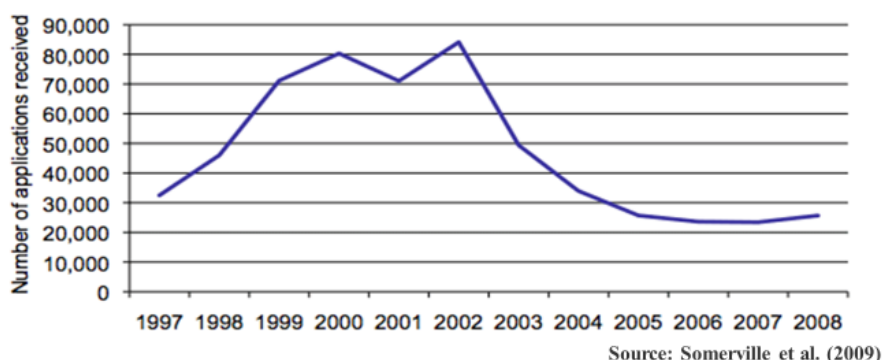
Applications peaked in 2001-2002 and then declined rapidly. The decision-making infrastructure was creaking at the seams at the higher level and the rate inexorably rose

upwards. Initially, the language used around this phenomenon was negative – the issue was problematic, a crisis, there was abuse, the government had to 'get a grip', take control, exert more authority and enforce more readily. It was the language of coercion (CCE). There was not the time or space to find a positive narrative. It would prove difficult for the government to go on to develop a positive narrative on asylum because of the rhetoric used in this phase. Unsuccessful applicants could not always be returned home – and were left in the 'twilight zone,' as shown in Figure 5:3. Naturally they gravitated towards London and the South-East, especially Kent. The government then made two panicked decisions to try to get a grip of the issue that, I believe, merely exacerbated the problems in the long-term. They decided that unsuccessful asylum applicants would not be allowed to work, even when they could not be returned home and that they were to be dispersed from London and the South-East to other communities in the North and the Midlands especially.[413] Both decisions heightened the dysfunctionality of the system and left unsuccessful applicants dependent on a support system that was under resourced and in communities that were already poverty stricken. This is because that was where the cheapest housing was and where Jennings and Stoker's 'backwaters' lived.[414]

Trends

The other 'half' of this policy equation was also in need of positive narration and policy development. As can be seen from Figure 5:5, the broad trend since 1975 was for more or less a balance between the inflow and outflow of people to and from the UK. For much of the time, until around 1996, there were roughly 200,000 people going each way. By 2007-2008, the trend had changed. The net balance shifted towards the inflow – but both the inflow and outflow increased significantly.

By 2007, roughly 550,000 came in and about 380,000 went out – a net inward flow of 180-200,000, significantly more than the pre-97 trend. The net balance tipped over the

[413] Seldon (ed.) (2007) Op.cit. pp.68-69
[414] Jennings and Stoker (2106) Op.cit.

Figure 5:5 Total Migration to and from the United Kingdom, 1975 to 2008

Figure 1. Total Migration to and from the United Kingdom, 1975 to 2008

Source : Somerville et al. (2009)

Notes: The 2008 number reflects preliminary figures to September 2008.
Source: International Passenger Survey, Office for National Statistics

Source: Somerville et al. (2009)
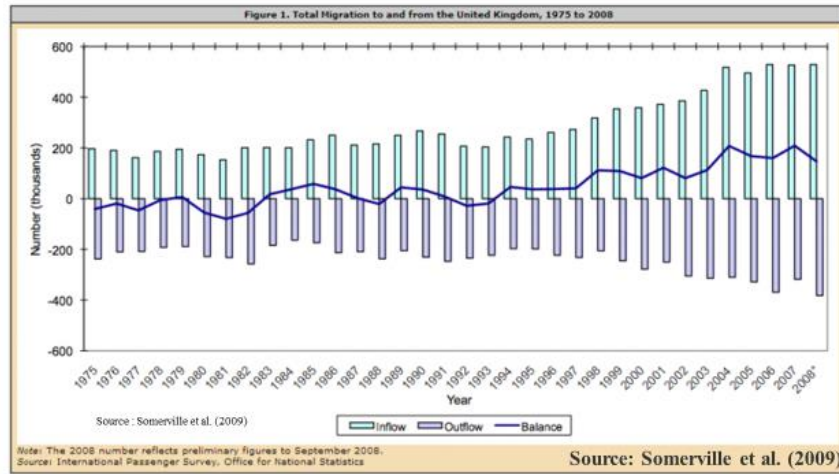
100,000 in 1998-2000 and never dropped below throughout the government's term. One former minister noted that

> There was a sense that here were these high new numbers and we must bring them down, rather than planning for a new normal. There was a refusal to face up to the fact that this was just a new world.[415]

If, as the government thought, the increase in numbers was inevitable, then the key policy becomes how to ameliorate, control and manage, rather than discourage and prevent in some sort of Sisyphean task. The same former minister lamented that there was an 'an unwillingness to speak openly about the change and to educate the country about what was going to be different.'[416] This was the positive narrative that the government should have developed more quickly and more comprehensively than it did.

Figure 5:6 shows the 'salience' of immigration as an issue for voters, that is, in psephological terms, how important a factor they think it is in deciding how they vote. Immigration had been growing as a salient issue over time. This trend broadly tracks the increasing numbers, peaking in 2006 and 2008. It only went above 25% after 2003/04 but has maintained at that level since. It is difficult to tell how closely the

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[415] Interview with Author 2016-2017 (P11)
[416] Interview with Author 2016-2017 (P11)

Figure 5:6 - Immigration as an important issue by UK net migration 1974-2013

Figure 1.3: Immigration as an important issue by UK net migration, 1974 - 2013

Source : Wren-Lewis (2018)
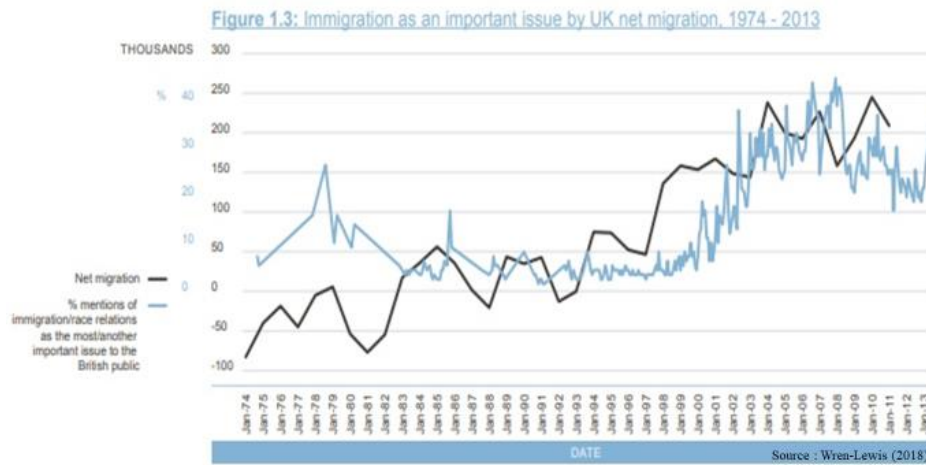
salience trend reacts to the increase, but the trend is clear, even if sometimes the salience increases before the numbers do. For example, the growing salience of the issue starts to grow after 2000 and does not neatly fit into a traditional narrative about the flow of EU nationals from the newly-formed states of Eastern Europe from 2004 onwards causing the increase.[417]

Mulvey contends rightly that '… there is no evidence to suggest that immigration has ever been a deciding factor in British general elections.'[418] Nonetheless, all parties were clear that it did have an impact on what might be called 'second-order' elections – especially local and European parliament elections. Apparently, this salience was ignored by the politicians and there was a taboo on speaking about asylum or immigration at all.

Taboo or not taboo? Narratives matter

A cursory look at a range of the measures that Labour took in the area whilst in government shows clearly the absurdity of the charge that the government did little or nothing on the issues of asylum and immigration. The two tables in Appendix One show how wrong this accusation is. It can certainly be argued, by the government's opponents or indeed its critics on its own benches, that what the government did, in

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[417] The Telegraph (2013) Labour made a 'spectacular mistake' on immigration, admits Jack Straw 13th November 2013 at *https://www.telegraph.co.uk/news/uknews/immigration/10445585/Labour-made-a-spectacular-mistake-on-immigration-admits-Jack-Straw.html* ; The Guardian (2108) Who do I blame? Eight reasons we ended up in this Brexit mess. Ian Jack, 3rd March 2018, at https://www.theguardian.com/commentisfree/2018/mar/03/brexit-immigration-jobs-eton-europe
[418] Mulvey (2011) Op.cit. 1490

terms of either legislation or policy direction, has proved to be ineffective, misguided or just plain wrong, but inactivity or an absence of debate on the issues of asylum and immigration is a charge easily and summarily dismissed.

Appendix Table One shows that, in every year of that government, except 1997, 2003 and 2010, there was a piece of legislation, a white paper or a significant policy document on immigration or a closely related area. It is also clear, however, that this high-level of activity on the subject area seemed unconnected from the growing disquiet of the public as seen by the salience levels. There was certainly 'no obvious electoral dividend in opening up the British labour market to migrants.'[419] Public perception was that Labour was ignoring the issue and indeed were discouraging public engagement on the matter.[420]

Much of the framework that governs both asylum and immigration are codified and delineated in rules and regulations and administrative law. In many instances, changes and reform to the immigration system do not require primary legislation. It is also important to note that because of the preponderance of the legislation to devolve power to a Scottish Parliament and a Welsh Assembly, parliamentary time slots for legislation were keenly fought over and sought after by the various departments of the new government.[421] Nevertheless, immigration secured a significant amount of the government's time.

Whilst the entire approach could be called into question in terms of substance, the notion that these issues were somehow taboo and not discussed or dealt with by the government is simply not sustainable. Appendix Table Two shows a high level of activity on a range of areas that was essentially concerned with making sure that the UK economy had the skills it needed to develop and grow. The activity shows the building blocks towards a points-based system. It also highlights key speeches and research on immigration or a related area. Towards the end of this period – 2008-2010 – many in the party started to challenge the government's record in this area and they were afforded the space to do so because the government shifted the narrative from a hybrid of the coercive (CCE) and liberal (LMC) elements to a simpler

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[419] Consterdine and Hampshire (2014) Op.cit. p.276

[420] Ford (2011) Op.cit. p.7. See also Ford, Robert Jennings, Will & Somerville, Will (2015) 'Public Opinion, Responsiveness and Constraint: Britain's Three Immigration Policy Regimes' *Journal of Ethnic and Migration Studies*, Vol. 41:9 pp.1391-1411 and Bale (2011) Op.cit particularly Chapter 5.

[421] Scotland Act 1998 at https://www.legislation.gov.uk/ukpga/1998/46/contents; and Government of Wales Act 1998 at https://www.legislation.gov.uk/ukpga/1998/38/contents

problematised and negative lexicon around control and enforcement. Every time a labour politician feigned bravery to speak out on the issue, they underlined further how the government was resisting and failing its own detailed narrative.

All of the policies, initiatives and legislation highlighted in these two Appendix Tables need to be viewed through this coercive/liberal (CCE/LMC) prism. It is difficult to understand why more explicit attention was not given by the government to underpinning them. They are, collectively, the building blocks of the very narrative that the government should have developed and sustained throughout its time in office. This chapter now looks at some the key decisions in each of the policy phases adapted from Somerville. [422]

Room to breathe: responses to a dysfunctional legacy 1997-2001

Interestingly, for all its resonance with the public, in 1997 'the [immediate electoral] futility of immigration as a primary issue [for the Conservative opposition] was undeniable.'[423] Saggar goes on to say that

> … if the chief aim was to raise a large question mark about Labour's trust and competence [on immigration], the task took on absurd proportions when prosecuted by a party that was fighting hard to defend its own trust and competence on a much wider range of issues.

Competence, then, would matter; but, as we have seen, little preparatory work and thinking was carried out by the Labour Party before 1997. Nevertheless, four elements stand out in this period – the abolition of the primary purpose rule; the emphasis on asylum; the language of the 1998 White Paper ; and the slow formation of a managed migration type rhetoric and policy.

The first focus of the government's attention was asylum. This phase of the development of immigration policy was rooted in a bureaucratic response to the real shambles that was the asylum system. Asylum applications increased significantly from 1995-2001, from an annual average of approximately 30,000 applications per year to a peak of nearly 80,000 per year in 2001-2002. The rate then started to go down but it took until 2005 to get the yearly application rates down to 1995 levels. For some officials, this emphasis on asylum was misplaced. One said that 'a collective mistake was made, which saw the problem of immigration as a problem of asylum'. He related

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[422] Somerville (2007) Op.cit. pp.1-27

[423] Saggar, Shamit (1997) 'The dog that didn't bark?' in Geddes, Andrew and Tonge, Jonathan (eds.) (1997*) Labour's landslide: The British General Election 1997* Manchester University Press Manchester pp.147-165 pp.157-158

that the Home Office had suffered as a department under the last government and did not feel able to respond to the new Prime Minister and his emphasis on asylum. For this official, 'the Home Office had never equated immigration with asylum…'[424] So, the New Labour government brought a shift of focus in the Home Office away from immigration and more towards asylum, at least until No.10 thought asylum was under control.

The White Paper, *Fairer, faster, and firmer: A modern approach to immigration and asylum*[425] published in 1998 and the subsequent legislation*, Immigration and Asylum Act 1999*[426] tightened up processes and made matters more restrictive. However, it did not provide the resources and staff necessary to deal with the backlogs. Its language was overwhelmingly 'coercive and control' focussed with little scope for a more liberal, permissive approach. There was little evidence of a comprehensive, cogent and detailed strategy or narrative emerging.

Like many policy areas that are essentially determined by quite mechanistic processes, the central bureaucratic feature of the asylum system, and indeed the immigration system, was all about 'stock and flow'.[427] Both processes were tightened up in the 1999 Act and the subsequent reduction in flow afforded the Home Office the potential to deal with the backlog – the stock – but only if the appropriate level of resources were invested in these processes. This investment was not forthcoming.

In such a scenario, it was difficult to develop the 'managed migration' dimension of an overarching strategy – but whilst small advances were made, the accompanying narrative did not emerge. As Spencer reports

> …with little public acknowledgement, the Conservatives had quietly overseen a steady increase in the number of work permits to meet skills shortages in the health service, teaching and parts of the private sector.[428]

Labour built on this. It did so, I would argue, because of its overwhelming desire to succeed on the economic front, given the Party's previous history in government as discussed in chapter four. Others ascribe broader ideological views to this shift – but the evidence for this is not convincing. The main reason behind the shift was

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[424] Interview with Author 2016-2017 (F11)

[425] Home Office (1998) *Fairer, faster and firmer: A modern approach to immigration and asylum* 1998 https://www.gov.uk/government/publications/fairer-faster-and-firmer-a-modern-approach-to-immigration-and-asylum

[426]*Immigration and Asylum Act 1999* http://www.legislation.gov.uk/ukpga/1999/33/contents

[427] Personal recollection of Author

[428] Spencer, Sarah (2007) 'Immigration' in Seldon, Anthony (ed.) (2007) Op.cit pp.341-360 p.342

essentially economistic rather than ideological. There is an argument that the government committed to a managed migration policy because it fitted with a belief the inevitability of globalisation and so could claim to be 'simply reacting to exogenous uncontrollable forces'[429] and applied this logic 'at least initially unconsciously' to immigration policy. [430] This is simply not the case, not least because the flows logic 'at least initially unconsciously' to immigration policy. [431] This is simply not the case, not least because the flows increased by globalisation are invariably those at the lower end of the skill spectrum whereas the managed migration system developed – the points-based system – was concerned with the middle and higher ends of this spectrum.

Somerville is right to describe this first period as an 'efficiency drive'.[432] The 1998 White Paper barely mentioned economic migrants other than in the context of the abuse of the asylum system.[433] However, there were elements of advance such as the identification of future skills in the DTI's paper, 'Building the Knowledge-driven economy' document, the Innovators Scheme and the Prime Minister's Initiative on International Education and the reduction in the criteria for work permits. All of these developments were small building blocks to support a change in direction that was economistically driven. [434] While I differ with Consterdine on the apparent ideological roots of this change in direction, she is right to attest that the new Labour government had 'been considering the idea of expanding economic immigration and initiating the managed migration agenda' long before non-state actors became engaged in the issue.[435]

Much has been made of the importance of both a joint research paper from the Home Office and the Performance and Innovation Unit (PIU), '*Migration: and economic and*

[429] Consterdine, Erica (2015) 'Managed migration under Labour: organised public, party ideology and policy change'. *Journal of Ethnic and Migration Studies*, 41 (9). pp. 1433-1452. p.1447

[430] Ibid p.1447
[431] Ibid p.1447
[432] Somerville, W (2007) Op.cit. pp.20-24
[433] Home Office (1998) Op.cit
[434] See for example DTI (1998) *Our Competitive Future: Building the Knowledge Driven Economy* DTI London
https://www.researchgate.net/publication/250716535_Our_competitive_future_Building_the_knowledge-driven_economy

[435] Consterdine (2015) Op.cit. p.1438

social analysis' [436] and a speech by the then Migration Minister Barbara Roche,[437] reflecting a shift in government policy towards a much more permissive immigration environment. [438] In addition to the sharp focus on asylum in the immediate post-1997 period, the Home Office was already starting to address a shift towards an economistic view on migration, as we have seen above. I would argue that the PIU and Roche responded to these developments rather than creating them. They were both nonetheless serious and important developments, but it was still early days and the focus of rhetoric and narrative was on the coercive (CCE) not the liberal (LMC).

This first phase is characteristic of the government's developing narrative in that in contained both elements – CCE and LMC – but with the emphasis on getting control of asylum. The public face was very much one of 'dealing with problems' and 'getting tough' with asylum seekers. The weakest element, perhaps deliberately, of the emerging strategy and accompanying narrative was a 'positive' approach to refugees, to go along with the 'tougher' focus on unsuccessful asylum applicants. So even though the early elements of what would eventually be a shift to a more positive view on migration were developed here, the emphasis was still strongly on asylum. This made sense as part of Somerville's 'efficiency drive', but it hindered the development of a more positive narrative on immigration and asylum in general.

Stunted narrative development 2001-2004

Observers differ on the date of a shift in attitude by the government. Somerville posits that 'the late 2000 and early 2001 was a crucial period.'[439] He asserts that the 'legislation in 2002 was a turning point'[440] This phase, Somerville argues, was pro-active and marked a change in direction, rather than being reactive. Consterdine and Hampshire called the phase from 2001-2005 a 'critical juncture' for 'economic immigration policymaking in the United Kingdom.'[441] The focus certainly shifted towards a much more economistic view of migration during this period. The 2002

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[436] Home Office (2001) *Migration: An Economic and Social Analysis* (RDS 67) Portes, J Glover, S Gott, C Loizillon, A Home Office London
http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/pdfs/occ67-migration.pdf

[437] Roche was MP for Hornsey and Wood Green from 1992 – 2005
[438] Balch (2009) Op.cit pp.613-633 and Mulvey (2011) Op.cit pp.1477-1493
[439] Somerville (2007) Op.cit. pp.29-30
[440] Somerville, W Sriskandarajah, Dhananjayan and Latorre, Maria (2009) 'United Kingdom: A Reluctant Country of Immigration' *Migration Information Source,* July 21st, 2009 at
https://www.migrationpolicy.org/article/united-kingdom-reluctant-country-mmigration
[441] Consterdine and Hampshire (2014) Op.cit. p.227

White Paper, *Secure borders, safe havens: Integration with diversity in modern*[442] described migration as a positive economic asset that could contribute positively to the macro-economic health of the nation.[443] The legislation that followed the white paper – the *Nationality, Immigration and Asylum Act 2002*[444]; the *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004;*[445] and the *Immigration, Asylum and Nationality Act 2006*[446] – were still principally rooted in the 'tough' policy approach of the earlier 'efficiency drive' phase. This was not a refutation of the more economistic approach towards migration policy as outlined in the 2002 White Paper, but more of a pre-cursor to the broader approach that would be adopted later. The government was still struggling to elaborate a narrative to correspond to the shift in policy. This is why the significant shift in policy, the real 'critical juncture', whilst having its roots in the 2002 White Paper, owes more to Blair's 2004 CBI speech, the Home Office's five-year plan for managing economic migration and the growing confidence of the government that it was getting to grips with the asylum numbers[447] - but all, crucially, within the context of the development of the government's relations within the EU.

Asylum numbers finally started to drop from 2001 onwards, as can be seen from Figure 5:2 above. A much stricter legal framework was in place. Nonetheless, it is difficult, as Thielemann argues, to 'attribute the ebb and flow of asylum applications to [the government's] reforms.'[448] He continues by saying that 'policies do not always matter'. It may well have been the change of policies in the migrants' country of origin, or in other domains, more readily explain changes in migration flows, not government interventions at all.

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[442] Home Office (2002) *Secure borders, safe havens: Integration with diversity in modern Britain* *https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/250926/cm5387.pdf*
[443] Ibid p.22
[444] Nationality, Immigration and Asylum Act 2002
http://www.legislation.gov.uk/ukpga/2002/41/contents
[445] Asylum and Immigration (Treatment of Claimants, etc.) Act 2004
http://www.legislation.gov.uk/ukpga/2004/19/contents
[446] Immigration, Asylum and Nationality Act 2006
http://www.legislation.gov.uk/ukpga/2006/13/contents
[447] The Guardian (2004) Full text: Blair's migration speech to the CBI, 27th April 2004 at
https://www.theguardian.com/politics/2004/apr/27/immigrationpolicy.speeches
Home Office (2005) *Controlling our borders: Making migration work for Britain* February 2005
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251091/6472.pdf
[448] Thielemann, Eiko (2003) 'Does policy matter? On Governments Attempts to control unwanted migration', LSE European Institute Working Paper 2003 No.2 at
Http://www.lse.ac.uk/collections/europeanInstitute/workingpaperindex.htm

This troubled many of the more experienced officials in the Home Office as they saw this confusion or conflation of asylum and immigration as problematic and disruptive.[449] They felt it was politics that dictated that something be done and seen to be done on asylum so that the application trend upwards was arrested. Yet there was little or no evidence that any of the more coercive elements implemented had achieved anything at all in terms of the flow of applications. It may be that Thielemann was right, but one thing that is certain is that the government would need to shift its language and narrative as well as its policy, if a managed migration strategy was going to succeed. The negative narrative of coercive control on asylum reform had the potential to undermine this policy shift completely.

A significant actor at the higher echelons of the government at the time would contest this view. He argued that it was essential that the government understood that 'there was a cultural anxiety' – it was not just economic. In terms of asylum and immigration, he argued that

> … the asylum stuff… was really tough at the beginning, to bring down asylum claims, dealing with the immigration issue by which we *just managed to fend it off and keep our heads above water.*[450]

Thus, this interviewee would not only challenge Thielemann's view that it is not always policy that matters, but also felt, some ten years later, that the government had only just coped. Notwithstanding this view, the government developed the confidence to move towards a narrative on managed migration. Yet, the quote above shows that it did not understand fully that there needed to be a full and comprehensive narrative on this crucial matter. However, much I, as immigration minister, and many across government understood that asylum and immigration were very different processes, the public treated them as a singular phenomenon. The 'cultural anxiety' referred to above needed to be satisfied by a narrative on both issues. One of Blunkett's special advisers, Huw Evans, said that his boss and the Prime Minister

> …could foresee the 2005 General Election and how it was going to be fought. Winning this battle on asylum they saw as not only central to New Labour's reputation for competence, but also showing they understood the concerns of middle- and working-class Britain.[451]

The clear implication here is that, between them, Blair and Blunkett had neutralised asylum as an issue the opposition could use to attack them. It was clear that the decline

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[449] Interview with Author 2016-2017 (F11)
[450] Interview with Author 2016-2017 (P9)
[451] Seldon, Anthony (2008) *Blair Unbound* Simon and Schuster London pp.75-76

in the numbers of asylum applications afforded the government the space to move towards a more liberal managed migration process.

The policy bifurcation between the liberal and the coercive, the controlled and managed, could be effective, but only as a comprehensive, integrated whole. The 2002 White Paper[452]achieved this on economic migration, but coercive noises on asylum still prevailed and the policy development in that area were not encouraging. The White Paper and subsequent legislation presented the government with an opportunity to take hold of this issue, develop a positive narrative and make it much more favourable to the public that it had been.

As the policy was being formulated, few were looking at developments in the EU as this had nothing to do with the Home Affairs agenda. The EU was the carefully protected domain of No.10 and the Foreign Office – with the Treasury having a significant influence because of the Euro – the new European currency - and the importance of the EU to the UK economy. Yet, decisions were made at about the same time as the introduction of the White Paper, that would have a profound effect on the public's view of immigration. They would not, however, be reflected in the government's narrative in the area and would challenge its competence and ability to deal with the cultural anxiety discussed earlier and the bifurcation of England that Jennings and Stoker [453] have referred to. But it was not seen or treated as an immigration decision at all – it was a matter of diplomacy and alliances beyond the Home Office.

No transitional controls

At the EU summit in December 2002, in Copenhagen, the government announced that there would not be any controls on access to the UK labour market for workers from the A8 countries. Workers from the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia would be allowed unrestricted access to the UK to work from their accession to the EU in 2004. This announcement went largely unreported and it was not perceived as being any part of the wider issue of immigration. Former Home Secretary, Straw related later in his biography that this was

> …another issue on a slow burn. It really only hit our radar a few weeks before accession in April 2004 when the tabloids starting running scare stories.[454]

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[452] Home Office (2002) Op.cit
[453] Jennings and Stoker (2106) Op.cit.
[454] Straw (2012) Op.cit p.423

At the time, he was reported in the Independent as saying that

> … the move "makes sense for the accession countries and for the UK… It will attract workers we need in key sectors and is part of our managed migration agenda. It will ensure they can work here without restrictions and not be a burden on the public purse."[455]

This 'slow burn' issue certainly did grow in importance as the 2004 accession date came close, but a former senior BBC correspondent reflected that, at the time, he did not 'think the A8 [decision] was a story at all.'[456] The notion that the public concern about immigration and an antipathy to migrants would focus on EU citizens would have been rare in 2003-2004.

At Prime Minister's Questions,[457] Michael Howard raised the issues of transitional controls and the government's apparent unpreparedness for the accession on 1 April 2004 and whilst Blair comfortably dealt with Howard, he was not very clear on the issues and doubts lingered about how prepared the government was. In a statement on the 23 April, Home Secretary Blunkett set out the government's position and announced a Workers Registration Scheme (WRS). This was a post-entry registration scheme that all accession country nationals seeking employment would have to sign up to on a compulsory basis.[458] Under EU law, it could not cover the self-employed. Many felt that this was a hurried response. A senior Home Office official at the time agreed. She said

> …we'd been saying all along we'd let people in with accession… and Tony Blair had cold feet and said 'I want them to have work permits'. What we did instead was we introduced the WRS…but [the WRS] was not a response to opposition, it was a response to the prime minister's cold feet. [459]

The Shadow Home Secretary, David Davis, charged that the government's preparations were a complete shambles and attempted to link the accession migration to the wider immigration issue. In essence, though, as Blunkett made clear, the difference between the two parties was that the government opted for a post-entry registration scheme, whilst Davis wanted a pre-entry work permit system. It should be

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[455] The Independent (2002) 'UK lifts bar on workers from new EU countries, Stephen Castle, 11th December 2002 at https://www.independent.co.uk/news/world/europe/uk-lifts-bar-on-workers-from-new-eu-countries-135627.html

[456] Interview with Author 2016-2017 (F19)

[457] Hansard (2004a) Prime Ministers Questions. HC Col. 753-754 http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040204/debtext/40204-03.htm#40204-03_dpthd0

[458] Hansard (2004b) Ministerial Statement – EU Enlargement (Free Movement of Workers) HC Col. 23-35 http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040223/debindx/40223-x.htm

[459] Interview with Author 2016-2017 (F18)

said that neither approach covered the self-employed, a point the opposition failed to mention or highlight.

One could be forgiven for thinking that, given the way events have unfolded since that time, the accession of the eight was a point of high controversy and debate in the 2002-2004 period, but it was not. Many of the studies at the time, that looked at what might happen to the UK labour market after the A8 accession to the EU, broadly predicted low levels of migration for work from these countries.[460] Many have reported since that one report finally persuaded the government not to impose controls. Straw noted that the report, *'The impact of EU enlargement on migration flows'*[461] indicated that the net effects with no transitional controls would be 'between 5,000 and 13,000 immigrants every year up to 2010.'[462] He repeated the point in 2013 calling the policy of no transitional control on the A8 citizens, a 'spectacular mistake'.[463] Sriskandarajah and Cooley reported the study 'predicted net annual flows of A8 migrants of between 5,000 and 13,000 to 2010.'[464] Balch reported that the decision was made on '(as it turns out, wildly inaccurate) evidence about potential flows [from the same document] and so can be linked to the managed migration narrative…'[465] The '13,000' figure became totemic and a shorthand for government incompetence. Shadow Home Secretary Davis also raised the issue of the '13,000'. He said "If the government is right in saying only 13,000 people…. will come to work in Britain...then the work

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[460] Boeri, Tito and Brucker, Herbert (2000) *The Impact of Eastern Enlargement on Employment and Labour Markets in the EU Member States* European Commission DG Employment and Social Affairs Berlin and Milan at
https://www.ec.europa.eu/employment_social/employment_analysis/impact_en.htm ; Brucker, Herbert Alvarez-Plata, Patricia and Siliverstovs Borriss (2003) *Potential Migration from Central and Eastern Europe into the E-15 – An Update* DIW for the European Commission DG Employment and Social Affairs Berlin at
https://www.diw.de/deutsch/produkte/publikationen/gutachten/docs/report_european_commission_20020218.pdf
[461] Home Office (2003) Online Report 'The impact of EU enlargement on migration flows' Dustmann, Christian Casanova, Maria Fertig, Michael Preston, Ian and Schmidt, Christoph http://www.irr.org.uk/pdf/rdsolr2503.pdf
[462] Straw (2012) Op.cit. pp.422-423
[463] The Telegraph (2013) Labour made a 'spectacular mistake' on immigration, admits Jack Straw 13th November 2013 at *https://www.telegraph.co.uk/news/uknews/immigration/10445585/Labour-made-a-spectacular-mistake-on-immigration-admits-Jack-Straw.html*
[464] Sriskandarajah, Dhani and Cooley, Laurence (2009) 'Stemming the Flow? The Causes and Consequences of the UK's 'Closed Door' Policy towards Romanians and Bulgarians' in Eade, John and Valkanova, Yordanka *Accession and Migration: Changing Policy, Society and Culture in an Enlarged Europe* Ashgate Farnham pp.32
[465] Balch (2009) Op.cit. pp.616-617

permit system would cope." Blunkett responded by saying that "… I have never said that only 13,000 will come…the figure of 13,000 has never crossed my lips…"[466]

Figure 5:7 Total EU Immigration, total non-EU Immigration

Total EU Immigration, total non-EU Immigration
Migration Watch UK - Source: Office for National Statistics

Source : Wren-Lewis (2018)

Total Non-EU Immigration   Total EU Immigration
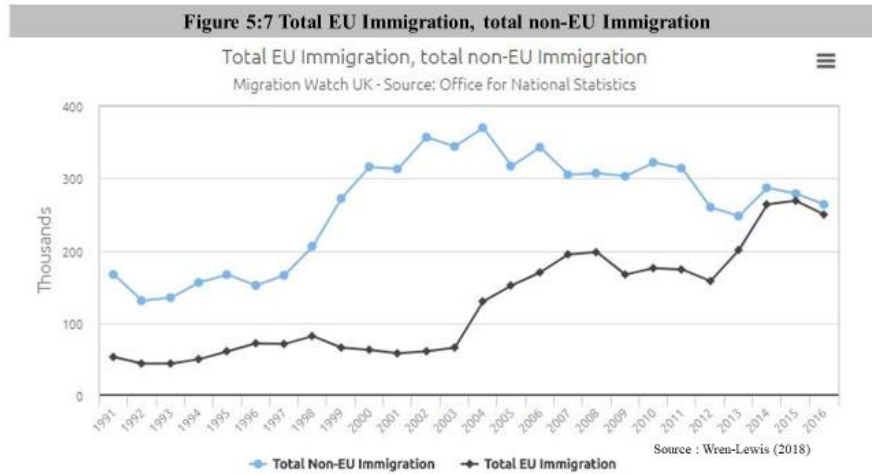
Figure 5:7 shows what actually happened in the years immediately after accession, but this figure of 13,000 still haunts the whole issue of EU migration as a 'gross underestimate of annual flows' after accession. The figure was suggested in a piece of research commissioned by the government, but it was not a government endorsed figure.[467]   Indeed, on the front page of the report it states clearly that "...the views expressed in this report are those of the authors, not necessarily those of the Home Office (nor do they reflect Government policy)". Nonetheless, in future, critics would throw this figure at the government every time the issue was debated. They could be forgiven as even Straw described the figures as 'Home Office Estimates' [468] – they were not.

In fact, the jibes about the inaccuracy of the report were misleading. The image given was that the only reason the government decided upon free access with no controls was because of this report – this was equally inaccurate. It was independent research commissioned by the Home Office to look into the detail of the outcome of the decision already made and announced in December 2002. The figure of 13,000 was based on all 15 EU countries opening their labour markets to the new countries from accession onwards. Dustmann has said that 'The German labour market was basically

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[466] Ibid, Col. 26-27
[467] Home Office (2003) Online Report Op.cit
[468] Straw (2012) Op.cit. pp.422-423

closed for Polish workers and that kind of changed everything.'[469] One of Straw's quotes above was from page 58 of the report, yet Dustmann et al made clear on page 57 that if the 100,000 migrants predicted did not go to Germany, then about a third of them might come to the UK. This would provide a figure closer to the later estimates

Figure 5:8 Number of Initial Work Applications from A8 Immigrants, 2004 to 2009
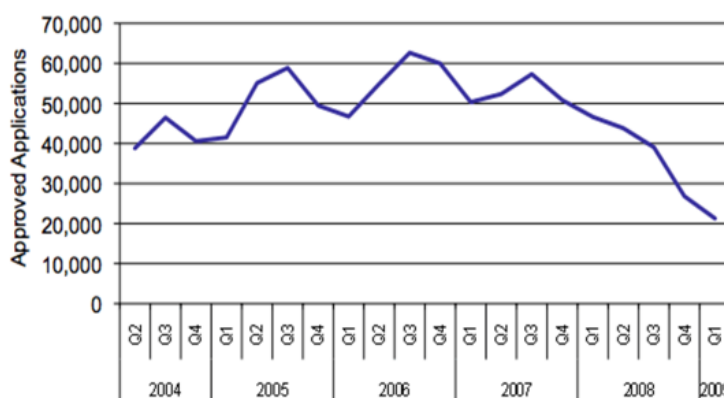
Source : Somerville et al. (2009)

by the Office of National Statistics of a flow of approximately 50,000 per year, as can be seen in Figure 5:8. The 'myth' that has arisen around this figure is, arguably, symptomatic of the power of incompetence in terms of public narrative. It does not matter that the way the figure has been used is both wrong and misleading, it tells a story about the incompetence of government. This made the development of an integrated and positive strategy even more difficult.

Nonetheless, unlike Straw, both Blunkett and Clarke stood by the decision not to impose controls. Clarke has argued that 'it is nonsense to suggest it has terrible impact on public services – most of the people coming here were working.' Blunkett thinks that the alternative was more illegal immigration which would have had 'far more negative impact on pay rates and standards of work.'[470] I would agree with both rather than Straw. However, there was certainly a case that had the decision been clearly recognised as an 'immigration decision', then the government collectively could and

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[469] Quoted in The Guardian (2015) How immigration came to haunt Labour: the inside story, Nicholas Watt and Patrick Wintour, 24th March 2015 at https://www.theguardian.com/news/2015/mar/how-immigration-came-to-haunt-labour-inside-story
[470] Ibid. p.9

should have made sure that the impacts were seen as positive and any potential issues with public services, social infrastructure and cohesion resolved. It could also have more readily developed an immigration narrative that it could impart to the public. Treating the A8 decision as an EU matter, not an immigration matter, just made the government look all the more incompetent than many in the public already thought they were in this area.

An emerging narrative?

In the run-up to accession and subsequently, a leading Home Office official relates that the department still held to the view that

> … we can't do anything about it [A8 migration] anyway because after all it is the EU and we have free movement…and we should …put all our efforts into controlling immigration from outside the EU.[471]

There was still little recognition that the two key issues – the A8 nations and immigration - were interrelated. As the day of accession approached, Blair made a significant speech on migration to the Confederation of British Industry (CBI).[472] In it he talked about a strategy that had a 'number of interlocking elements'. The list was a clear example of the integration between liberal and coercive issues that was at the core of the government's emerging narrative. It recognised the 'benefits that controlled migration brings'; 'the major achievements of migrants in this country and the success of the uniquely British model of diversity'; and acknowledged there is no longer a 'neat separation between the domestic and the international…our policies on migration cannot be isolated from our policies on international development or EU enlargement.'[473] These were all broadly liberal and consensual elements of the strategy.

At the same time, Blair said that 'those who come here to work, and study must be able to support themselves'; promised 'action on illegal immigration through ID cards…border controls… and heightened enforcement'; and would continue to 'tackle abuses in the asylum system,'[474] all elements from the coercion and control side of the integrated strategy.

The speech was also a clear exposition of the decision not to impose transitional controls on the A8. He made the telling point that '… in practice, thousands of workers

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[471] Interview with Author 2016-2017 (F1)
[472] The Guardian (2004) Full text: Blair's migration speech to the CBI, 27th April 2004 at https://www.theguardian.com/politics/2004/apr/27/immigrationpolicy.speeches
[473] Ibid. p.2
[474] Ibid. p.2

from Eastern Europe – around 100,000 of them – are already living, working and studying perfectly legally in Britain.' He went on to argue that given the facts the country faced a clear choice

> …use the opportunities of accession to help fill [skills] gaps with legal migrants able to pay taxes and pay their way, or deny ourselves that chance, hold our economy back and in all likelihood see a significant increase in illegal working and the black economy as Eastern European visitors attempt to get around arbitrary restrictions.[475]

This was probably the closest the Prime Minister got to recognising that the A8 decision was part of immigration policy. After all, the above comments were in the core of a speech that looked at, *inter alia*, subjects such as migration, asylum, accession/Eastern Europe, a diverse Britain and rights and responsibilities. It also contained key phrases such as 'immigration and politics do not make easy bedfellows', 'we will neither be Fortress Britain, nor will we be an open house' and he said in the penultimate paragraph that

> …over the coming months, we will do two things at once: make the argument for controlled migration as good and beneficial for Britain; act to root out the abuses that disfigure the debate and bring the system into disrepute.[476]

This was a very accurate summary of the integrated strategy that I have argued the government was trying to establish. It also indicates that Blair was clear that he had to use both halves of the strategy for it to succeed. Wright argues that Blunkett and the Home Office ' …promoted the view that, if the government-imposed restrictions on A8 nationals in a climate of high demand for labour, it risked undermining its managed migration policy.' [477] The notion that the decision on the A8 nations and transitional controls was a mixture of the economic and diplomatic, but little to do with immigration, is not sustainable.

The issues of asylum and immigration were gaining more and more media coverage in the run-up to an election that would have to be held by May/June 2005, but Blunkett had to stand down as Home Secretary in late 2004.

Finally, a cogent narrative?

The next significant event in the development of immigration policy was a speech by Clarke in February 2005 when he launched the Home Office's five-year plan entitled

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[475] Ibid. pp.8-9
[476] Ibid. p.11
[477] Wright, Chris (2010) 'The regulation of European labour mobility: National policy responses to the free movement of labour transition arrangements of recent EU enlargements' *SEER: Journal for Labour and Social Affairs in Eastern Europe* Vol. 13, No. 2, pp. 157-179

Controlling our borders: Making migration work for Britain.[478] Clarke announced a new points-based system for migrants who wanted to study or work in the UK. He also declared that 'it is a lack of confidence in our systems of control that can foster bigotry.'[479] In the Foreword, he declared that:

> When I became Home Secretary I said that my top priority is public confidence in the immigration system. Migration is vital for our economy. Moreover, it is our moral duty to protect those genuinely fleeing death or persecution.[480]

In this short paragraph, he presents a strong positive message on these issues. Clarke's speech pointed to the more innovative shift in the policy framework that had been trailed for the last few years – managed migration. This is the point that, I would suggest, is more readily the 'critical juncture' that Consterdine and Hampshire claimed for the whole 2002-2004 period.[481]

To the critics who argued that the policy was long overdue and had taken too long he retorted that "This requires a long, hard patient slog, not a magic bullet."[482]Arguably, Clarke was able to talk about and develop a points-based system for the migration because asylum numbers had fallen considerably, and it was much less of an issue. This was precisely the time when a more liberal, integrated policy and narrative should have been pursued – and it was.

The five-year plan aimed to rationalise some 20+ categories and 80 different routes into the UK into a points-based system based on different 'tiers' based on clearly laid out criteria. 'Labour from the new member states' would, the five-year plan made clear, 'over time, enable us to phase out our current low skill migration schemes for people from other parts of the world'.[483] In order to help with this process, an independent body would be established to advise on labour market needs – the Migration Advisory Committee (MAC). It would advise on shortage occupations and would work alongside another important body, the Migration Impact Forum (MIF) which was charged with looking at the social impacts of migration. The MAC and MIF represented the nascent infrastructure that a managed migration system would

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[478] Home Office (2005) *Controlling our borders: Making migration work for Britain* February 2005 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251091/6472.pdf
[479] BBC News (2005) Clarke unveils immigration plan, BBC News 7/5/05 http://news.bbc.co.uk/1/hi/uk_politics/4241989.stm
[480] Home Office (2005) *Controlling our borders: Making migration work for Britain,* cm 6472,p.7, February 2005 at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251091/6472.pdf
[481] Consterdine and Hampshire (2014) Op.cit. p.227
[482] BBC News (2005) Clarke unveils immigration plan Op.cit.
[483] Home Office (2005) Op.cit. Paragraph 9, page 13.

need to be effective. Overall, this was a clear rational policy rooted in an economistic assessment of what skills the country needed that could not be provided by the UK or EU labour market. It was the logical culmination of the previous piecemeal attempts at managed migration policies.

Interestingly, the BBC reported the electorally surgent UK Independence Party as saying that it also wanted a points system for economic migration but complained that there were 'no limits on the number of EU workers coming to the UK.'[484] One of the key Conservative slogans in the 2005 election, plastered on billboards all over the country, was 'Are you thinking what we're thinking?' There were various thematic posters all with the similar unifying slogans on them. The Immigration poster read 'It's not racist to impose limits on immigration. ' Conservative Leader Michael Howard said that immigration 'must not be swept under the carpet' and that it was out of control and Blair was 'pussyfooting about' with the subject.[485]

Howard made a major election speech on immigration in Telford yet, in what was one of his most detailed expositions of his Party's policy on immigration, he made absolutely no reference to EU migration or the accession of eight nations. He said that a points system without an upper limit to immigration was 'quite literally pointless'.[486] This upper limit was central to their plans, clearly the A8 nations were not. Blair responded to Howard's speech in a detailed speech of his own which he made symbolically in Dover, then a Labour seat. He dismissed the Tory policy as 'incoherent babble' and made it clear that he thought the way the Tories were raising the issue was "an attempt deliberately to exploit people's fears, to suggest that for reasons of political correctness, those in power don't dare deal with the issue."[487] He re-iterated Labour's plans for a points system for economic migrants, more immigration officers and more detentions and tagging for asylum seekers. He maintained that Labour had cut asylum claims faster than anywhere else in Europe to its lowest level since 1997.[488] In a very wide-ranging speech that set out an extraordinary level of detail on immigration and asylum policy, Blair never once mentioned the A8 nations or the impact of migration from the nations of the wider EU. He mentioned the Poles – but

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[484] BBC News (2005) Clarke unveils immigration plan.
[485] Kavanagh and Butler (2005) Op.cit p.76
[486] BBC News (2005) Text of Howard immigration speech, BBC News 10/4/05
http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk_politics/vote_2005/frontpage/4430453.stm
[487] Kavanagh and Butler (2005) Op.cit. p.76
[488] The Guardian (2005) Full text: Tony Blair's speech on asylum and immigration, Friday 22nd April, at https://www.theguardian.com/politics/2005/apr/22/election2005.immigrationandpublicservices

in the context of the 160,000 that settled in the UK after the Second World War. The policy issue that both Clarke and Blair were addressing was clearly the framework of non-EU migration and a shift towards a much more overtly economically based system. Equally, Howard was addressing the issue of immigration and asylum within the same policy framework. At the end of the speech, Blair said:

> So, the next time you see a Tory poster …. Remember - words are easy, change is tough; frightening the people is easy, fighting the problem is tough. Not ignoring the issue and not exploiting the issue but dealing with the issue - that is our duty, that is our pledge." [489]

This is hardly 'sweeping the issue under the carpet' or 'attacking anyone who raises the issue of migration' as many have since contended. Kavanagh and Butler described it as Blair's 'best speech of the campaign.'[490] From my viewpoint in a north-west London seat that was very culturally diverse and where matters of asylum and immigration were very important, the speech went down very well indeed. It seemed to finally present a logical, cogent and well-argued policy and narrative on the coercive and liberal elements that would constitute a modern policy on asylum and immigration.[491]

Were you thinking what they were thinking?

The atmosphere in the House of Commons after a successful election is very strange. The 2001 election had been so straightforward for Labour that it felt like a minor interlude momentarily getting in the way of the important business of running the country. The 2005 election was different. Firstly, it was much more competitive than the previous two, although Labour still looked likely to win.[492] Secondly, it was taking place in the shadow of the Iraq War. The government's honeymoon was most certainly over and the public's trust in the government was a central issue.

There were lessons here for both parties. The Conservatives remained well ahead of Labour on the issue of immigration and asylum, but never got close to Labour on key issues such as economic management. Bale reports that

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[489] Ibid
[490] Kavanagh and Butler (2005) Op.cit. p.76
[491] Personal recollection of the Author
[492] Kavanagh and Butler (2005) Ibid. especially Chs. 6 and 7 pp. 68-94. See also Geddes and Tonge (eds.) (2005) Op.cit. ; Bartle, John and King, Anthony (eds.) (2006) *Britain at the Polls 2005* CQ Press Washington DC; Worcester, Robert Mortimore, Roger and Baines, Paul (2005) *Explaining Labour's Landslip: The 2005 General Election* Politico's Publishing London

> …the campaign focus on immigration and asylum had got the party noticed but it did not sway many votes, most of which were decided on bread-and-butter issues (Health, education and, above all, the economy…areas where Labour enjoyed solid leads.[493]

The problem for the Conservatives was 'image' – whilst many voters responded favourably to some of their policies, they did not respond favourably to the Conservatives as a party. As King would have it, "It was not Tory policies that were disliked: it was the Tories."[494] Offered a range of positive and negative statements, respondents associated positive statements with Labour and negative statements with the Tories. When asked which sections of society the parties were seen as close to, for the Tories it was rural people, businesspeople and 'the rich'. When asked, on the eve of poll, if they preferred a Blair-led government or a Howard-led government, respondents preferred Blair by 17%, 52-35%. [495]

Although the electorate clearly had many misgivings about Labour, they had even more concerns about returning the Tories to power. So, notwithstanding the Conservative lead on issues such as law and order and immigration, Labour could have confidently continued to develop its managed migration programme. These poll findings reinforce the point that this was the time to pursue this balanced strategy and narrative with vigour – but crucially, if it was to succeed, such a strategy needed leadership. It also needed competence and efficiency as well as management and control.

A 'rotten job', get out before you are scarred

Labour won the 2005 election but had lost 5.5% of its national vote and lost 47 seats, which, against the backdrop of the two hegemonic victories in 1997 and 2001, looked like a very humbling victory. Yet, in terms of electoral history, a government majority of over 60 was have generally been considered a strong one. The verdict was that 'voters appeared to want a result that punished Tony Blair in a way that would not produce a Conservative return to power, and they got it.'[496]

These were the issues running around as I shared a pot of tea with two colleagues who were also successfully re-elected in 2005 Bill Rammell[497]and Gerry Sutcliffe. [498]

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[493] Bale (2011) Op.cit pp.256-257 See Fisher, Justin (2005) *General Election 2005 – A Voter's Eye View* New Politics Network London also

[494] Bartle and King (2006) Op.cit pp. 166-167

[495] Ibid pp.166-68

[496] Kavanagh and Butler (2005) Op.cit pp.196

[497] MP for Harlow from 1997-2010

[498] MP for Bradford South 1994-2015

Across the parliamentary estate, similar clusters of MPs would have been gathered – waiting for 'phone calls' from No.10. This was the second day of the reshuffle that follows any election. Traditionally, most if not all the sackings were carried out on the first day, so we were meeting to give each other mutual support and solidarity. We were in the 'Smoking Room' just off the 'Smoking Corridor' of the House of Commons – it was squeezed in between the Members' Library in one direction and the Members' Dining Room in the other. Both Rammell and Sutcliffe had been ministers in the 2001-2005 government and had no reason to assume other than that they would continue to be so, although perhaps not in the same posts. As our discussions grew more heated, a phone rang and Rammell wandered into a small ante-room near the dining room for a bit of privacy as he answered it. As he did so, my phone rang – it was No.10 teeing me up for the next conversation with the PM once Rammell finished. He came out of the ante-room beaming – he was going to Education as the Higher Education Minister – an area of particular interest to him. He left. As my phone went off again, Sutcliffe said that 'the PM's going to make you the Immigration minister – you watch…'

I popped into the ante-room as Rammell had done and was put through to Blair. He said that he had really appreciated all the work I had done in the Transport Department over the last two years, and he now wanted me to take on the enormous task of Immigration Minister. I remember saying something like 'Thank you Prime Minister, I won't let you down' and Blair saying something like 'Well you haven't done so far…' I wished him well for the rest of the day and hung up – rather stunned but also quite excited.[499] I had had eight years of experience dealing with an array of asylum and immigration issues as a constituency MP but being the minister would be completely different. Blunkett later described the post of Immigration Minister as 'a rotten job, and you are lucky if you get out of it quickly enough not to have been scarred.' [500]

A cogent narrative revisited

The development of immigration policy continued with the launch of the White Paper *A points-based system: making migration work for Britain.* Many of the rules and regulations covering the immigration system are not in primary statute or legislation,

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[499] Personal recollection of Author
[500] Blunkett (2006) Op.cit pp.712-713

but in administrative law, secondary legislation, and regulation. The development of the points-based system did not therefore require copious amounts of legislation or a legislative 'big bang', rather it required a review of the regulatory framework and an extensive consultative process with the relevant actors and interested parties. The executive summary of the White Paper made clear that "Our starting point is that employers should look first to recruit from the UK and the expanded EU before recruiting migrants from outside the EU"[501] There followed an extensive programme of consultation on the details and practicalities that would be required for such a system to operate effectively.

These consultation meetings were not an example of how 'interest group preferences' had an impact on policy development, as argued by Consterdine. The meetings were, in my experience as Immigration Minister, intensely dry and focussed on the details of the new points-based system as it would impinge on the various groups' purpose and their ability to function. They were very practically orientated. The policy framework was already established so the consultation was about how the policy would work in detail.[502] Balch is more accurate when he says that:

> …the new policy frame had been constructed, it proved relatively easy to get agreement from unions and employers on how to then develop the system, as shown by the joint statement in 2005[503]

The joint statement by the Home Office, the CBI and the TUC in support of the points-based system was a recognition that there was a broad consensus for this managed migration approach.[504] The TUC played as important a role in the genesis of this statement as the CBI did. As I recall from my role as Immigration Minister, the notion implied by Consterdine,[505] that the TUC was somehow a secondary partner in this exercise was simply not the case.

Somerville is correct when he suggests that the five-year plan and the White Paper represent a consolidation of the role of the Home Office and are not quite the victory for joined-up government that others have claimed.[506] But if the strategy was to be successful, it needed to be fully resourced. A very senior former minister relates that

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[501] Home Office (2006) *A points-based system: making migration work for Britain* March 2006 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/272243/6741.pdf .
[502] Consterdine (2015) Op.cit. p.1438
[503] Balch (2009) Op.cit. p.624
[504] TUC (2005) 'Managed migration: Working for Britain: a joint statement from the Home Office, CBI and TUC' at http://www.tuc.org.uk/international/tuc-10485-f0.cfm
[505] Consterdine (2015) Op.cit. p.1442
[506] Somerville (2007) p.181 and Ch. one. Consterdine and Hampshire (2014) pp.289-290

the points-based system was 'chronically underfunded' and that although the government

> …designed the architecture for connecting … migration policy and … labour market policy ... in truth, we just didn't make that connection work properly.[507]

In other words, while the MAC and the MIF were the correct way to develop the supporting mechanisms, 'you should not take decisions on migration in isolation from decisions on investments in skills.'[508] He concluded by saying that the whole approach to the points-based system was '… under-capitalised, financially and politically.' [509] So, by 2006, the Home Office had a clear and cogent policy framework in place and a linked narrative. However, the attention of Home Secretary was diverted entirely by the 'foreign national prisoners' crisis.[510] This coincided with a round of significant local authority elections including London Borough elections in the first week of May. Even though this issue was principally one of a lack of communication between the courts and the prison services, because it involved foreign prisoners who were released on completion of their sentences rather than deported, it was held up as a government immigration failure. The Home Office suffered a media firestorm that, it became increasingly clear, would end only with the sacrifice of a ministerial career. Charles Clarke was sacked the day after these May elections, despite being offered other cabinet jobs.[511] Clarke's departure was a blow to the embedding of the cogent narrative that he had worked to establish.

Back to the future: coercion, control and enforcement

Just before John Reid took over as Home Secretary, I was involved in the firestorm with Charles Clarke on the 'foreign national prisoners' crisis.[512] This, I would speculate, was part of the reason why Reid decided within weeks that I should swap my role – Immigration and Citizenship – with my colleague, Liam Byrne, who had just been appointed as Minister for Policing, Security and Community Safety. Reid reported to the Home Affairs Select Committee that in terms of immigration, he

> .. put in charge of that Liam Byrne because he has qualities which he brings to that job, including management experience …he has been put in that because of the quality he brings

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[507] Interview with Author 2016-2017 (P11)

[508] Interview with Author 2016-2017 (P11)

[509] Interview with Author 2016-2017 (P11)

[510] BBC News (2006) How the deportation story emerged BBC News 9/10/06 at http://news.bbc.co.uk/1/hi/uk_politics/4945922.stm; See also See Wilson (2014) Op.cit Ch.6

[511] BBC News (2006) 'Clarke under intense pressure' http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk_politics/4943636.stm 25/4/06 and Personal recollection of Author

[512] BBC News (2006) How the deportation story emerged BBC News 9/10/06 at http://news.bbc.co.uk/1/hi/uk_politics/4945922.stm

to it; and Tony McNulty …has been asked to deal with …police restructuring, because of his experience and qualities in the field of parliamentary affairs and on local authorities.[513]

At the same session, Reid went on to tell the Committee 'our system is not fit for purpose. It is inadequate in terms of its scope; it is inadequate in terms of its information technology, leadership, management, systems and processes.'[514] He was accused of saying that the Home Office was 'not fit for purpose.' This view appalled one senior civil servant, who described it as a 'catastrophic' thing to say that had 'lost him the Home Office before he started.'[515] Reid did not say this exactly, as he was referring specifically to the immigration element of the Home Office when talking of 'our system.'[516] Nonetheless, Reid did not clarify his words. The session was also noticeable for the fact that there was very little mention of the five-year plan or the White Paper – the building blocks of the point-based system and the managed migration narrative - that had only been launched a few months beforehand. [517]

Reid's comments at the Committee caused 'widespread unfavourable comment'[518] with Clarke reported as saying that '…it was wrong to describe the Home Office as not fit for purpose. It's not true. Many aspects of it are good and getting better.'[519] As the only member of the ministerial team who remained from the Clarke era, his approach seemed a destructive way to go forward, for the sake of finding space to encourage the media to become more supportive.

Reid worked through each aspect of the Home Office's policy areas and refreshed government strategy in each area. In the area of immigration and asylum, he launched *Fair, effective, transparent and trusted: rebuilding confidence in our immigration system*[520] setting out how the points-based system was to be implemented and how the

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[513] House of Commons Home Affairs Select Committee (2006) Fifth Report, Immigration Control, HC 775-III, Oral and Additional Written Evidence Q866-Q868 at
https://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/775/6052302.htm to
https://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/775/6052305.htm
[514] Ibid Q866
[515] Interview with Author 2016-2017 (F16)
[516] BBC News (2006) Reid - Immigration system unfit BBC News 23/4/06
http://news.bbc.co.uk/1/hi/uk_politics/5007148.stm ; Guardian (2006) System not fit for purpose says Reid, The Guardian, 23/4/06 at
http://www.theguardian.com/politics/2006/may/23/immigrationpolicy.immigration1
[517] Personal recollection of Author
[518] Seldon (2008) Op.cit. pp.445-446
[519] Seldon (2008) Ibid. pp.455-456
[520] Home Office (2006) *Fair, effective, transparent and trusted: rebuilding confidence in our immigration system* at
http://webarchive.nationalarchives.gov.uk/20100403011144/http://www.ukba.homeoffice.gov.uk/site content/documents/aboutus/reports/indreview/

Immigration and Nationality Directorate was to be transformed to meet the challenge. In many ways, the document was simply a rehash of many things that were already underway, but its tone, language and rhetoric were much harsher than the five-year plan or the earlier White Paper. [521] In the Foreword, Reid and the Permanent Secretary, David Normington (who as we shall see in the next chapter was described as being 'like a man chained to a radiator…a hostage…a kidnapped man.')[522] outlined four objectives and five 'things we need to deliver'. Of the four objectives, three would be on the Control, Coercion and Enforcement (CCE) end of the continuum and used language such as 'strengthen', 'tougher', 'fast-track', 'remove', 'enforce' and 'compliance'. Only one objective sought to 'boost Britain's economy by bringing the right skills here', a tangential reference to the points-based system.[523] The emphasis on the five things that the Home Office needed to deliver was in a similar vein, 'deciding who can come before they travel; managing identity; cross-government enforcement action; removal of those not entitled to be here and dealing with the legacy of unresolved asylum cases.'[524]

As I have said, many of these things were already underway in the Home Office. The purpose of this document was to shift the rhetoric and the cogent narrative that was implicit in the five-year plan, the 2005 White Paper and Blair's election speech. Consterdine and Hampshire are right to detect that 'official discourse and some aspect of immigration policy tightened during Blair's last two years as Prime Minister 2006-2007.'[525] Reid was quick to ensure that the next wave of accession nations – the A2, Romania and Bulgaria – would be subject to transitional controls. The UK was the only large member state to impose transitional controls on the A2 countries, having opened its labour market with respect to the A8 nationals in 2004. As Spencer caustically noted ' …the economics said yes but the politics no.'[526]

[521] Home Office (2005) Op.cit and Home Office (2006) *A points-based system: making migration work for Britain* March 2006 at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/272243/6741.pdf
[522] Interview with Author 2016-2017 (F18)
[523] Home Office (2006) *Fair, effective, transparent and trusted: rebuilding confidence in our immigration system*
http://webarchive.nationalarchives.gov.uk/20100403011144/http://www.ukba.homeoffice.gov.uk/site content/documents/aboutus/reports/indreview/
[524] Ibid. p.2
[525] Consterdine and Hampshire (2014) Op.cit. p.280
[526] Spencer (2007) Op.cit. p.353 See also Drew, Catherine and Sriskandarajah, Dhananjayan (2007) 'EU Enlargement in 2007: No Warm Welcome for Labor Migrants' *Migration Information Source*

The points-based system was subsequently phased in tier by tier, starting with tier 1 in February 2008 and ending with tier 3 in 2010. A Migration Impact Fund was introduced in 2009, almost as an afterthought to help some communities that had been affected by immigration.[527] It was another MIF to complement the MAC and the MIF that were already in existence – and it was as 'under-capitalised, financially and politically'[528] as they were. This former minister is correct when he says that '…we should have been much bolder in driving through proper investment, and we should have been much bolder selling what we are doing and how we are doing it." [529] So, the absence of a positive narrative on managed migration was reinforced by the use of control and coercive rhetoric – that sounded tough but reinforced failure and incompetence.

Even if the funds were available to make the managed migration system work as efficiently as possible, it would not have been possible to garner public support while

Figure 5:9 Immigration to the UK by citizenship, 2006 to 2015 (YE December 2015)

January 2007 Migration Policy Institute Washington DC at
https://www.migrationpolicy.org/article/eu-enlargement-2007-no-warm-welcome-labor-migrants
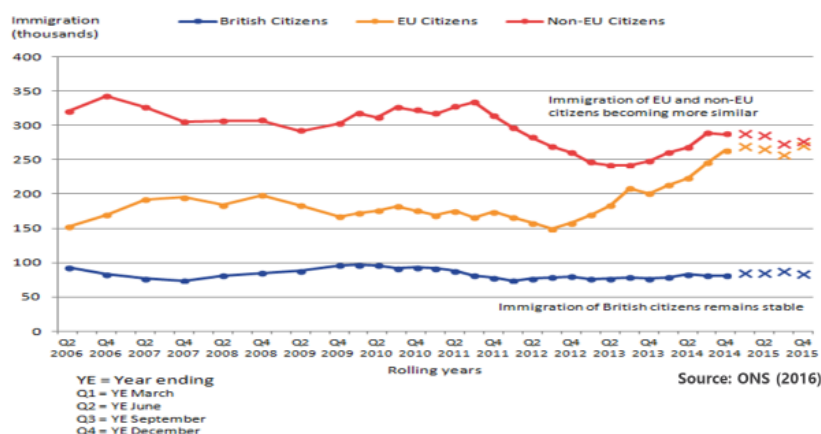
[527] DCLG (2009) 'Managing the impacts of migration: Improvements and innovations' *DCLG* March 2009 at
http://webarchive.nationalarchives.gov.uk/20120919213058/http://www.communities.gov.uk/documents/communities/pdf/1179350.pdf
[528] Interview with Author 2016-2017 (P11)
[529] Interview with Author 2016-2017 (P11)

the rhetoric and narrative out of the Home Office was relentlessly negative. Asylum and immigration were invariably couched in problematic terms during Reid's time in the Home Office.

The points-based system worked and worked well as a public policy intervention – as we can see form Figure 5:9. The numbers for non-EU migration would have a natural lag behind the introduction of the various tiers in the new points-based system. By 2010-2011, we can see a clear dip of roughly 100,000 in the numbers – from 340,000 to nearly 240,000. Equally, whereas in 2006 the non-EU rate of migration was about twice that of EU migration, by 2013/2014 the figures were much closer.

The interesting dimension to the convergence of these numbers is that the most significant recent growth in EU migration to the UK, as can be seen in figure 5:10 below, has been from the states which were members before 2004 – and not from the A8 countries whose numbers declined from about 2011 onwards. It is difficult to assess whether the transitional controls on the A2 countries prevented significant flows from 2006 to 2013. The numbers remained at less than 20,000 until the controls were lifted, but, had not gone beyond 40,000 until very recently.

Figure 5:10 EU immigration to the UK, 2006 to 2015 (YE December 2015)
Source: ONS (2016)
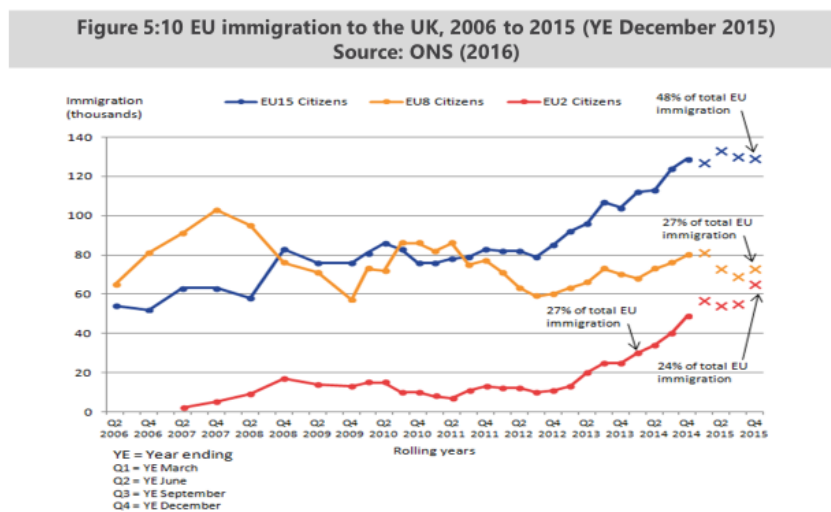
A key concern of this case study has been the relationship between the development of the points-based system and the parallel decision not to impose transitional controls on the A8 nations that joined the EU in 2004. It is clear that the immigration policy of the government and the accompanying narrative would have been much stronger and more coherent if there had been some integration between these two policy strands. From the perspective of a participant with hindsight and from that of a researcher I

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would also conclude that the government would have been more effective had it continued to develop a cogent narrative containing elements of both a coercive, control and enforcement approach as well as of a liberal, managed and consensual approach – rather than lurch violently between the two extremes.

What went wrong?

Three factors – managed migration, asylum and A8 migrants – were at once separate policy areas but part of a broader narrative too. The Home Office would insist that asylum and immigration were two distinct areas, but the public conflated them into one. The government regarded the decision on transitional controls on the A8 citizens as a matter of foreign policy for the Foreign Office and No.10 i.e. not an immigration issue at all. This seems rather strange given that the entire points-based system was predicated on skills gaps being filled by non-EU migrants only when the UK labour market and the EU labour market could not deliver.

Over the period being discussed the interaction between these three distinct policy areas proved to be very important. Treating them as different policy areas was not the key mistake of the government. Failing to develop and sustain a narrative that integrated the three issues and fashioned them into a story that the public could understand was. It contained the seeds of the failure of this policy.

Process - preparing the political ground

In 1997, there was almost panic in the new government as it came to understand the legacy that it inherited from its predecessor. A senior official related that '…you live with the inherited legacy of the past all the time.'[530] But, it is important to understand this legacy in order to be able to deal with it. He continued by saying that

> … the longer people are here the harder it is in fact to do anything, and therefore if you've got a substantial backlog of undecided cases or unpursued overstayers, the rational thing to do is to front end your processes … so you've a chance of catching up.[531]

The corollary of this is that if the backlog is not dealt with, applicants and their families remain in the country longer, getting on with their lives, and daily they become more and more difficult to remove if here undocumented or illegally.

The government discovered two legacies in 1997 – the backlog of asylum applications and the backlog in the wider immigration process. The latter was much larger than the

[530] Interview with Author 2016-2017 (F4)
[531] Interview with Author 2016-2017 (F4)
[531] Interview with Author 2016-2017 (F11)

asylum legacy context, but because this was more readily in the media's focus, the government panicked. The result was that for

> … about 8 years… the Home Office was total reprioritising its efforts around asylum' and no-one in the Home Office, minister or official, 'stood up…and said, "actually it's part of the problem, but you've got to watch….[other policy areas]."[532]

An enormous amount of time and effort was expended over this time to reduce the level of asylum applications. Yet, having been involved on the front line of policy in this area, I agree with Thielemann[533] when he argues that to 'attribute the ebb and flow of asylum applications to [the government's] reforms'[534] is difficult. I certainly saw at first-hand how much this focus on asylum cost the Home Office – both in terms of resources and in terms of the opportunities lost in other policy areas.[535] Nonetheless, the number did decline from 2001 onwards and the government finally achieved its 'tipping point' target in early 2006. As the minister who was able to tell Blair that the government had reached the target, I was never sure how much various government interventions had to do with achieving it.

The absence of clear narrative was central to the government's ultimate failure in this policy area. Although such a narrative would have been complex given that it would have contained coercive and liberal views on asylum and immigration. For example, positive messages qualified by a will to deal with 'rule-breaking' and abuses of both systems it was essential.

Hindmoor's adaptation of the Downsian model of voter maximisation based on a spatial metaphor of left and right is useful here. [536] Downs argues that parties gravitate towards the centre to maximise votes. Hindmoor essentially argues that the 'political centre' does not exist because

> …political space does not come so neatly packaged. Political space is unbounded, infinite, and both disarranged and changeable…[537]

He argues that New Labour had 'constructed a new centre ground,'[538] rather than simply gravitate towards a pre-ordained centre. New Labour constructed this centre ground through framing, because the space is unbounded; through innovation, because

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[532] Interview with Author 2016-2017 (F4)
[533] Thielemann, Eiko (2003) 'Does policy matter? On Governments Attempts to control unwanted migration', LSE European Institute Working Paper 2003 No.2 at
http://www.lse.ac.uk/collections/europeanInstitute/workingpaperindex.htm
[534] Thielemann (2003) Ibid.
[535] Personal recollection of Author
[536] For more on the original model see Downs (1957) Op.cit and for exposition of Hindmoor's adaptation, see Hindmoor (2004) Op.cit pp. 11-15 et passim
[537] Hindmoor (2004) Ibid p.13
[538] Ibid pp. 6-9

the space is infinite; and through rhetoric, because the space was disarranged and changeable. His notion that

> … parties cannot simply move to the political centre by abandoning one set of policies and adapting another. They must construct the positions the seek to occupy[539]

is closer, I would contend, to political reality than the Downsian spatial metaphor along the single left-right continuum. It also goes beyond rational choice theory and is appealing in the context of policy development and formulation as well as the utilisation of narratives [540] This was how the ground should have been prepared – but it was not.

Process - protecting the political ground

The difficulty with the development of these policies in the context of protecting the political ground was that, on one level, there was no ground to protect. The other 'economic' departments were reaping the rewards of the points-based system with their own stakeholders but were not inclined to help the Home Office. The Foreign Office had been central to the decision not to impose transitional controls on the A8 nations – together with No.10 and the 'economic' departments' – but had seen this as the end of their involvement. Straw relates that the policy is a 'case study in how good intentions, and apparently good research, can lead the government in the wrong direction'. [541]

Clearly, his successor as Home Secretary was less than impressed. Blunkett relayed that he had not 'realised … just how far the Foreign Office had backed down from their previous position in respect of wanting 'open borders'.[542] He continued saying

> …Jack, as Foreign Secretary, had been a great enthusiast for the expansion and openness of Europe, but now, with the political heat turned up by the Conservatives and the hysteria of some right-wing newspapers, he has changed his mind.[543]

If these quotations represented the divisions within the government, then the increasing clamour Blunkett alluded to turned into a torrent as accession approached – in the media but, as we have seen, less so in the political domain.[544] At least part of

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[539] Ibid. p.7
[540] Ibid pp. 6-12, pp.12-15
[541] Straw (2012) Op.cit. p.423
[542] Blunkett (2006) Op.cit. p.593
[543] Ibid. p.593
[544] See the discussion above in 'No transitional controls'

the government's problem was based on the public perception of its apparent 'powerlessness'.

Policy development – hiding in plain sight

By any measure, the introduction of the points-based system was one of Kingdon's[545] 'focussing events' and was a 'critical juncture,' as Consterdine and Hampshire suggest.[546] It was a significant policy event that has endured and remains in place, one of the criteria for a 'critical juncture'.[547] Yet, this 'focussing event' was barely mentioned in the first phase of policy development because of the emphasis on asylum, and only then in the context of 'economic migrants abusing the asylum system.' It would have been even more so had the complex and integrated narrative been firmly established.

The drumbeat of constantly negative refrain on asylum may have kept the media at bay but also, I would argue, stunted the development of the emerging narrative for a positive policy on managed migration. For the first phase of this policy, it was the whole notion of an aspiration towards a managed migration system that was 'hiding in plain sight'. This was a key reason why the speech by Roche on managed migration was ultimately a failure.[548] The work had not been done in terms of developing a positive narrative especially in the area where the default position is to confuse all these issues and conflate them into one. It is not possible to refer to the '1951 UN convention being used as a back-door route for illegal immigration' on the one hand and then make a plea for a common-sense view and a 'legitimate desire to migrate' on the other[549] - without the context of a detailed, integrated narrative.

Policy development – the 'missing middle'

The problem with the decision not to impose transitional controls on workers from the A8 countries was not the decision itself, but the fact that no-one across government set the decision clearly within the broader context of the government's unfolding policy on immigration in general. The decision caused probably the largest and most significant migrant flow into Britain yet was not considered a part of immigration

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[545] Béland (2005) Op.cit. pp.9-12 ; see also Kingdon (1995) Op.cit
[546] Consterdine and Hampshire (2014) Op.cit. p.280
[547] Capoccia and Keleman (2007) Op.cit pp.341-369
[548] The Guardian (2001) Roche and a hard place, Andy Becket, 23rd May 2001, at https://www.theguardian.com/uk/2001/may/23/immigration.immigrationandpublicservcies3

[549] The Guardian (2001) Roche and a hard place, Andy Becket, 23rd May 2001, at https://www.theguardian.com/uk/2001/may/23/immigration.immigrationandpublicservcies3

policy. The Home Office understood that the points-based system had to be developed as a consequence of the A8 decision and welcomed the move towards a more liberal model but needed the policy to be 'owned', and therefore resourced, across government. In the context of Kingdon's 'pressing problems of the moment,'[550] the new government had to get a grip on asylum, develop the points-based system and understood the impact of the impending A8 decision. All three elements should have been the subject of discussion and policy options as early as possible so that the

> … policy alternatives … [were] rooted in specific policy paradigms … that political actors frame…in order to sell them to the public while constructing the need to reform. [551]

The agreed policy option – managed migration – was rooted in specific policy paradigms: an economistic migration model: a firm and fair asylum system; the role of A8 and EU citizens in the UK labour market. Political actors frame and develop the narrative, in order to sell the policy to the public and use messaging – to construct the need to reform. This, together with the approach adapted from Hindmoor above, would have started to build a coherent approach to both policy and narrative. This was the missing middle - the recognition that the A8 decision was important to this policy area – and should have been integrated into the development of the overall policy and subsequent narrative.

Greater effort should also have been made to put the accession into the context of organisations such as the MAC and the MIF and they should have been more fully resourced. The second MIF, the fund, not the forum, should have been in place and fully resourced from 2004 onwards – to help lessen the impact of the A8 flows, if necessary, and to help bed in the points-based system. It is difficult not to agree with the former minister who said that the system was 'under-capitalised, financially and politically' and that the government 'should have been much bolder selling what we are doing and how we are doing it." [552]

Policy development – joined-up government

So, the absence of a joint government message was the policy problem, not the range of policies that each government department was pursuing. As an active participant in government, I think the notion that certain economic departments – such as DTI, Treasury, Education and No.10 – with 'pro-migration' arguments had to drag a recalcitrant Home Office towards a more liberal perspective on immigration had no

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[550] Kingdon (1995) Op.cit. p.6
[551] Ibid. p.6
[552] Interview with Author 2016-2017 (P11)

substance at all. If any of these tensions lingered in the New Labour government, then the advent of the points-based system – with full Home Office support - eradicated them. [553]

The problem throughout this period was not that the points-based system represented a victory of these more economically minded departments over a Home Office that was more focussed on coercion and control, but rather that No.10's 'victory' in terms of the dysfunctional concentration on asylum undermined, and delayed, the development of a managed migration system. The development of a coherent liberal model would have happened earlier if it was developed alongside the concentration on asylum and would have pre-empted the piecemeal development of programmes by the 'economic' departments.

Apart from the separate policy tramlines that meant that the points-based system and the decision not to impose transitional controls were not integrated into government narrative and practice on immigration, the problem was not just joined-up government. It was also the absence of joined-up narratives to explain these complex issues on a government-wide basis. This became a particularly acute problem when processes failed or were perceived to have failed.

Politics - potential of a strong ministerial sponsor

There were a total of six Home Secretaries and eight immigration ministers during the lifetime of the government from 1997-2010. The strongest ministerial sponsor in favour of the points-based system was Clarke, but it is likely that all of them supported the principles of it. There was a clear logic to the system and how it fitted in with the expansion of the EU and the accession of the A8 countries.

The absence of a durable and integrated strategy for the policy area of immigration and asylum was further exacerbated by the sharp swings between the coercive (CCE) and the liberal (LMC) elements of this absent narrative. As I have shown, the period from 1997–2001 was concerned with ensuring that both systems, asylum and immigration, did not collapse under the weight of the number of applicants and the backlogs. The period 2001-2005 moved more toward the liberal dimension, which only lasted until 2006 when the emphasis swung back towards a coercive environment. The key message of the government's narrative should have captured both the coercive and liberal dimensions in a cogent fashion. In other words, as Blair said in 2004, 'we

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[553] See Consterdine (2015),Mulvey (2011) and Balch (2009)

will neither be Fortress Britain, nor will we be an open house.'[554] A complex message certainly, but one that could have been made clearer at each and every opportunity. The failure to develop this complex message meant that ministerial sponsors, Béland and Kingdon's 'policy advocates and entrepreneurs'[555], lacked legitimacy. Cox has determined that:

> In a political environment the advocates of reform need to employ strategies to overcome the scepticism of others and persuade them of the importance of reform. In other words, they must create a discourse that changes the collective understanding … because doing so 'shapes the path' necessary to enact reform.[556]

Without such strategies and consequent narratives to explain the policy, the advocates of reform are sometimes ignored and disbelieved, as Roche was with her attempt to get a complex message across in a speech only remembered for the 'rootless' managed migration message in it.[557] A speech signposting such a departure from policy was never going to succeed – the foundations of reform had to be constructed, as Hindmoor would have it, they were not. The discourse Cox refers to was absent and there was no 'shaping' of the path to reform.[558]

Equally, if unrooted, then careless words in support of a change in policy can challenge the legitimacy of the policy – especially if it represents significant reform. Blunkett was certainly a policy entrepreneur in the context of the shift to managed migration but did not help his cause when he was reported as saying that he saw 'no obvious limit to the numbers of skilled migrants that could arrive.'[559][560] Such a sentiment would have been less problematic had the complex policy, strategy and narrative been in place – but with each of these key elements absent, it was a gift to the opponents of the policy. A gift not least because

> … when supporting significant changes, policy entrepreneurs have to justify the need to reform but, simultaneously, shake up the existing "policy monopoly" that favours the reproduction of previously enacted measures through institutional inertia.[561]

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[554] The Guardian (2004) Full text: Blair's migration speech to the CBI, 27th April 2004 at https://www.theguardian.com/politics/2004/apr/27/immigrationpolicy.speeches

[555] Béland (2005) Op.cit, Kingdon (1995) Op.cit.

[556] Cox, Robert (2001) 'The social construction of an imperative: why welfare reform happened in Denmark and the Netherlands but not in Germany' *World Politics* Vol.53 pp.463-498

[557] The Guardian (2001) Roche and a hard place, Andy Becket, 23rd May 2001, at https://www.theguardian.com/uk/2001/may/23/immigration.immigrationandpublicservcies3

[558] Cox (2001) Op.cit.

[559] BBC News (2003a) Blunkett: No limit on migration November 2003 at http://news.bbc.co.uk/1/hi/uk_politics/3265219.stm

[561] Béland (2005) Op.cit. p.11

Roche and Blunkett were seeking to promote the liberalisation of the immigration framework through policy change and reform at a time when utilising an increasingly coercive regime on asylum policy. As they discovered, this proved impossible to do within a vacuum, but they did lay some of the groundwork for Clarke. The intense shift of policy away from the liberal to the coercive approach, following Clarke's departure, favoured those keen on organisational 'inertia'- and would last a considerable time.

Politics – PM and the role of No.10

Despite No.10's concerns about asylum over the first eight years of the government, the Home Office was developing the building blocks of managed migration and a points-based system at the same time. The problem was that the broader public heard negative stories far more readily than they did positive narratives. Had No.10 been alive to this, it would have made sure that the Prime Minister started to relay the very positive message on immigration that he made during speeches at the CBI, the Labour party conference and the election campaign in 2005 - throughout the government's first term. The government could have then responded to the foreign national prisoners crisis in an entirely different fashion.

If the integrated policy on managed migration was going to have any chance at success, the government should have

- 'owned' the A8 decision;
- recognised it as a key element of immigration policy;
- reinforced the approach with no transitional controls on the A2 nations;
- rationalised the points-based system in the context of the A8 decision;
- rationalised it in the context of the points-based system;
- amplified the importance and legitimacy of the 1951 Refugee Convention;
- developed the resources and infrastructure such as the MAC and the MIF to counter claims of negative impact on public services;
- emphasised the coercive, control and management processes that would be used with those not permitted to remain in the UK.

As Hindmoor would argue it should have constructed the policy and narrative on immigration, asylum and A8 migration through rhetoric, innovation, framing and

leadership.[562] Hindmoor contends that spatial positioning is not simply a matter of policy but also a matter of position, creativity, spin and choice all assist parties in constructing alternatives and policies beyond simply spatial positioning. [563] The development of policy and narrative – especially policy rooted in reform and change – is difficult terrain that requires much investment and reflection.

However, in this case, the positive narrative was effectively 'strangled at birth' by the developments under Reid – transitional controls on A2 nations, an emphasis on coercion and control on borders and, more generally, and an acceptance that the government's immigration systems were 'unfit for purpose.'[564] An integrated positive and comprehensive policy and corresponding narrative was not possible in this context. The development of the points-based system continued unabated but was lost as a policy response on immigration overall. The decision to install Reid and the subsequent shift in policy shows that the political cycle and the temporal dimension were important. Reid was an appointment to get through the pressures on a Prime Minister who had already served nine out of a ten-year term, it was not an appointment for the long term or the appointment of a government in only the first year of a five-year term. It was a process appointment, a quick fix, to, in the area of immigration at least, manage policy rather than develop it creatively or positively.

Conclusion

This account of the introduction of the point-based system of managed migration and the decision not to impose transitional controls on the A8 countries upon accession suggests several conclusions. The analysis revolves around three or four crucial decisions that were made independent of each other, in a policy area is both complex and integrated.

The decision to concentrate on asylum as a matter of urgency as soon as Labour came to power in 1997 had powerful ramifications for this whole policy area. There was little or no attempt to link this decision to the policies being developed on immigration or, indeed, on EU accession, yet it consumed the Home Office completely as it sought

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[562] Hindmoor (2004) Ibid. pp.6-16 and chapters 4,6,8 and 10.
[563] Ibid. pp.14-15
[564] Personal recollection of Author and see also
House of Commons Home Affairs Select Committee (2006) Fifth Report, Immigration Control, HC 775-III, Oral and Additional Written Evidence; Interview with Author 2016-2017 (F16) and
BBC News (2006) Reid - Immigration system unfit BBC News 23/4/06

to deal with the asylum backlogs.[565] The government allowed itself to be driven by the media, rather than showing some leadership on the issue. Even as it dealt with the asylum issue, this should have been put into the broader context of immigration and the A8 decision.

Had this approach prevailed, the government could have got itself ahead of public opinion and led it, rather than otherwise. By the time the government got asylum figures 'under control' in early 2006, it had subsided as a media concern. By the time the government developed the narrative of the points-based system, non-EU migration was of less interest and the public focus was slowly turning to 'migration' from the EU. Had there been a developed narrative, the government would have been able to explain these events more readily. They may not have commanded support but would have been explained more readily and better than the government was able to.

The decision to forego transitional controls on the A8 nations may well have been the right decision for the economy at the time, but it could and should have been put in the broader context of the development of the points-based system. The only way that the government's narrative would have made sense is if this had happened. The starting principle of the system is that only when jobs cannot be filled from either the UK or the EU, should the country look to the rest of the world. Whatever way one looks at this decision, it was fundamentally an immigration and economic decision that should have been made within the context of the 'critical juncture' shift to a managed migration focus.

One interviewee with very close links to No.10 related that:

> … there are things that the Prime Minister wants done, the ministers are doing, the PM and the minister are in absolute sync, not merely in terms of direction, but in terms of velocity… and then there are things that the minister wants to do that the PM can support, or not, if it proves difficult …[566]

The Prime Minister was clear that asylum needed to be resolved and only then could the government move on to a more liberally managed migration system. The problem was that the balance between the coercive and liberal approaches of the Home Office was out of equilibrium and suffered when the government tried to shift to the more liberal perspective. The points-based system dealt with the flows from non-EU countries, as we can see in Figure 5:9. But at each stage, the processes were not properly resourced, and mistakes were made. Too often the responses by government

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[565] Interviews with Author (F1) (F11) (F22) (F25)
[566] Interview with Author 2016-2017 (P9)

were reactions to public opinion rather than arguments in pursuit of a detailed, integrated and comprehensive narrative – stuck to and articulated from No.10 downwards.

It may have been that the problem was one of timing. It is beyond the scope of this thesis, but these events happened in 2005-2007 – on the run-up to and beyond the change in Prime Minister. The mixture of Clarke's departure, Reid's appointment to the post of Home Secretary and Blair's clear commitment to leaving the post of Prime Minister by July 2007 – all conspired against a focussed leadership and a comprehensive narrative approach that would take time, energy and resources. The easy narrative option was one that said that the immigration policy of the government and its processes were 'broken', and Reid was the man to fix it. Within this context, the scope for developing and enhancing the comprehensive, cogent and coherent policy disappeared from view and the opportunity to deal with Labour's 'Achilles heel' passed.

Ironically, on its own terms, the points-based system was a success and has endured. It remains in place now, modified over time but largely intact – for non-EU migration. It could have been such much more transformative and enduring. It could have allayed the fears and concerns of both backwater and cosmopolitan communities. [567]

The government should have used its leadership to have put in place a complex narrative that would have explained both the managed and controlled asylum and immigration system as well as providing a welcome for refugees and those who had the skills that the UK needed. If such a developed narrative had also explained why and how those who sought to work in the UK from the A8 and the A2 nations would be both needed and welcome, then much of the dysfunctionality that followed in terms immigration and the EU could potentially have been avoided. It may well be that the roots of the decision to leave the UK – Brexit – lay in the government's failure to make such positive and courageous decisions on managed migration in 2004-2006. Beyond doubt, the road to the 2016 referendum originated in 2006.

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[567] Jennings and Stoker (2106) Op.cit.

Chapter Six

Case Study

Police Force Mergers: too many reasons to say no

Forty-three forces for fifty-five million people?

Untangling a policy that was previously a cornerstone of the government's reform programme around policing was, it must be said, one of the strangest things that I have ever done as a minister – and completely contrary to all previous experience. Your role as a minister is to go out and sell, spin, argue, debate, and promulgate the policy of the day, the line to take, until everyone is eventually persuaded that it is the right and only true course for the government to pursue. It is not natural for a minister to then have to say, 'no we have decided not to go that route after all, we have decided to do something different' particularly when some people have made themselves less than popular by supporting that government line and others – people you respect in normal circumstances – fight against the policy as though their professional lives depended on it.

The denouement of the police force mergers policy was a tricky period for me as the minister who, together with the Home Secretary, was responsible for the policy. What made matters all the more complicated was that the Home Secretary had only been in post for a couple of months and had only just appointed me to the role of Policing minister. I had been at the Home Office for over a year but was new to this particular ministerial role.

The demise of the government policy to merge the 43 police forces in England and Wales into some 12-15 larger strategic forces was met with a mixed response. For some, it was seen as entirely the correct, rational policy option and its passing was bemoaned. A senior, local government politician involved with police authorities at the time stated that 'in hindsight, the government … should have pushed through with the mergers'.[568] The notion, some would argue, that England and Wales, with a population of around 55 million, needed 43 police forces was an historic hangover rooted in unfinished business from a bygone age. A former senior Home Office civil servant remarked that he believed

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[568] Interview with Author 2016-2017 (F15)

> … very, very strongly that 43 owed everything to accidents of history … nothing to the needs of the country as it then was … and almost nothing to what you would do if you were starting from scratch…[569]

A former minister said that 'it was definitely the right thing to do because we are still bedevilled by forces that have these significant capability gaps.'[570] The current policing structure was perceived as 'illogical and irrelevant…'[571] One very senior policing policy official said of the failure to implement the mergers policy that 'you and yours [meaning the politicians] lost your nerve'[572] and he was at least partially right.

The purpose of this chapter is to explain and analyse why the policy was not implemented and why the Home Office moved towards a policy of encouraging forces to work together, collaborate and, perhaps, merge on a voluntary basis, sometime into the future. However successful this new policy might be, what were the reasons for the failure of a mergers policy that seemed to have the apparent support of the most significant actors of the policing world?

History does not always repeat itself

When Roy Jenkins took over as Home Secretary after the 1966 election, he pushed ahead with police mergers.[573] He reported that:

> On 18 May [1966] I announced a reduction in the number of separate police forces….This was operationally desirable and was well received by most police opinion, although greeted with predictable squeals by some of the chief constables who lost their commands.[574]

The Police Act 1964 had made provision for such changes without needing specific legislation as long as the government was prepared to face a quasi-judicial local inquiry. Jenkins was clear that the

> … best chance of avoiding impalement on … well-entrenched local opposition was to announce advance on such a broad front that, first, everyone's breath would be taken away and, second, as the proposals were likely to be accepted in quite a lot of cases, those who attempted to stand out would look selfish and obscurantist.[575]

The result of Jenkins' 'advance on a broad front' was that the number of forces went from 117 police forces in England and Wales to 49. This was reduced further, reflecting local government reorganisation, to 46 in 1969 and to today's 43 forces

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[569] Interview with Author 2016-2017 (F16)
[570] Interview with Author 2016-2017 (P11)
[571] Home Office (Undated) Police Mergers Document, Learning from Experience Team, Ken Sutton et al, Home Office, Unpublished
[572] Interview with Author 2016-2017 (F13)
[573] Campbell, John (2014) *Roy Jenkins: A Well-Rounded Life* Jonathan Cape London pp.267-268
[574] Jenkins, Roy (1991) *A Life at the Centre* Macmillan Basingstoke pp.187-188
[575] Ibid. p.187.

because of the Local Government Act in 1972.[576] Nonetheless, Jenkins still bemoaned the fact that his reform 'left a few county forces – Wiltshire, Hertfordshire, Bedfordshire – smaller than I would have liked but they didn't fit conveniently with any other unit.'[577] Seventy Chief Constables lost their jobs in 1966, but not all were antagonistic as a result. One who lost out, Robert Mark, the Chief Constable of Leicester, remarked that

> …the enforced amalgamation of police forces against the strong opposition of chief constables, local authorities and some civil servants … took real courage and determination.[578]

Although there would appear to have been a less than well-developed strategy for policy implementation, it succeeded with only limited opposition and set the framework for forces in England and Wales for a generation as can be seen in Table 6:1.

Table 6:1 The 43 Police Forces in England and Wales

Avon & Somerset	Hampshire	South Wales
Bedfordshire	Hertfordshire	South Yorkshire
Cambridgeshire	Humberside	Staffordshire
Cheshire	Kent	Suffolk
City of London	Lancashire	Surrey
Cleveland	Leicestershire	Sussex
Cumbria	Lincolnshire	Thames Valley
Derbyshire	Merseyside	Warwickshire
Devon and Cornwall	Metropolitan Police	West Mercia
Dorset	Norfolk	West Midlands
Durham	Northamptonshire	West Yorkshire
Dyfed-Powys	Northumbria	Wiltshire
Essex	North Wales	
Gloucestershire	North Yorkshire	
Greater Manchester	Nottinghamshire	
Gwent		

Blurring the thin blue line

The Conservative Government under John Major published a White Paper on police reform in 1993.[579] It made several references to the 43 police forces but resisted coming to any conclusion. It noted that 'there are 43 police forces in England and

[576] HMSO (1960) Interim report: Royal Commission on the Police (Cmnd.1222) at http://discovery.nationalarchives.gov.uk/browse/r/r/C235515 ; HMSO (1962) Royal Commission on the Police (Cmnd.1728) at http://discovery.nationalarchives.gov.uk/details/r/C235516 ; Police Act 1964 at https://www.legislation.gov.uk/ukpga/1964/48/contents
[577] Jenkins (1991) Op.cit. p.188
[578] Mark, Sir Robert (1978) *In the Office of Constable* Collins London pp.70
[579] Home Office (1993) 'Police Reform White Paper: The Government's Proposals for the Police Service in England and Wales' Cm 2281 London HMSO at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/271972/2281.pdf

Wales. There are 27 county police forces…eight combined police areas, and six metropolitan forces.'[580] It continued by making clear that 'this pattern is partly the result of historical accident and the merging of organisations which were established haphazardly over more than 100 years.'[581] It recognised that some of this reorganisation has been instigated by government to ensure police forces which are 'large enough to provide an effective response to contemporary policing problems and have the flexibility to deal with varying demands.'[582] On mergers, it concluded that notwithstanding a structure that is a '… patchwork quilt of forces of widely varying sizes and types … there is at present no objective basis for deciding centrally, what the precise number of forces should be, nor which individual forces should be amalgamated.'[583] Whilst it seems extraordinary that the government even mentioned mergers just to make clear it was not going to pursue them then, it did lay the groundwork for the emergence of a legislative framework for mergers in the future.

Subsequent legislation - the 1994 Police and Magistrates Courts Act and the 1996 Police Act [584] - weakened the powers of police authorities further. They cut their size, scrapped direct elections to them and transferred control over police force budgets from the authorities to the Chief Constables, who 'effectively became the 'chief executives' of their forces.'[585]

The 1996 Police Act consolidated much of the disparate law in the area into one place – a regular feature used to tidy up and develop legislation. Crucially, it made provision for the Home Secretary to 'order the alteration of police areas in the interests of efficiency or effectiveness' (s.32) and outlined the way in which such an order could be made and how consultation and objections would be dealt with. (s.33).[586]

New Labour and policing

One of the first substantive policy documents on policing produced by the New Labour government showed a clear intent to continue a programme of police reform. The White Paper 'Policing a New Century: a Blueprint for Reform' was published in 2001. Home Secretary David Blunkett wanted nothing less than to 'substantially improve

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[580] Ibid. para. 10.2 p.41
[581] Ibid para 10.3
[582] Ibid para 10.3
[583] Ibid paras 10.3 and 10.8
[584] Police and Magistrates Courts Act 1994 at https://www.legislation.gov.uk/ukpga/1994/29/contents and Police Act 1996 at https://www.legislation.gov.uk/ukpga/1996/16/contents
[585] Loveday (2006) Ibid. p.12
[586] Police Act 1996 s.32 and s.33

the standard, reliability, consistency and responsiveness of the [police] service … from the beat constable to the chief constable.'[587]

Many of the provisions of the 2002 Police Reform Act[588] were based on the policies outlined in the White Paper. As can be seen in Table 6:2 below, many of these provisions related to bringing all the forces up to the 'standard of the best'.[589] The Act gave the Home Secretary the power to intervene in the case of force failure 'to ensure that performance improves if this cannot be achieved by any other route.'[590] In the first

Table 6:2 The Key Principles of Police Reform in the 2001 White Paper

New Standards Framework	A new Standards Unit will fill gap in present system and will engage the service at Basic Command Unit (BCU) level to spread best practice	
Training, Leadership and Professionalism	Modernisation of every aspect ay every level of the police service. Need more varied and more satisfying approach.	
New Pay and Conditions Framework	Need for reform of 'current system of regulations' for 'better, fairer, more flexible system for deploying and rewarding police officers.	
Science, Technology and IT support	Need more consistent and co-ordinated approach across forces. New mechanisms to ensure key decisions are better co-ordinated.	
Better use of police time and skills	Increase policing capacity by making better use of growing numbers. Police numbers expected to reach record levels, increase in Special Constables.	
Police support staff and PCSOs	New powers to support staff to help police officers. Increase in PCSOs and ability to work on Anti-Social Behaviour and minor disorder.	
Effective partnerships with other agencies for crime reduction	Crime and Disorder Reduction Partnerships, Drug Action Teams, Local Strategic Partnerships.	

instance, HMIC would report to the Home Secretary on each of the forces and if it reported that a force is 'inefficient and ineffective', the force would be required to take remedial action based on a report by the local police authority and the Home Secretary. The new Police Standards Unit, located in the Home Office, needs to be viewed in the broader context of the government-wide initiatives on performance management, measurement and standards and the development of public service agreements across all departments eventually.[591]

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[587] Home Office (2001) *Policing for a New Century: A Blueprint for Reform* 2001 Cm 5326 HMSO December 2001 at
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/250905/policing_survey.pdf
[588] Police Reform Act 2002 at http://www.legislation.gov.uk/ukpga/2002/30/notes/division/3
[589] Home Office (2001) Op. cit. p.28-29
[590] Ibid pp. 28-29
[591] Barber (2007) Op.cit and Barber (2015) Op. cit

The broad thrust of the reforms outlined in the White Paper was a mixture of either internal process improvements or broader substantive reforms intended to modernise the police service. Importantly, there was very little in it about the structural dimension – the number of forces in England and Wales. Certainly, it was not flagged up as a central issue of reform in either the Foreword by Blunkett or in the chapter on the key principles of police reform.[592] Blunkett, of course, had come to the Home Office from his role as the Secretary of State for Education where his constant reforming mantra – in this case for schools – was 'standards not structures.' [593]

Ormerod and Roberts (2003) see the 2002 Act as prompting

> … considerable concern in Parliament regarding the inroads into the much cited but ambiguous doctrine of 'constabulary independence' … [which] … brings with it a consequential loss of local control without necessarily diminishing local responsibility and accountability for policing.[594]

They maintain that the 'Act provides 'a limited shift towards centralised power without completely undermining the tripartite structure.'[595] Others saw no sign of a reversal of government policy or decentralisation of police control in the foreseeable future in the UK. Indeed, the opposite was the case [596] and that 'an increased drift or steer towards central control of policing has happened at a gradual pace over the past 20 years or so.'[597]

Three themes emerged as the policy developed that would underpin the eventual debate on mergers and each of them needs to be seen through the prism of the balance between the settled position of the tripartite arrangement for policing as outlined in Table 6:3 below.[598] Firstly, the impact of reform on the ability of the police to police. In other words, the dominance of the supposed distinction between the strategic and the operational, the policing and the political, the professional and the expedient.

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[592] Home Office (2001) Op.cit. pp. 27-37

[593] BBC News (1997) Blunkett Unveils White Paper to Transform Education at http://www.bbc.co.uk/news/special/politics97/news/07/0707/schools.shtml ; see also The Guardian (1999) David Blunkett's Conference Speech as Secretary of State for Education at https://www.theguardian.com/politics/1999/sep/29/labourconference.labour14

[594] Ormerod, David and Roberts, Andy (2003) 'The Police Reform Act 2002 – Increasing Centralisation, Maintaining Confidence and Contracting out Central Control' *Criminal Law Review* March 2003

[595] Ormerod and Roberts (2003) Ibid.

[596] Donnelly, Daniel Scott, Kenneth B. Wilkie, Roy (2002) 'A National Police Service: Any Day Now?' *The Police Journal* Volume 75 (2002) pp. 287-300 p.293

[597] Ibid p. 293.

[598] Mawby, Rob and Wright, Alan (2003) 'The Police Organisation' in Newburn, T (ed.) (2011) *The Handbook of Policing* Taylor and Francis Abingdon, Oxon pp.169-195

Table 6:3 The 'tripartite' system under the Police and Magistrates' Courts Act 1994 and the Police Reform Act 2002		
Home Secretary/Home Office	**Local Police Authority**	**Chief Constable**
Determines key national policing objectives. Produces annual National Policing Plan and presents it to Parliament	Responsible for maintaining an effective and efficient force	Responsible for direction and control of the force
Directs police authorities to establish performance targets. Can require a police force to take remedial action if HMIC judges them inefficient or ineffective	Determines local policing priorities. Produces a three-year strategy consistent with National Policing Plan	Responsible for operational control
	Determines arrangements for public consultation	Drafts local policing plan in conjunction with local police authority
Determines cash grant to police Authorities	Established as precepting body responsible for budgeting and resource allocation	Responsible for achieving local and national policing objectives
Approves appointment of Chief Constables		Responsible for resource allocation
Issues statutory codes of practice and directions to police Authorities	Responsible for appointment and dismissal of the chief constable (subject to ratification by the Secretary of State). Can require suspension or early dismissal on public interest grounds	Chief constables and deputy/assistant chief constables on fixed term contracts
Issues statutory codes of practice to Chief Officers	Membership of 17 (usually) - 9 from local government	Source : Mawby and Wright (2003)
Has authority to order amalgamations	5 local independents 3 magistrates	

Secondly, the impact of the development of local policing, that is, neighbourhood policing, on the ability of local police authorities to carry out their role. Thirdly, how the development of a performance measurement and review system, based on national standards, implies greater centralisation, more incursions into the operational dimension of policing and a stronger hold by central government on the domain of local policing and local police authorities. Underlying these three themes was the general tension in the relationship between the role of chief constables and police authorities – and how both were held to account by the public.

Many felt that the programme of reform as set out in Figure 6:1 below was not only over-ambitious but had not been properly though through at in its entirety. For others, the Home Office had neither the motivation nor the incentives to deliver on all these fronts. One official remarked that he remembered a Home Secretary saying to him that 'the trouble with when the Home Office talks about sticks and carrots… our carrots are just sticks painted orange.' [599] Another remarked that 'one of the things about policy-making… it is done in a little silo.' [600]

ll these factors would feature as the government appeared to stumble towards a policy on mergers – but the priorities in the political sense seemed to be the development of neighbourhood policing; the mechanisms for the accountability of policing and the

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[599] Interview with Author 2016-2017 (F13)
[600] Interview with Author 2016-2017 (F18)

ineffectiveness of police authorities; and only then, the delivery of level 2 policing and potential for fewer but strategic forces.

The next policy development was the publication of a Green Paper on policing – *Policing: Building Safer Communities Together* in November 2003.[601] It suggested a range of potential areas for reform, including neighbourhood-style policing and re-structuring. It talked at length about themes such as 'community engagement', accountability, operational effectiveness, and service modernisation. It suggested a range of models for accountability – a model of oversight for the police service alone; a multi-agency option that would include police board members drawn from a range of sources; a wholly directly elected police board; or a model that would include a neighbourhood level, a local policing partnership level, including Crime and Reduction Partnerships and others, and a strategic policing board – which might include strategic forces.[602]

The golden thread: a stumble towards mergers

The government slowly built up the reasons for suggesting, as in did in section six of the 2003 Green Paper that 'the time is right to consider whether the present 43 force structure….is the right one for today's and tomorrow's policing needs.'[603] It noted that in 2001, it stated that 'forces should first look at greater cooperation and collaboration, where necessary, to help their effectiveness' and reiterated this call in the new Green Paper.[604] It was clear that 'change should not be made for change's sake'[605] but the government was

> … keen to explore thinking around the development of 'strategic forces' in England and Wales. Forces which would have sufficient capability…and capacity to deal effectively with neighbourhood and local level crime, anti-social behaviour and disorder on the one hand …and serious organised crime on the other.[606]

This was the hook on which the development of the police mergers policy was based but it still felt like an incremental policy development rather than a substantive shift. The government still appeared ambivalent about going forward with such a restructuring. Clearly, in political terms, the development of neighbourhood policing

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[601] Home Office (2003) *Policing: Building Safer Communities Together*

[602] Ibid. p.23
[603] Ibid. p.32
[604] Ibid para.6.6, p.25
[605] Ibid para 6.6 p.25
[606] Ibid para. 6.8 p.25

Figure 6:1 New Labour Police Reform

had a much greater priority than the development of strategic forces. In the Home Office Strategic Plan of July 2004,[607] the Prime Minister highlighted a desire to 'revive the idea of community policing, but for a modern world,'[608] but made no mention of police force mergers whilst Home Secretary Blunkett explained that

> … security runs like a thread throughout the Home Office's work; on the one hand, protecting ourselves from international terrorism while also ensuring the police and communities have the tools to establish order and security in their neighbourhoods.[609]

Again, as he outlined the next set of priorities, mergers into strategic forces still seemed to be an afterthought. The next four government priorities for police reform were identified as

> … ensuring the police were responsive to the needs of communities; developing more local policing; a continuing focus of improving performance and ensuring as truly representative police force.[610]

Building on the reference in the 2003 Green Paper, the government now committed to developing 'an overall structure for policing in England and Wales which is the right one for today's and tomorrow's crime environment.'[611] To this end, in June 2004, the Home Secretary commissioned Her Majesty inspector of Constabulary (HMIC) to carry out an initial review on the gaps in Level 2 policing – which includes cross-border issues such as organised criminality, major incidents and events transcending force borders – and report back to him. This work was led by Denis O'Connor, then deputy Chief Inspector of Constabulary, but by 2008 he was the HMIC, first in an acting capacity but then in the substantive role until 2012.[612]

The then Policing Minister Hazel Blears, reported to the Home Affairs Select Committee in July 2004 that, in terms of restructuring, the responses to the consultation on the White Paper were mixed with

> … some strongly in favour of restructuring, some strongly opposed and many offering a cautious welcome to the debate but noting that a lot more work was needed … a clear message was that form should follow function.[613]

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[607] Home Office (2004a) Confident Communities in a Secure Britain The Home Office Strategic Plan 2004-08 Cm 6287 HMSO at
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/251067/6287.pdf
[608] Ibid p.5
[609] Ibid p.6
[610] Ibid. p.60
[611] Ibid. p.66
[612] For more information on the HMIC, see the website of the latest incarnation of the body at
https://www.justiceinspectorates.gov.uk/hmicfrs/about-us/ It has since merged with the Fire and Rescue Services, hence HMICFRS
[613] Home Office (2004c) Memorandum submitted by the Home Office, Hazel Blears, Minister of State in House of Commons Home Affairs Committee (2005) *Police Reform*, Fourth Report of

She was clear that the government had 'not yet come to any firm conclusion on the question of force structures' and that even

> …the majority of those who welcomed the debate … acknowledged that should not be rushed into and that work was needed to define what capability and capacity a force needed and to assess whether existing forces meet the definition.[614]

It should be noted that the language here is much more conciliatory than the *fait accompli* lexicon that would be used later when the Home Office sought to implement O'Connor's report in full. The measured nature of this language continued with the production of the subsequent White Paper, *Building Communities, Beating Crime A better police service for the 21st century*, published in December 2004.[615] On the issue of strategic forces, it reiterated the question about whether the structure of 43 forces was the right one and noted that O'Connor would report 'by the end of January 2005 at which point the Government will engage stakeholders in discussing the implications of the report.'[616]

The White Paper made clear that whilst the government was not persuaded that the 'establishment of a national police force is the right direction for the policing in the country … the Government believes it would be premature to reach firm conclusions on the question of structures or possible amalgamations of forces.'[617] It also repeated the belief that 'form should follow function.'[618] Some of those concerned about how the debate might develop should have had their fears allayed if they read what Policing Minister Hazel Blears said in her evidence to the Home Affairs Select Committee in October 2004. She repeated that the government was 'not interested in huge structural change for its own sake.' She continued saying:

> We do not have a blueprint in my desk drawer showing a whole series of amalgamations of forces … I do not regard structural change for its own sake as a high priority.[619]

Session 2004-2005 Volume 2 (March 2005) Ev 99 HC 370-371 para.114 at
https://publications.parliament.uk/pa/cm200405/cmselect/cmhaff/370/370we12.htm
[614] Ibid para.114
[615] Home Office (2004d) *Building Communities, Beating Crime: A better police service for the 21st century* Home Office November 2004 Cm6360 at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251058/6360.pdf
[616] Ibid. para.5.64 p.115
[617] Home Office (2004) Op. cit. paras. 5.62-5.64 p.115
[618] Home Office (2004c) Op.cit. para 114-115
[619] House of Commons Home Affairs Committee (2005) *Police Reform*, Fourth Report of Session 2004-2005, Volume 2 (March 2005) HC 371 Ev 69 Q339 and Q341 at
https://publications.parliament.uk/pa/cm200405/cmselect/cmhaff/370/370ii.pdf

Many felt in the heat of the subsequent debate, as the government moved towards mergers, that this emphasis was lost entirely. Not only did 'form' almost begin to dictate function, but various interviewees were convinced that Clarke did indeed have a 'blueprint in the desk drawer.'[620] There was also a problem of 'excessive reform'. Excessive in the sense that the message from ministers was that there should be root and branch reform to every aspect of policing – but the clarity of a well-thought through vision was lacking. In January 2005, at a conference specifically intended to be a vehicle for the government to set out its vision for reform, the messages did not identify mergers.[621] Blears spoke and outlined the need for 'outcomes', 'building on successes and a performance focus' and a 'genuine dialogue'. She said that the key elements of police reform were an increase in community engagement, a strengthening of accountability and an increase in responsiveness, a need to ensure a structure that delivers and a modernised and united workforce.[622]

The O'Connor report was imminent, and as a participant in government I knew that the growing perception was that the Home Office was in favour of structural change, albeit, the issue was barely mentioned in such a significant speech on police reform. The only mention was tangential at best, obtuse at worst. She said that:

> We want to ensure that there is an overall structure which delivers against volume crime and anti-social behaviour, closes the gap on level 2 criminality and combats effectively serious organised crime at a national and increasingly international level. These elements are interlinked. How do we ensure that the 'golden thread' is not lost?[623]

In policy terms, this paragraph is problematic. The government had made huge strides in both volume crime and anti-social behaviour through policy initiatives on neighbourhood policing and the Respect agenda. Its policy narrative was clear. Similarly, it had a policy narrative in place for combatting serious and organised crime through the creation in February 2004 of the Serious and Organised Crime Agency (SOCA). This agency was to help police forces combat serious and organised crime and came into existence as a result of the Serious and Organised Crime and Police Act

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[620] Various Interviews with Author 2016-2107

[621] The conference was entitled 'Police Reform' and brought together officials, police authorities and police officers.

[622] Home Office – Blears (2005) Hazel Blears speech to Police Reform Conference, 14/14 January 2005 at http://webarchive.nationalarchives.gov.uk/20090121205556/http://police.homeoffice.gov.uk/publications/police-reform/speeches1415a.html?view=Html.

[623] Ibid p.2

2005.[624] It was no accident that Blears used O'Connor's words on 'level 2 criminality' as she and the government were relying on O'Connor to provide the policy narrative that would ensure that the 'golden thread' was not lost. The problem was that this rather implied that such a 'golden thread' existed in operational and strategic terms, if not in policy terms, already – and this was far from clear. The Home Office Permanent Secretary in the Policing field, Leigh Lewis, also spoke and his three 'big questions' on reform were 'community engagement and accountability', 'operational effectiveness' and 'cultural change'.[625] The issue of mergers came up under 'operational effectiveness' and he asked his audience to think in terms of what 'more could be done in terms of co-operation and collaboration' and whether 'more is required in terms of increased flexibility'. He continued by saying:

> Inevitably that raises the issue of structures. We are not fixated …but we are raising the question openly of whether or not the current 43 forces set up will deliver what the public wants from policing in this country.[626]

So, barely days before the first of O'Connor's reports, the government appeared to be open-minded about force restructuring – yet anyone with an interest in policing knew this would be the core of the report. When the Home Affairs Select Committee (HASC) published its report on Police Reform in March 2005,[627] it reported that it had picked up on some of the government's ambivalence on mergers, particularly in the language from Ms. Blears.[628]

The Inspector always rings twice

The first report from HMIC O'Connor, 'Mind the (Level 2) Gap' was presented to Ministers on 29 January 2005. It identified the provision of protective, Level 2 services as the principal driver for structural change and developed a new methodology for assessing individual force capability and capacity in this area. This was based on a laminate model developed by the Association of Chief Police Officers (ACPO). One senior police official relays that 'the idea that it all needed to connect … that whatever

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[624] Serious and Organised Crime and Police Act 2005 at
http://www.legislation.gov.uk/ukpga/2005/15/contents
[625] Home Office – Lewis (2005) Leigh Lewis speech to Police Reform Conference, 14/14 January 2005 at
http://webarchive.nationalarchives.gov.uk/20090121205351/http://police.homeoffice.gov.uk/publications/police-reform/speeches1415c.html?view=Html
[626] Ibid.
[627] House of Commons Home Affairs Committee (2005) Police *Reform*, Fourth Report of Session 2004-2005, Volume 1, (March 2005) HC 370-371
[628] Ibid para. 109 p.36

you did local, you need to match by doing something with the more serious end…'[629] Policing at every level had to be inter-connected.

Table 6:4 Level 2 Protective Services

- Major Crime (homicide)
- Serious, Organised and Cross Border Crime
- Counter Terrorism and Extremism
- Civil Contingencies
- Critical Incidents
- Public Order
- Strategic Roads Policing

(Source: HMIC (2005) 'Closing the Gap: a Review of the 'fitness for purpose' of the current structure of Policing in England & Wales' HM Inspector of Constabulary)

Table 6:4 shows the seven broad headings that go to make up Level 2 Protective Services. The report also identified that only two forces scored well on level 2 services – the Metropolitan Police and Greater Manchester Police. In April 2005, Policing Minister Hazel Blears commissioned the HMIC to build on O'Connor's work on Level 2 'gaps' and report further on 'national protective services' and a 'more detailed review of collaboration.'[630] She asked for the report by the end of July 2005 and said the Home Secretary wanted it to include HMIC's assessment of 'whether the present 43 force structure is the right one.'[631]

Clarke had already told the ACPO annual conference in May 2005 that he did not believe that there were "… 43 ways of skinning a similar type of cat."[632] These were not the thoughts of a Home Secretary still ruminating on the government's preferred outcome. In September 2005, HMIC publish *Closing the Gap*.[633] It concluded, to little surprise from anyone, that most forces did not have the capacity to deliver protective

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[629] Interview with Author 2016-2017 (F9)

[630] Home Office (2005a) Letter from Hazel Blears to HMIC Sir Ronnie Flanagan, 5/4/05 at http://www.justiceinspectorates.gov.uk/hmic/media/closing-the-gap-20050911.pdf

[631] Ibid.

[632] Martis, Royston (2005) 'Home Truths' *Police Review* 2/12/05 p.18

[633] HMIC (2005) 'Closing the Gap: a Review of the 'fitness for purpose' of the current structure of Policing in England & Wales' HM Inspector of Constabulary Denis O'Connor CBE QPM at https://www.justiceinspectorates.gov.uk/hmicfrs/media/closing-the-gap-20050911.pdf

services for level 2 and level 3 crime.[634] It made clear that whilst there was a range of options available to 'close the gap' on the provision of protective services, that the strategic forces option was 'the clearest and most business-like approach' although 'it could be perceived by some to be the most disruptive and least 'locally friendly''. It also cautioned that this option 'would require firm leadership, extensive support and national will'. Arguably, by the end of this policy process, it was to have none of these things.

Yet, as if foreseeing some of the future criticisms of the report's conclusions, it was keen to note that there was, in the view of HMIC:

> … nothing incompatible between a move towards a more strategic organisation and a concentration on delivering more responsible neighbourhood policing. Strong neighbourhood policing is essential to connect with the public and inform the work of protective services. A force which is big enough to deliver protection, but still small enough to identify with local communities, is an attractive one.[635]

It was felt that the other options offered, as in Table 6:5, below were pure policy-making 'window-dressing' – the HMIC and the Home Secretary wanted option five, so option five it would be.

Table 6:5 O'Connor's *Options for Change* in *Closing the Gap*
Predicated on the inability of the 'status quo' to deliver improvements necessary to 'protective services'.
1. Collaboration – 'essentially the status quo building on limited collaboration to date
2. Lead forces for specialist capabilities
3. Lead regional forces
4. Federation of forces
5. Strategic forces

(Source: HMIC (2005) Paras. 1.49-1.58, pp. 9-11.)

The relationship between the broad issues around the level of protective services and the continuing provision of local neighbourhood policing services was very important to O'Connor. In his report, he was keen to state that the

> … local policing arrangements need not be disrupted whilst force level services are rationalised. A prescriptive reform approach could be initiated relatively quickly if a new

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[634] Ibid p.17
[635] Ibid. para. 10.17, p.77

executive and strategic authority were appointed at an early stage and a tight timescale was set.[636]

The problem was that, at this stage, the coalition of support for such a step towards police mergers was fragmenting. One senior police official claims that ACPO's leadership had reneged and no longer supported mergers. He reported that the ACPO

> … policy entrepreneurs of two years previous had gone and that it was now
> on the fence about it, as of course that's a place that's easy to occupy on this. You can have a nice crease in your backside on this issue, forever.[637]

It was a point well made as this had been exactly where all governments had been since Jenkins' initiative in the 60s.

In suggesting developing a 'prescriptive reform approach',[638] it is reasonable to deduce that O'Connor knew that anything less would be problematic in terms of implementation. He knew too that there was just one chance to portray those dissenting from his vision of reform as 'selfish and obscurantist', especially as the success of neighbourhood policing had already accentuated the local dimension to policing. [639] The problem was that the Home Office – especially ministers – had thus far been speaking in very qualified terms about structures, apart from the Home Secretary whose position was clear and unequivocal. Now its view was about to shift radically to one of complete agreement with O'Connor on the need for change. Governments of various political colours had fudged the issue of the number of forces since it had settled on 43 in 1972 – but now Clarke was determined to take matters further. He wanted to introduce between 12-15 strategic forces for England and Wales. In response to a question from a journalist about whether or not he was 'ready for the fight' on mergers, Clarke said that he was 'of course, absolutely' and he continued saying that:

> … change is better if … done with consensus and co-operation. If they want to waste money on legal action, that is their affair…I am certainly willing to listen, but I have a qualification. Many senior police officers say to me that in a process of reform like this….it is important to make up your mind and do what you are going to do as fast as you can to reduce uncertainty.[640]

Given these comments, Clarke's action could not have been much of a surprise to any of the key people involved, but many thought it was a rushed approach nonetheless

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[636] Ibid. para 1.57, p.11
[637] Interview with Author 2016-2017 (F10)
[638] HMIC (2005) Op.cit. p.11
[639] Ibid. pp.188.
[640] Martis (2005) Op.cit. p.19

with little or no scope for the potential alternatives to strategic forces and mergers to be explored. There was little discussion either about the apparent desire for mergers to be voluntary in the first instance. Enforced mergers would, it was felt, challenge the relationships between the three distinct elements of policing.

Closing the Gap: policy implementation at 90 mph

As soon as O'Connor's report was published, Clarke convened a meeting with all the Chief Constables and Chairs of Police Authorities of the 43 police forces in England and Wales and wrote to them subsequently outlining the details of the policy process that would follow the publication of the report. He said that he wholeheartedly shared the view that strategic forces were the best long-term business solution. He went further and suggested that whilst he did not want to preclude completely the exploration of other options [such as those in Table 6:5 above], the burden of proof:

> …will be with the proponents of such alternatives to demonstrate they can deliver the same or better outcomes as the strategic forces option in terms of enhanced capacity and capability in the provision of protective services, economics of scale and commensurate efficiency savings, and clarity of responsibilities and governance. [641]

This represented a major shift in stated policy even though it was not clear his proposals met the tests he set out at all. The Home Secretary asked each force to consider its options in the context of the 'Closing the Gap' report and to draw up shortlists, conduct further analysis and submit final recommendations including implementation plans for inclusion in a broader report by the end of December.[642] Interestingly, Clarke said in the letter that he recognised that 'the timetable set out was a challenging one' but that he sensed from the meeting held earlier in the week that there was 'broad agreement that we need to move as swiftly as possible to respond to the challenges set out in HMIC's report.'[643] As and when the definitive proposals for mergers and/or strategic forces emerged, these national criteria would be scrutinised intensely. It was felt by many that far from being objective criteria, rigorously arrived at, they were written after the event to fit in with the pattern of strategic forces that the HMIC and the Home Secretary wanted.

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[641] Home Office (2005c) Letter from Charles Clarke, Home Secretary to all Police Chief Officers, all Chairs of Police Authorities in England and Wales 22/9/05 at http://webarchive.nationalarchives.gov.uk/20090121191308/http://police.homeoffice.gov.uk/publications/police-reform/?d-7095067-p=14
[642] Home Office (2005c) Ibid.
[643] Ibid.

The national design criteria were to become a serious matter of debate and discussion as the policy unfolded and are outlined in Table 6:6.

Table 6:6 Design criteria for force restructuring

1. Size – HMIC gave indicative figure of 4000 police officers or 6000 staff in total. Necessary capacity and resilience for protective services
2. Mix of capability and risk – Address volume crime and protective services and improve performance in both
3. Criminal Markets, Geography, Co-terminosity, Identity and History. Starting point – no sub-division of forces, no crossing of Government regions
4. Clarity of command and control and accountability – clear and unambiguous governance arrangements for new entity
5. Performance – minimise risk to existing performance during transitional phase and subsequently support performance improvements over the medium term.
6. Costs and efficiency – minimise costs of change and maximise efficiency savings

(Source : Home Office (2005c) Letter from Charles Clarke, Home Secretary to all Police Chief Officers, all Chairs of Police Authorities in England and Wales 22/9/05 – based on para.1.46 of 'Closing the Gap'.)

A senior cabinet minister at the time said quite freely that 'I never ever believed that collaboration could work, and I think I've been proved right actually.'[644] Collaboration was suggested by many as the alternative route to success rather than mergers. A senior civil servant in the Home Office from the time noted that:

> I did very strongly believe in police mergers. I thought it was absolutely the right thing to do… I've always believed the job of the civil servant is to find out what your minister wants and do your very best to achieve it. But this one I did with considerable enthusiasm.[645]

It is difficult to believe that HMIC was not aware of these prevailing views from politicians and civil servants. This civil servant was speaking for many of those interviewed when he said that '…one of my regrets was that this police force merger programme was stopped in its tracks. That is genuinely one of my regrets.'[646]

Two other matters of interest in terms of the policy-making process were included in Clarke's letter which imposed such a really challenging timetable. Firstly, Clarke was clear that he wanted the 'process to be designed, owned and led by the Service.' Thus, having determined and dictated not only the roadmap, the destination, and the outcome of the policy of police mergers, Clarke now wanted the ownership of the process to be

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[644] Interview with Author 2016-2017 (P1)
[645] Interview with Author 2016-2017 (F16)
[646] Interview with Author 2016-2017 (F16)

shared. Secondly, and as importantly given the stringencies of the timetable, is this short paragraph

> … to oversee the restructuring programme, I have asked Leigh Lewis to establish and chair a steering group to include representatives of ACPO, the APA, CJS [Criminal Justice System] and Government departments. I have asked Leigh to report to me frequently on progress.[647]

One of the key concerns of many of the critics – and indeed supporters- of the policy was the whole issue of finance. For historical reasons, beyond the purview of this thesis, the financing of police in England and Wales is inextricably linked with local government finance. Policing is financed principally via direct grants from central government and from the receipts of a local policing precept imposed on local populations through the local government finance system. The system of local government finance in England and Wales is extraordinarily complex and the consequences of the police mergers policy impacts directly on it. Unfortunately for the Home Office, it also draws in two further government departments to the policy debate – Her Majesty's Treasury, as the department in charge of overall finance, and the then Department of Communities and Local Government (DCLG).[648] As the Director of Policing Policy, Lorraine Rogerson, made clear in a letter to the forces and the police authorities, 'a working group was established before Christmas to consider the way forward' on funding and the precept.[649] Others were clear that this problem was not being addressed as seriously as perhaps it should have been and thought that it was the most obvious, basic pitfall to the whole policy.[650] The problem in part was an absence of policy officials who could think beyond their own silo. One official related, with more than a degree of exasperation, that

> … the guy who knows all about the precept isn't thinking [about the other areas] … he knows all about the precept, he can give me every alternative for what we might do with precepts. He's not thinking about … any of the other elements.[651]

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[647] Home Office (2005c) Ibid.

[648] The Department of Communities and Local Government (DCLG) – it was responsible for local government finance and hence the capping regime that limited the rate of increase each year by local authorities and police authority finances as well.

[649] Home Office (2006a) Letter from Lorraine Rogerson, Director of Policing Policy to all Chief Officers and all Chairs of Police Authorities, *Police Forces Structure Review (20/1/06)* at *http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/LR_to_chiefs_and_chairs_-_21.pdf?view=Standard&pubID=283675*

[650] Interview with Author 2016-2017 (F10)

[651] Interview with Author 2016-2017 (F18)

On the 11 November 2005, Home Secretary Clarke reported on the short-listed options for each force area that would be explored further in a written ministerial report to the Commons.[652] As Table 6:7 below shows, every region had at least two options to take forward – except for Wales for which the Home Office determined only a national police force for the whole of the country met the criteria outlined by O'Connor. Police forces and police authorities were then charged, as we have seen, with determining their preferred option for merger that would then be considered by the Home Secretary and reported on further. Initially, he wanted comprehensive and detailed plans for implementation of the agreed upon mergers by the end of December 2005 but, in a letter to Bob Jones,[653] the Chair of the Association of Police Authorities (APA), he relented and allowed more time for such plans and other local issues that he agreed could 'be done later in the process on a timetable to be negotiated with areas.'[654]

Table 6:7 Options shortlisted as suitable for progression		
The South	**Midlands, Eastern England, Wales**	**The North**
South-East 1. Two strategic forces: Kent, Surrey, Sussex and Thames Valley & Hampshire 2. Three strategic forces : Kent; Thames Valley; Surrey, Sussex and Hampshire 3. Three strategic forces : Kent, Surrey, Sussex; Hampshire; Thames Valley 4. Three strategic forces : Kent and Sussex; Thames Valley; Hampshire and Surrey 5. Four Strategic forces : Kent; Thames Valley; Hampshire; Surrey and Sussex **South-West** 1. Regional South-West Force 2. Two strategic forces : Devon and Cornwall; Avon & Somerset, Gloucestershire, Wiltshire and Dorset **London** 1. Strategic force : Metropolitan plus City of London; 2. Collaboration between Metropolitan and City of London	**West Midlands** 1. Regional West Midlands force; 2. Two strategic forces : Staffordshire and West Mercia; Warwickshire and West Midlands **East Midlands** 1. Regional East Midlands force; 2. Two strategic forces : Derbyshire and Nottinghamshire; Leicestershire, Lincolnshire and Northamptonshire **Eastern** 1. Regional eastern force 2. Two strategic forces: Bedfordshire, Hertfordshire and Essex; Suffolk, Norfolk and Cambridgeshire 3. Two strategic forces : Norfolk, Essex and Suffolk; Hertfordshire, Bedfordshire and Cambridgeshire **Wales** 1. National Wales force	**Yorkshire and Humberside** 1. Regional Yorkshire and Humberside force 2. Two strategic forces: West Yorkshire and North Yorkshire; South Yorkshire and Humberside **North-East** 1. Regional North-East force **North-West** 1. Three strategic forces : Lancashire and Cumbria; Cheshire and Merseyside; Greater Manchester 2. Two strategic forces: Lancashire, Cumbria and Merseyside; Cheshire and Greater Manchester Police

Source: Based on information in Home Office (2005b) *Written Ministerial Statement by the Secretary of State for the Home Department: Police Force Structures Review.* House of Commons 11/11/05

This letter is crucially important to the development of the policy. It came at the tail-end of the policy development process. The framework of the new policy – the establishment of strategic forces through the merger of existing forces – was in place

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[652] Home Office (2005b) *Written Ministerial Statement by the Secretary of State for the Home Department: Police Force Structures Review.* House of Commons 11/11/05 at http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publicati ons/police-reform/WrittenMinisterialStatement1.pdf?view=Standard&pubID=257439

[653] Bob Jones was a councillor in Wolverhampton and chair of the West Midlands Police Authority.

[654] Home Office (2005d) Letter from Charles Clarke, Home Secretary to Bob Jones, Chair, Association of Police Authorities 6/12/05 at http://webarchive.nationalarchives.gov.uk/20090121191308/http://police.homeoffice.gov.uk/publicati ons/police-reform/?d-7095067-p=14

largely, as I have indicated, through a mixture of the Home Secretary's enthusiasm and the weight afforded to the O'Connor report. Yet here, perhaps for the first time, is any serious concern given to issues that would ultimately undermine the policy. On behalf of the APA, Jones raised concerns about 'the scope for further consultation post December 23; finance issues – start-up/transitional costs and precepts; and governance and accountability at strategic and sub-strategic level.'[655] Clarke sought to answer each concern in turn but did so in a manner that implied the Home Office had not really thought these matters through at all.[656] To even the untrained eye, concerns around consultation, finance and accountability would seem to be quite important in the most significant structural reform to the police since Jenkins.

 Clarke relented, as we have seen, on some issues around the detailed plans, but not the overall, strategic decisions or the timetable. In response to the APA's concerns about finance and precepts, Clarke raised three possible ways forward and batted off the concerns to the newly formed 'finance working group' that, at the time of the letter, had not met. So, by January 2006, the working group charged with determining the way forward in areas such as finance – which meant the police precept, which in turn meant dealing with the Treasury and DCLG– had not met, but nominally the first parliamentary order was going down in May.[657] On accountability, it is clear that the policy was also 'evolving' to say the least. Clarke thought that restructuring was a 'good opportunity to embed more police accountability at BCU/CDRP level', perhaps through policing boards, perhaps through local government, but with clarity over managerial accountability.[658] Again, the letter referred to transitional arrangement for accountability and Clarke referred to the proposals for strengthening the accountability of police authorities in the 2004 White Paper *Building Communities, Beating Crime.*[659] However, the discussion on police authorities in that White Paper was not in the context of the emergence of strategic forces.

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[655] Ibid.
[656] Ibid
[657] Home Office (2006a) Op.cit.
[658] Ibid. BCU is the Basic Command Unit, the lowest and most localised structure of the police and central to neighbourhood policing. The CDRP is the Crime and Disorder Reduction Partnership – a multi-agency organisation charged with setting out strategies to combat crime.
[659] Home Office (2004d) Op.cit.

It's that bloody Gaius Petronius all over again…

The first significant chance for the Commons to address the issues raised by the police restructuring policies was on the occasion of a day long adjournment debate in the House of Commons, very late in December – after the list of preferred options had been published, but before the Home Office had made its conclusions known. When introducing the debate on behalf of the government, Clarke said:

> Starting in June 2004, HMIC conducted an extensive examination of how effectively protective services are currently provided…the inspector's stark conclusion was that the current structure of policing is "no longer fit for purpose."[660]

The report from the HMIC was the culmination of a series of studies that tried to relate how prepared or otherwise the country's 43 police forces were across a range of different levels of policing. Clarke went on to say that

> …they (HMIC) came to the conclusion that strategic forces offer "the best business solution" for the future. Faced with that clear, well-argued and independent police advice, I judged it essential to act rather than ignore those proposals.[661]

Shadow Home Secretary David Davis called the plan 'hasty, ill-considered, costly, disruptive and dangerous.'[662] He said that the policy was being driven by 'an agenda of regionalisation that the government was pursuing against the will of the people.'[663] He committed the Conservative opposition to a policy of elected police commissioners seemingly organised around relatively small forces. He quoted from a Policy Exchange research document[664] that favoured forces with fewer than 4000 officers noting that 'smaller forces, with a strong commitment to visible policing, are among the most successful at cutting crime and providing public reassurance.'[665] He made grand assertions that the policy would be the first step on the road to 'making all policing remote and less responsive to local people' and that, given that the policy did not appear in the government's manifesto at the 2005 election, the 'government seems to have come to a decision and then tried to find the evidence to support it.' He concluded by saying that the policy would end up making 'policing remote when we should be making it local, 'unaccountable when we should be giving people greater

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[660] Hansard (2005) Police Restructuring Debate 19-12-05 col 1582 at
http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo051219/debtext/51219-10.htm
[661] Ibid cols 1582-1585
[662] Ibid cols 1609-1610
[663] Ibid col 1610
[664] Policy Exchange (2006) *Size Isn't Everything: Restructuring Policing in England and Wales* Policy Exchange London
[665] Hansard (2005) Op.cit. cols. 1596-1597

control' and that it 'threatens massive costs for no extra benefits'.[666] He offered no alternative and seemed to be stuck somewhere between the status quo and the micro-localism, with or without elections, offered in the US model and praised in the Policy Exchange document.

The Liberal Democrat spokesperson Mark Oaten was equally critical of a 'rushed process' and one in which we 'should not be so blinkered as to assume that merger is the best way forward. Various critical Labour voices expressed 'grave doubts', thought it was 'rushed, not rational', that it was being 'bulldozed and they had 'serious concerns.'[667] Welsh Labour MP, Paul Flynn, argued that before any reorganisation, the case should be overwhelming. He feared, quoting Gaius Petronius in AD66, that

> … we tend to meet any new situation by reorganising; and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency and demoralisation. [668]

Many of the speakers sought more time for the consultation period and the consideration of alternatives other than mergers and strategic forces. It is quite instructive that this concern – and the other two key issues raised during the adjournment debate, finance, and accountability – were also the issues raised by Jones on behalf of the APA. Some went further and agreed with one of the senior police policy officials who, when asked, agreed that

> … there was a secondary phase [of policy development] that was missing between *Mind the Gap* and *Closing the Gap*…they should have explored the manner of the solutions much more readily than just saying 'the solution is roughly this., they should be roughly this size….[669]

By January 2006, the newly-appointed Director of Policing Policy, Lorraine Rogerson, reported to all the police forces and the police authorities that 'the majority of police forces and police authorities did submit a response by the required date'. She clarified that any such mergers that go forward would be implemented using the Police Act 1996 and parliamentary order, that is, secondary legislation – rather than primary legislation with all its incumbent difficulties. The process would be different depending on whether the merger was voluntary or imposed by the Home Secretary. Voluntary mergers could be given effect by the 'negative resolution procedure' – that is, the order is laid and is not voted against unless it is objected to (or prayed against).

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[666] Ibid. cols. 1609-1610
[667] BBC News (2005) Clarke attacked on Police Reform http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk_politics/.stm 1912/05.
[668] Hansard (2005) Op.cit. cols 1651-1652
[669] Interview with Author 2016-2017 (F12)

Imposed mergers were subject to the affirmative resolution procedure and had to be tabled and debated in both houses.[670]

At the same time, both Clarke and Blears wrote to all MPs to keep them up to date.[671] Blears said that she would keep MPs informed about the outcome of the process but took the opportunity to make clear that 'restructuring is not an end in itself' but simply one of three elements that will 'together enable the service to meet the challenges of policing in the 21st century'. The other two elements were 'neighbourhood policing' and 'workforce modernisation'. To many, it felt like these were three very distinct strands of policy that had little in common at all. She also made clear that mergers were the only solution on the agenda. She said that:

> HMIC did not feel able to recommend federation or collaboration and although we are aware that these are options that have found some support amongst police authorities we have yet to be convinced by the arguments put forward in their favour.[672]

Clarke's letter reinforced the wider message that 'restructuring is one of our key priorities for further reform of the police service, but neighbourhood policing and workforce modernisation are equally important.'[673] The letter also discussed how reform was structured around five levels: the neighbourhood, the BCU, the force, the national and the broader police reform narrative, as can be seen in Figure 6:2.

Many of the detractors of the policy, in the Labour Party and beyond, were less than convinced that this narrative was as thought-out as Clarke or Blears implied, especially in terms of the relationship between the newly merged strategic forces and neighbourhood policing, which would merge

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[670] Home Office (2006a) Letter from Lorraine Rogerson
Home Office (2006b) Letter from Moira Wallace, Director-General for Crime, Policing and Counter-Terrorism to Bob Jones, Chairman, APA *Police Force Restructuring – Local Accountability (24-1-06) at*
http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/2006-01-26_Bob_Jones_local_1.pdf?view=Standard&pubID=296224
[671] Home Office (2006c) Letter from Hazel Blears to all MPs *Police Force Structures Review (24/1/06) at*
http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/Restructuring.HB_to_all_MPs1.pdf?view=Standard&pubID=283679 and
Home Office (2006d) Letter from Charles Clarke to all MPs*, Police Reform (31/1/06) at*
http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/Letter_HS-MPs.Leaflet.pdf?view=Standard&pubID=287315
[672] Home Office (2006c) Op.cit. p.2
[673] Home Office (2006d) Op.cit

Figure 6:2 New Labour Police Reform and Police Mergers

The detailed Home Office plans were now forthcoming. In February 2006, the Home Secretary wrote to all Chief Constables and Chairs of Police Authorities and made a written statement to the House of Commons, declaring the Government's position on four of the nine regions and the options that were to be taken forward. He announced that in Wales all four forces – Gwent, Dyfed-Powys, North Wales and South Wales would be merged to form a national strategic police force; in the West Midlands all four forces, Staffordshire, Warwickshire, West Mercia and West Midlands, would merge into one strategic force; in the North West, Greater Manchester would stand alone as a strategic force, Cheshire and Merseyside would merge, as would Cumbria and Lancashire; and in North East all three forces – Cleveland, Durham and Northumbria – would merge into one strategic force.[674] In March 2006, the Home Secretary confirmed that these options would be taken forward under 'sections 32 and 33 of the Police Act 1996.' He explained that the relevant police authorities, local authorities, and chief constables had until July to submit objections and that subject to this he would propose laying the necessary draft orders for the approval of both Houses before the summer recess. Only one merger – that of Lancashire and Cumbria – was to be requested on a voluntary basis with the parliamentary orders laid in the House in the first week of May and the new strategic authority established by June 2006 and the new force on 1 April 2007. The remaining orders – imposed rather than voluntary – would be laid by the end of July 2006, with the strategic authorities established in September 2006 and the new forces also coming into being from April 2007.[675]

As can be seen from Table 6:8, the future map of policing in England and Wales was all but established. In March and April, a series of notices and letters were sent out from Home Secretary and Home Office officials giving specific notice to each individual merger proposed by government, outlining the process, the way forward

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[674] Home Office (2006e) *Written Ministerial Statement by the Secretary of State for the Home Department: Update on Police Force Structuring.* House of Commons 6/2/06 at
http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/2006_02_06_Restructuring_HS1.pdf?view=Standard&pubID=288175
Home Office (2006f) Letter from Charles Clarke to Chief Constables and Chairs of Police Authorities *Police Force Structures Review* 6/2/06 at
http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/2006-02-06_HS-CHs_Chairs.St1.pdf?view=Standard&pubID=288794
[675] Home Office (2006g) *Written Ministerial Statement by the Secretary of State for the Home Department: Police Force Structuring.* House of Commons 3/3/06 at
http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/2006-03-03_WMS_Police_restr1.pdf?view=Standard&pubID=301980

Table 6:8 Proposal Options chosen for progression

Wave One	Wave Two	Wave Three
North-East Regional North-East force	**East Midlands** Regional East Midlands force	**Yorkshire and Humberside** Regional Yorkshire and Humberside force
North-West Three strategic forces : Lancashire and Cumbria; Cheshire and Merseyside; Greater Manchester	**Eastern** Two strategic forces: Bedfordshire, Hertfordshire and Essex; Suffolk, Norfolk and Cambridgeshire	**To Be Determined :** **South-West** 1. Regional South-West Force 2. Two strategic forces : Devon and Cornwall; Avon & Somerset, Gloucestershire, Wiltshire and Dorset
Wales National Wales force	**South-East** Four Strategic forces : Kent; Thames Valley; Hampshire; Surrey and Sussex	**London** 1. Strategic force : Metropolitan plus City of London; 2. Collaboration between Metropolitan and City of London
West Midlands Regional West Midlands force;		

(Source : Home Office (2006g) (2006i) *Written Ministerial Statement by the Secretary of State for the Home Department: Police Force Structuring.* House of Commons 3/3/06, 20/3/06)

and the timetable.[676] A further ministerial statement on 20 March 2006 confirmed that the Government's view for a further three regions. In the East Midlands, the finalised proposal was for a merger of all five forces – Nottinghamshire, Derbyshire, Leicestershire, Lincolnshire and Northamptonshire – into one strategic force; in the South East the proposals were for the merger of Surrey and Sussex into a strategic force and that Hampshire, Kent and Thames Valley would each stand alone as separate strategic forces; and in the Eastern region, two strategic forces were proposed – the merger of Cambridgeshire, Norfolk and Suffolk and the merger of Bedfordshire, Essex and Hertfordshire.[677] In addition, the proposals for Yorkshire and Humberside were finalised by written ministerial statement the following day. It was decided that there should be one strategic force formed from the four existing forces – North Yorkshire, West Yorkshire, South Yorkshire and Humberside.

The proposals for the South West were delayed until after the May local elections and the issue of London would await the Department of Transport's review of the British Transport Police and the Attorney General's review of the policing of fraud currently led by the City of London Police.

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[676] Home Office (2006h) Letter from Lorraine Rogerson to Chief Constables, Chairs of Police Authorities and Chief Executives of local authorities in Cheshire and Merseyside area *Police Force Structures Review* 6/2/06 at
http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/2006_03_03_Cheshire___Merse1.pdf?view=Binary

[677] Home Office (2006i) *Written Ministerial Statement by the Secretary of State for the Home Department: Police Force Structuring.* House of Commons 20/3/06 at
http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publications/police-reform/2006_03_20_WMS.pdf?view=Standard&pubID=316418

Dropping the Pilot: Clarke sacked

Just as things moved on at pace on police mergers and against a relentless timetable, the attention of the Home Secretary was diverted entirely by the 'foreign national prisoners' crisis[678] which, as indicated earlier, coincided with a round of significant local authority elections in the first week of May – including London Borough elections. Even though the issue was principally one of a lack of communication and administration between the courts and the prison services, because it involved foreign prisoners it was held up as a government immigration failure and because it involved criminals, it was seen as a policing failure. The police, under the auspices of ACPO, worked closely with the Home Office to find the 1300+ offenders who should have been deported. The Home Office suffered a media firestorm that, the media made clear, would only end with the sacrifice of a ministerial career. I recall having intense discussions with Clarke and we agreed it was clear that, rightly or wrongly, his head or mine would have to be been sacrificed. As the crisis developed, he was convinced that I was safe because the media would not settle for anything less than a cabinet level scalp – that is, his. He felt that the 'only question was, in those circumstances, whether or not the Prime Minister and his senior advisers would cave in to a noisy challenge or whether they would not. Clarke believed – wrongly, as it turned out – that Blair would not buckle.[679] Charles Clarke was sacked the day after these elections – choosing to leave the government despite being offered other cabinet jobs. [680] At the time of Clarke's demise, there was no deal with the Treasury on finance and no deal with DCLG on rate capping. It was very unlikely that any merger could proceed without such deals – even the voluntary merger that Lancashire and Cumbria wanted to pursue. The policy had lost its political champion and its future looked precarious.

Reid as Home Secretary – mergers unceremoniously dropped

As John Reid took over as Home Secretary, it was clear that he had to hit the ground running. He decided by the first week in June that I would swap my role – Immigration and Citizenship – with my colleague, Liam Byrne, who had just been appointed as Minister for Policing, Security and Community Safety. He felt, as is entirely his right

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[678] Wilson, Rob (2014) *The Eye of the Storm: the View from the Centre of a Political Scandal* Biteback Publishing London. Chapter 6, pp.173-200
[679] Ibid p.173
[680] BBC News (2006) 'Clarke under intense pressure' http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk_politics/4943636.stm 25/4/06

to do so, that the Home Office needed a new face at immigration because of the Foreign National Prisoners debacle. He also thought that Byrne had the necessary 'managerial' experience to deal with immigration and that my skills would better serve him as Policing Minister, including both the growing security dimension to the role and the immediate concern of the mergers policy. [681]

Reid was clearly not enamoured by the merger policy at all. In the initial stages, the relationship between the new Home Secretary and the Permanent Secretary, David Normington, was frosty, to say the least. Normington had been at the Department of Education with Charles Clarke and was clearly sorry to see him go. Given the manner of Clarke's departure, it was also evident that No.10 had given Reid *carte blanche* to fix what was seen as a troublesome department. Unusually, Blair came over to the Home Office and gave an impromptu address to the staff and introduced Reid as his man. The geography of the new Home Office building lends itself to such 'mass meetings' as there is a central atrium overlooked by stairwells and open plan offices on each of the five floors. One official described Normington at the time as being 'like a man chained to a radiator. He was a hostage. A kidnapped man.'[682] Reid set about trying to find out exactly what was going on – and his agenda was a very full one. Of immediate concern was resolving, or at least getting a grip on, the Foreign National Prisoners issue, followed closely by an ongoing crisis with prison numbers, immigration, police resources and the development of counter-terrorism capability in the light of recent attacks. There was just a sense, said one official, that the 'Home Office was too big, there were too many unexploded time bombs, neither ministers nor officials could cope with all of them at once, we had to streamline a bit.'[683]

In this context, there was simply, as a senior cabinet member, from the time remarked in interview that Reid had 'probably too much on his plate. Too many battles to fight'[684] and given that it was a policy that Reid was never committed to anyway, there were simply 'too many reasons to say no.' [685] When asked by Reid what he thought as he went around the table at one of his early meetings on this issue, a senior policing

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[681] House of Commons Home Affairs Select Committee (2006) Fifth Report, Immigration Control, HC 775-III, Oral and Additional Written Evidence at https://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/775/6052302.htm to https://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/775/6052305.htm
[682] Interview with Author 2016-2017 (F18)
[683] Interview with Author 2016-2017 (F13)
[684] Interview with Author 2016-2017 (P4)
[685] Interview with Author 2016-2017 (F10)

official said that 'It all depends on whether you've got a political strategy. There is none at the moment. If you have a political strategy, this is doable. If you don't, it's not.'[686] The same official bemoaned the rush by Home Office officials to tell Reid what he wanted to hear – that there was 'too much risk, I think we have to stop'[687] A senior official close to Reid, said that whilst the Home Secretary could see that in theory this policy '… was a good idea … it will not fly at the present time …politically there were immense problems…' [688]

So, it ended up that 'John Reid judged that there were more important issues … [and] mergers weren't worth the political capital'[689] and the policy was dropped. On the 19 June, Reid pulled the plug on all of them except the voluntary one claiming that much more work was needed on how to take the enforced mergers forward.[690] As nothing had changed since Clarke's departure to alter the fact that neither the Treasury or DCLG was willing to negotiate on the timing of the voluntary merger, up-front financing or the equalisation of the two forces police precepts, the voluntary merger failed too. Despite heroic efforts by officials to try and at least get this merger on track, it failed.[691] Eventually, I had to meet Cumbria and Lancashire on 10 July 2006 to tell them that the merger would not to proceed. On 12 July 2006, the Home Office confirmed that the mergers were to be abandoned, with the entire proposal taken back for consultation.[692] I also had to make clear in a speech to a meeting of the Association of Police Authorities (APA) that the 'definitive answer' to whether or not there would be mergers 'is no' and that it was 'now the time, for local government, as well as police

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[686] Interview with Author 2016-2107 (F10)

[687] Interview with Author 2016-2107 (F10)

[688] Interview with Author 2016-2017 (P8)

[689] Home Office (Undated) Op.cit.

[690]Hansard (2006) Home Office Questions 19/6/06 in Hansard HC cols. 1057-1062 http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060619/debtext/60619-0003.htm Home Office (2006j) Letter from Home Secretary to all MPs, Chief Constables, Chairs of Police Authorities and Chief Executives of local authorities *Police Force Restructuring* 19/6/06 *at http://webarchive.nationalarchives.gov.uk/20080910134927/http://police.homeoffice.gov.uk/publicati ons/police-reform/2006-06-19_NC_HS_Police_for1.pdf?view=Binary*

[691] Personal recollection of the Author

[692] The Independent (2006) 'Police forces merger plan will be scrapped, says chief constable' *The Independent 11/7/06* http://www.independent.co.uk/news/uk/crime/police-forces-merger-plan-will-be-scrapped-says-chief-constable-407536.html?printService=print ; The Times (2006) 'Merger of police forces is scrapped' 11/7/06 http://www.thetimes.co.uk/tto/news/uk/crime/article1877213.ece ; BBC News (2006) Police mergers still 'on agenda' 12/7/06 at http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk_politics/5172136.stm

authorities, police forces themselves… to collectively tell us, in each and every region, how, if not this way – then what way?'[693]

On the same day, the Prime Minister was accused by David Cameron, of 'wasting police time'. He asked about the attempts by Lancashire and Cumbria to merge voluntarily and if he, the Prime Minister, would now accept that 'forced mergers are certainly out of the question?' The Prime Minister answered that:

> For exactly the reason that my right hon. Friend the Minister of State [the author] gave this morning, we do not believe … that it is sensible to force the merger… .[694]

Cameron stated that the 'flagship of forced mergers has sunk without trace.'[695] Blair insisted that 'it is also important to proceed with mergers where we find the consent to do so'[696] rather than simply ditching the policy because so much effort had been invested in the policy. The difficulty for Blair, and indeed for myself, was that so much political capital had been invested in the policy of police mergers by Clarke, who had just been relieved of his role as Home Secretary, that it was impossible to undermine him or the policy in the stark terms often reserved for such policy 'U-turns'. The Prime Minister wanted to leave the option for mergers 'on the table' as he believed it to be the right thing to do, but it was not a priority.[697] So, to all intents and purposes, the policy was completely dead, and no mergers proceeded at all under the New Labour government.

What went wrong?

Police mergers and strategic forces were a subject viewed very differently by three successive Home Secretaries. For Blunkett, mergers were 'a second order issue that would detract from police dealings with the public.'[698] For Clarke, 'this was part of [his] personal agenda. A carry-over from his days as policing minister.'[699] For Reid, as one of his close advisers related, '… the political case for spending energy … didn't seem to be there… it's going to cause a row in every single patch in England.'[700] For the uninitiated, this was not a gardening metaphor , 'every single patch' meant every

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[693] BBC News (2006) Police mergers still 'on agenda' 12/7/06 http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk_politics/5172136.stm
[694] Hansard (2006) PMQs, 12/7/06 col. 1383 HC cols. 1383-85 at
http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060712/debindx/60712-x.htm
[695] Ibid. col.1383
[696] Ibid. col.1383
[697] Seldon (2008) Op. cit pp. 456-457
[698] Ibid
[699] Ibid. Clarke had been policing minister from 1999-2001.
[700] Interview with Author 2016-2017 (F7)

parliamentary constituency, always an important concern in decision-making for politicians.

One of the problems of this policy was that it was not the result of one of Kingdon's 'focusing events.'[701] No-one could point to a singular event or series of events that led to the decision to implement this policy. It was suggested that the lack of co-operation between two forces during the Soham Murder Inquiry was part of the impetus. A senior police source at the time relates that:

> The strategic force idea came out in … analysis … it was very apparent to us that some forces were struggling to cope with the breadth of policing, from local through to national and serious. Floating in the mix at the same time, you've got the Bichard Inquiry which demonstrated that Humberside and Cambridge were just not cutting it.[702]

Certainly, many felt that the failure of these two relatively small forces was problematic. However, as the Bichard Inquiry showed, it was as much about information recognition and exchange as it was about force size or capability.

If anything, the mergers policy was intended to be pre-emptive – to make good the gap in level 2 capability to prevent some catastrophic 'focussing event' from occurring in the future. It was not, as Kingdon would have it,[703] a 'pressing problem of the moment' that the government had decided to address. Even if it was such a problem, no-one understood why the government has decided to address it in this way and at this time. A policy process loaded with such uncertainties at the beginning meant that success was unlikely. Worse than this, for many it was a distraction from other key policies on police reform for which there was established narratives, particularly the development of neighbourhood policing, but also workforce modernisation, performance management, and the Respect agenda and anti-social behaviour.

Process - preparing the political ground

The mergers policy had not been in any election manifesto nor had it been explicitly spelt out at any stage.[704] The 2001 manifesto mentioned that the government 'will promote co-operation across force boundaries for common services'. The 2005

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[701] Kingdon (1995) Op.cit p.3. See also Béland (2005) Op.cit pp. 1-18

[702] Interview with Author 2016-2017 (F9) The Bichard Inquiry was prompted by the failings of two small forces – Humberside and Cambridge – to exchange intelligence on a suspect accused of the murder of two young girls in Soham, Cambs. For further on the Bichard Inquiry, see HMSO (2004) The Bichard Inquiry Report at http://dera.ioe.ac.uk/6394/1/report.pdf.

[703] Kingdon (1995) Ibid. p.4

[704] Labour Party (2001) 'Ambitions for Britain: Labour's manifesto 2001' at http://www.politicsresources.net/area/uk/e01/man/lab/lab01.htm ; Labour Party (2005) 'The Labour Party Manifesto 2005' at http://www.politicsresources.net/area/uk/ge05/man/lab/manifesto.pdf

manifesto made no mention of the issue at all.[705] Its only legitimising tool was the O'Connor report that many felt was a rigorous piece of work, but the motives of HMIC to give the Home Secretary what he wanted was suspect. Yet Home Office officials were clear that the issue had been a 'part of Charles Clarke's personal agenda.'[706] In a reflective, internal Home Office document, other unnamed interviewees reported that 'as the programme unravelled it lost the confidence of the stakeholders' and that 'as the enormity of the programme became apparent and the activity mushroomed – the lack of resource became apparent and the programme descended into a shambles.'[707] Neither significant time nor energy was put into the construction of a narrative around police mergers and the efficacy of large strategic forces. To paraphrase Hindmoor, 'governments cannot simply abandon one set of policies and adapt another. They must construct the policy positions they seek to occupy.'[708] Heclo has argued that 'policy invariably builds on policy, either in moving it forward with what has been inherited, or amending it, or repudiating it.' For Béland, 'the assessment of previously enacted measures and their socio-economic consequences impacts on policy decisions.' Yet for all the rigour of the narrowly focussed O'Connor report, none of these elements was at all apparent. As indicated above, there was a strong view that O'Connor's conclusions were presented as a *fait accompli* in terms of policy, not the start of a policy process.[709] As we have already seen, Cox contended that

> … the advocates of reform need to … create a discourse that changes the collective understanding … because doing so 'shapes the path' necessary to enact reform.[710]

The Home Office never fully created such a policy discourse, and, hence, did not change the collective understanding. This disrupts the path. Sewell suggests path dependence means '…that what happened at an earlier point in time will affect the possible outcomes of a sequence of events occurring at a later point in time.'[711] Levi argued that path dependence must mean that once an actor has

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[705] Labour Party (2001) Ibid. Chapter 4, p.32
[706] Home Office (Undated) Op.cit
[707] Ibid
[708] Hindmoor (2004) Op.cit p.13
[709] See 'The Inspector always rings twice' above
[710] Cox (2001) Op.cit pp.463-498
[711] Sewell, William H (1966) 'Three temporalities: Toward an Eventful Sociology' in McDonald, Terence J *The Historic Turn in the Human Sciences* University of Michigan Press Ann Arbor, Michagan pp.245-280 – quoted Pierson (2000) Op.cit p.252

> …started down a track, the costs of reversal are very high. There will be other choice points, the entrenchments of certain institutional arrangements obstruct an easy reversal of the initial choice. [712]

One of the failings of the police mergers policy process was that the Home Office became locked into a self-imposed path dependence that took no account of prior policy nor had any understanding of the impact the policy might have or the enormity of the tasks that it required. Mahoney recognised two forms of path dependence – increasing returns and the reactive sequence.[713] In an increasing returns process with each move down the path, the probability of further steps along the same path increases and the costs of exit from the path increase. The reactive sequence is 'a causal chain in which each step is a reaction to antecedent events.'[714]

The policy on police mergers locked the Home Office into a path that took no account of the other key elements of police reform, took no account of the views of the key actors in the area and took no account of how to achieve success. Further, if there was a significant event in policing it was, as we have seen, the development of neighbourhood policing – not police mergers. Neighbourhood policing could be described as a 'critical juncture' in policing. Consterdine and Hampshire suggest that critical junctures 'may be triggered by major events that are exogenous…or by an accumulative process of endogenous changes, or some combination of the two.'[715] They add that 'for policy analysis, critical junctures are moments when there is an opportunity for political actors to overcome the usual bias towards inertia caused by lock-in and feedback effects.' The government policy of encouraging, and funding, initiatives around neighbourhood policing was such a moment – and fitted in within what the government was trying to do, for example, on workforce modernisation (getting more police out of stations and on to the streets, the introduction of police support officers) and performance management (by measuring the local dimensions of policing implied by the neighbourhood model and rewarding it as good practice.)

The groundwork for the mergers policy had not been done – within the department, throughout the policing world or across government. It was important to not only to

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[712] Levi, Margaret (1997) 'A Model, a Method, and a Map: Rational Choice in Comparative and Historical Analysis' in Lichbach, Mark I and Zuckerman, Alvin S *Comparative Politics: Rationality, Culture and Structure* Cambridge University Press, Cambridge quoted in Pierson (2000) Ibid. p.252

[713] Mahoney, (2000) Op.cit pp,509-510

[714] Mahoney (2000) Ibid. p.252. See also Schwartz, Herman (2001) Down the Wrong Path: Path Dependence, Increasing Returns, and Historical Institutionalism Unpublished manuscript, Department of Politics, University of Virginia Charlottesville, Virginia

[715] Consterdine and Hampshire (2014) Op.cit p.282

make adequate preparation, but also to develop a narrative for the policy of police mergers and establish how it fitted in with the then plethora of other initiatives under the broad term 'police reform'. There was, as we have seen, no 'focussing event' as Kingdon would suggest or indeed any developed rationale behind the development of the policy, and. once determined, little or no work was done to construct the narrative for the policy, as Hindmoor would suggest. [716]

Process - protecting the political ground

Timing is important too. As Béland notes 'the moment at which a policy entrepreneur attempts to promote a policy alternative is crucial in determining its level of political influence.' At the time of this policy, the Home Office managed to overestimate the support for the mergers policy from ACPO, and hopelessly underestimated the campaigning skills of the APA – whose members were quite literally fighting for their existence.

As we have seen, ACPO proved a less than reliable ally. Initially it was one of the proposers of the merger policy and its then leadership was completely behind the move towards strategic forces. One senior official thought that the Home Office was very 'naïve about thinking that when ACPO said 'this is what they wanted', that somehow meant it was right and it would happen' with the implicit if not explicit support of ACPO.[717] For him, 'there was a bit of a sense that we [the Home Office] were a bit too cosy with ACPO…'[718] Yet ACPO was an unreliable stakeholder. The Home Office allowed itself to be captured by ACPO as an agency of interest. Yet whenever things got tricky, the Home Office would discover that

> … a. you know what, funny enough quite a lot of Chief Constables weren't that keen on it [the policy] really, and b., when it came to defending [policy] as a proposition and why the game's worth a candle, it became the Home Office against the world really quite quickly.[719]

As if to prove this point, a key police official said that, as a senior member of ACPO, he was convinced that with police mergers '… [Clarke] was sold a pup. The majority [of Chief Constables] were 'we want to stay as we are'… I knew … that the merger [policy] was never going to fly politically. Never in a month of Sundays. [720] Months earlier, all four of ACPO's senior leadership were open policy advocates for mergers,

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[716] Kingdon, John W (1995) Op.cit and Hindmoor (2004) Op.cit.
[717] Interview with Author 2016-2017 (F13)
[718] Interview with Author 2016-2017 (F13)
[719] Interview with Author 2016-2017 (F13)
[720] Interview with Author 2016-2017 (F14)

but by the time the policy was being developed, all had moved on. This included, ironically, O'Connor himself.

As we have already seen, the genesis of the policy was a mixture of ACPO's early work and the reports of the HMIC that built on that work. O'Connor played a role on both sides of this issue – first as a leading member of ACPO and then as an HMIC. Despite this, a senior ACPO member called the whole scheme into question. The reality was that at one stage ACPO did support the policy and was therefore in full agreement with the then Home Secretary. However, by the time the policy started to come to fruition, the new ACPO leadership had gone off the idea.

A policy official lamented that when it came to campaigning against the mergers

> … this is the one thing on which police authorities turned out to be rather more effective than anybody expected… they corralled themselves remarkably well to get across to the public out there that this was… a threat to things they hold dear.'[721]

The mergers issue gave police authorities the local exposure and presence that the Home Office was bemoaning that they lacked. Mergers would not deal with the accountability issue, but would protect, rather than threaten, police authorities. As we have seen above, the policy of police mergers gave the APA a ready policy frame within which to defend its own role as the voice of local dissent against the Home Office and in defence of its local police.

One key official drew two sharp conclusions from the mergers issue. The first was that 'if there is someone who has the power to stop something and they are not bought into it, then that needs to be taken very, very seriously.'[722] Secondly, simply because there 'a lot of people in favour of something doesn't mean it is doable if someone can stop it, or wants to stop it.'[723] Kingdon's policy entrepreneurs need to 'constantly stress the need to reform existing policies when promoting alternatives at odds with the existing order.'[724] The groundwork in terms of allies and enemies had not been done, in part because the planning and policy development had not been done, but also because officials and politicians let their generally unfavourable view of one of the protagonists – the APA – colour their view about its ability to campaign. Further, the Home Office

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[721] Interview with Author 2016-2017 (F13)
[722] Interview with Author 2016-2017 (F5)
[723] Interview with Author 2016-2017 (F5)
[724] Béland (2005) Op.cit. p.15

had 'no solution to the one thing that will excite local people, and obviously local politicians – the precept. We had no solution to that….' [725]

Policy development - hiding in plain sight

One senior official spoke at length about things that were 'hidden in plain sight'. [726] He suggests that '…the presenting issue was never… actually hidden…it's not recognised for what it is'.[727] In the example of the policy on police mergers, his point is that everyone, including me,[728] recognised that there was a key issue around accountability and the role of police authorities. The view in the Home Office was that the police authorities were hopeless and routinely 'invisible' to the public as evidenced by polling. In fact, this official argues that, at this time, the name of the APA was mud in the Home Office and that

> … no-one gives them any credence at all, we [the Home Office] pay lip service to tri-partite policing because the APA is a nonsense, they have no political kudos or legitimacy at all. Yet they are the locals. They're the dog that didn't bark then, that comes back and bites us.[729]

But the APA had not just become local – its entire *raison d'être* was as the voice of local policing. By any measure, the government was having real success with the continuing roll-out of neighbourhood policing and 'people must know that the largest, most substantial local voice that is glorified in local policing … [was] … the police authorities, the APA.'[730] But rather than seeking to address the issue of the apparent lack of accountability through ineffective police authorities, the government opted for a policy – strategic forces achieved through force mergers – that effectively 'weaponised' the local dimension of policing which would be used to great effect by police authorities. Thus, the key problem that was 'hiding in plain sight', local accountability, was used by the opponents of police mergers to great effect as they defeated the government's proposals.

Another issue around the policy was what one interviewee described as 'optimism bias'. He does not mean in the general sense of a cognitive disposition to underestimate personal risk but rather in the sense of an attitude to one's work as a civil servant. For although civil servants are generally often

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[725] Interview with Author 2016-2107 (F12)
[726] Interview with Author 2016-2017 (F11)
[727] Interview with Author 2016-2017 (F11)
[728] Personal recollection of Author
[729] Interview with Author 2016-2017 (F11)
[730] Interview with Author 2016-2017 (F11)

… characterised as always wanting to say no, the thing that comes through… is a tendency to ignore voices and to tell minsters that things can be done that can't be done...there's almost a policy of optimism bias…"[731]

As a participant in government through several changes of Home Secretary, I could see that the tendency to want to please the Home Secretary was greater if he or she commanded respect. There was a sense that saying 'yes' meant not to let the 'good guys' down. There was a lack of clarity as to what the policy was intended to achieve in the context of broader policing reform and whether it should be a priority at all. There may have been elements of groupthink. According to t'Hart

> … in high-level decision groups, closed leadership styles combined with group or organisational norms of compliance may produce groupthink tendencies… the group's members are prone to excessive anticipatory compliance. [732]

As the civil servant above implies, this notion of 'anticipatory compliance' was more on the part of the officials, than it was on Clarke's part. One official argued that in broad terms the argument for the policy on police mergers 'hadn't been well made and people were confused about it… and probably there's a huge collective shrugging of shoulders …what's it all about. It doesn't mean anything to me'. [733] In contrast, the same official noted that the

> … neighbourhood policing message had got across … plenty of stories about local cops being eyes and ears of detectives and the counter-terror units [but] … I don't think anybody joined that up with the desirability … to merge forces.[734]

Policy entrepreneurs and advocates who were supporting new policy alternatives had to 'not only depict them in a manner that appeals to the public, but also attempt to undermine public support for existing programmes.'[735] For the mergers policy, this presented two problems – it had very few policy advocates – and the 'existing programme' was essentially the status quo – the forces before any mergers, the forces that were developing local neighbourhood policing successfully. The message was not getting through, because the narrative linking up these different levels of policing was not cutting though

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[731] Interview with Author 2016-2017 (F11)
[732] 't Hart, Paul (1990) *Groupthink in Government: A Study of Small Groups and Policy Failures* John Hopkins University Press Baltimore pp.177-178
[733] Interview with Author 2016-2017 (F19)
[734] Ibid
[735] Béland (2005) Op.cit. p.9

Policy development – the missing middle

Some felt that O'Connor's report was afforded too much respect. The only significant discussion within the Home Office in response the report was how and when it was to be implemented, not whether it should be. The Home Office view was at one with the report but there should have been scope for more policy discussion and development. There was a 'ridiculous deference … paid to Closing the Gap [the eventual report].'[736] It was presented as a *fait accompli* but there was a feeling that the Home Office was not prepared for the task at hand – that there was 'no capacity in the Home Office'[737]. Even O'Connor was reported as agreeing that there was a 'phase of policy development missing that drew everything together before going 'bang' on implementation.'[738] Another senior policy official from the time said in interview that he thought there was

> … a big phase missing … the phase which would have told the Secretary of State … whether this was going to fly at all, or what he would have to do to make it fly…could it have been saved having not done that phase…the answer is 'yes' but it would have been messy…ugly…cost a lot more both in pounds and reputations…[739]

The official went on to say that it would have been difficult not least because it was never clear to him that 'there was a great interest in doing it [mergers] outside the Home Office, in government generally.'[740] If there had been further stages of policy development then:

> Charles [Clarke] could have got the Treasury on-board as a long-term projection of what we'd spend on police infrastructure and its limitations, then … there would have been a better chance.

He added that you could have found ways to make the policy less threatening by 'putting a lot more time into it' [741] and concluded by saying that

> … I think if you'd done the finance, been prepared to do a little bit of the [internal] politics, stretched the time, make it unthreatening… 5 years plus … you could probably have achieved quite a lot…[742]

Even if the policy was right, the report was presented as the police and the Inspectorate saying that 'Dennis has done this excellent report. Everybody in policing thinks this

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[736] Home Office (undated) Op.cit.
[737] Interview with Author 2016-2017 (F10)
[738] Interview with Author 2016-2017 (F10)
[739] Interview with Author 2016-2017 (F12)
[740] Interview with Author 2016-2017 (F12)
[741] Interview with Author 2016-2017 (F10)
[742] Interview with Author 2016-2017 (F10)

is bleeding obvious. Why haven't you done it already? We'll be there with you every step of the way'[743] without any discussion as to how it would be achieved. Working parties to sort out the detail of implementation, including discussions with other government departments, were only being established in January 2006 with the project planned to go live effectively in April with the voluntary merger of Lancashire and Cumbria.

One Home Office policy official at the time related that the fundamental reason it did not happen was

> … because it was presented as an entirely technocratic, logical solution that most people didn't care about. It never cut through politically … I just don't think the reasons ever, ever cut through for anyone except aficionados…[744]

In effect, many were 'blinded by the elegance' of the solution without understanding whether it solved any of the issues at hand or the Home Office was prepared to implement it or not. Minkin has spoken of 'a wilful blindness in which the failure to change in the face of early warnings was striking.' He related that

> … the self-confidence about their diagnosis and skills… and constantly guided media presentation of their success…adversely affected the ability … to observe problems of their own behaviour and to listen to warnings about it.[745]

Such a wilful blindness would have been supported by the fact that the functional actor – ACPO; the technocratic – the civil service; and the political – the Home Secretary, all supported the policy at the start of the process. Yet, as we have seen, with the change in leadership at ACPO, its support came an abrupt end and there was no longer any unity in its ranks on mergers.

One very senior policy official said that one rather technocratic but useful way to measure readiness and ability to implement is to ask the simple questions, that is,

> …what was the business case… what are the benefits you are seeking? What are the options for different ways of achieving them? What are the risks? And then charge it a sensible path … and find a willing pilot…[746]

It may have been that such a 'pilot scheme' would have allowed the opportunity to explore the 'missing phase' of policy development and a comprehensive discussion of the other options. This could have been the phase that was used to put forward two or three costed options. This would have 'brought the Treasury in the thing and would

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[743] Interview with Author 2016-2107 (F13)
[744] Interview with Author 2016-2017 (F13)
[745] Minkin, Lewis (2014) *The Blair Supremacy: A study in the politics of Labour's party management* Manchester University Press Manchester p.709-710
[746] Interview with Author 2016-2017 (F5)

have set some bounds on it.'[747] But someone needed to start looking at the finance issue to 'find a solution to the Treasury blockage.'[748] A senior police officer reported in interview that when someone from a police authority asked:

> Have the Home Office thought about how to deal with the equalisation of the council tax? … no, they haven't, and they didn't understand the problem and they probably hadn't advised the Home Secretary to get the issue resolved in cabinet … committee either…[749]

This troubled the official and for him it 'started the train of worrying.'[750] He had some experience in dealing with negotiations with the Treasury and he knew that getting the departments 'signed up to the detail is the kind of tactical work that the department has to do for the Secretary of State' and that, at this stage, they haven't even thought about it.'[751] Another relayed the fact that on the matter of money 'we [the Home Office] never even started to think about it…'[752]

So, it was clear that the preparatory work within the department had not been carried out and that the preparatory work with other government departments had not been done either. If it had been, then a policy so strongly supported by the then Home Secretary would not have been something 'which was ditched in a nanosecond,' as one key policy official remarked. He continued that 'the fact it was so easily ditched just suggests to me we just had not done nearly enough work.'[753] He meant across the whole of government, but especially within the Home Office. Another official at the time remarked that:

> … the fact that John could just drop it, 'Life's too complex around here so that can go' [means] we've got that [mergers policy] in the wrong place. It shouldn't have been that easily disposable.[754]

Policy development – joined-up government

For one former minister then, the failure was not one of the policy itself, but of opposition to the policy from within government. Clarke's rationale was correct. The former minister argued in interview that

> … Clarke's approach to trying to drive it through was heroic in the face of some pretty concerted Treasury opposition, and I think ultimately it broke down because people could see the potential downside risk to police precepts spiking at a politically sensitive time, for which the Treasury was not going to cooperate in providing any kind of transitional arrangement…[755]

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[747] Interview with Author 2016-2017 (F9)
[748] Interview with Author 2016-2017 (F9)
[749] Interview with Author 2016-2017 (F9)
[750] Interview with Author 2016-2017 (F9)
[751] Interview with Author 2016-2017 (F9)
[752] Interview with Author 2016-2017 (F12)
[753] Interview with Author 2016-2017 (F12)
[754] Interview with Author 2016-2017 (F12)
[755] Interview with Author 2016-2017 (P11)

Large reforming policies invariably need support across government from other departments – and very often, in my experience, such a collective and collegiate approach is less than forthcoming. The same view has been expressed by senior policy officials at the time. One such official said that the Home Office was

> … completely screwed by the Treasury on all this… and that was one of the reasons why we [Home Office] lost some support. Quite a lot of police thought… somewhere along the way they'd squeeze a billion or two extra to make it happen. Then Treasury said 'You must be joking. It'll be done out of existing resources. Just not possible.[756]

Thus, a policy that the Home Office was convinced would save the Treasury significant amounts of public money in the longer term was viewed with intense suspicion – not least because Clarke had not relayed this view when he signed off the Home Office's settlement with the Treasury. There was a 'missing middle' in its dealings with the Treasury too. Alongside this there sat an 'utterly unmanageable timetable' which would have challenged the best skills of the civil service even if these other departments had been engaged throughout the process. It was described as 'that kind of classic civil service thing where, if you write it down, it means it's happened.'[757] The same official believed that there was absolutely 'no sense about how you do any proper project planning and management… so that anything about scoping or what kind of skills you really needed was hopelessly amateurish.'[758] On one level, a strict timetable can be of value and focus activities, but not in this case. A policing policy official related that

> "Ministers were holding this huge steaming problem, and mergers were going to be the thing that was going to solve it… so there was a … kind of an early sense from officials that we just didn't yet know how to solve the problems that way… how on earth did we not see this coming? [759]

The official had worked in the Treasury and could not understand it, as he said, 'when I remember saying "But how is it going to be funded?" and the team saying, "Well, we don't really know." and thinking "'What?"'[760]

Another key official is now more damning of his colleagues. He felt that dealing with other departments was not a new phenomenon and officials should have been prepared for it. He was clear that it

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[756] Interview with Author 2016-2017 (F13)
[757] Interview with Author 2016-2017 (F13)
[758] Interview with Author 2016-2017 (F13)
[759] Interview with Author 2016-2017 (F12)
[760] Interview with Author 2016-2017 (F12)

...was quite simple really. Here was a policy that was the Home Secretary's... one of his key initiatives and that we had to deliver it. You did whatever you needed to do to persuade or cajole the Treasury and ODPM [*sic,* although the department had become DCLG by this stage] to get onside.[761]

He believes that such negotiation with other departments was not a new thing but has been a feature of much of his policy work over an extensive career. He added in an interview that, consequently

... it wasn't anything exceptional in the mergers context to find that Treasury and ODPM might find this rather difficult. And your job as a civil servant is simply to get around that, to get in negotiation and persuade and force it through.'[762]

At some stage, the civil servant must go to the minister and say, 'I am sorry, but I am hitting a blank wall here'[763] and this should be signalled at an early stage. The problem for mergers was that Clarke has been the first to sign off on the departmental budget round thinking that he could return to these issues later, but the Treasury did not want to help. By the time of the Foreign National Prisoners crisis, nor did anyone else. [764]

Politics - potential strong ministerial sponsor

A strong ministerial sponsor does not guarantee the success of a policy. For Clarke, it was a matter beyond party politics - the party politics that Reid regarded as his first consideration. Clarke certainly did not regard it as the 'second order issue' as Blunkett described it. For Clarke, it went to the heart of his view of policing. As one Home Office official would have it 'he was not political but motivated by what he thought was right.' and that ' he liked order – the 43 forces structure was illogical to him.'[765] However, it failed in policy terms because the ground had not been properly prepared both within government and beyond. It was not a failure of implementation, but a failure of planning and policy development, but it was a failure, nonetheless. One official noted that this would have been the 'biggest change in policing in 30 years – no-one had realised the scale or considered the detail.'[766]

Some officials argue that by leading on all the political dimensions of the implementation of the policy, Clarke let the civil servants off the hook. One said that 'Charles … would sort the politics, and the department got a bit lazy… they believed

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[761] Interview with Author 2016-2017 (F6)
[762] Interview with Author 2016-2017 (F6)
[763] Interview with Author 2016-2017 (F6)
[764] Personal recollection of Author
[765] Home Office (Undated) Op.cit
[766] Ibid

Charles' propaganda about how he could deliver'[767] and, therefore, once the agreement of Clarke was secured, they believed the problems were solved, but in this case, they were not. Worse than this 'it [mergers] was too limited to Charles. There was no real alliance for it. The police are very unforgiving. Nobody from police circles is going to put themselves out for a politician.'[768] The policy was going to die even with its strong sponsor.

One thoughtful policing policy official at the time suggested that normally one of three things happened when a policy suffers the loss of a strong and high-profile ministerial sponsor. Sometimes, if the minister has survived but moved on, they take the policy with them. This was not an option in this case as Clarke did not survive. Sometimes policy officials, with or without the support of the minister, try to get the policy embedded elsewhere. This was unlikely to happen in this case as the political opposition was so marked by the time of the denouement. The third option is 'changing the weather' but persuading a more powerful department to take on the policy in a different context.

Once the policy lost its main sponsor in Clarke, as in life, failure became an orphan – bereft of any support across government. No. 10 was already reaching the view that perhaps that this 'was more trouble than it was worth'[769] and, as we have seen, indulged Reid when he shut the policy down. Interestingly, Reid went on to be just this type of strong sponsoring minister for the development of the Office of Security and Counter-Terrorism (OSCT) across government and made sure that all the lessons about the failure of the policy of mergers were not repeated.

Politics – PM and the role of No.10

No. 10 likes to plan and control the Prime Minister's discussion of specific departmental policy at Question Time and does not like being bounced into discussions by the Leader of the Opposition. As related in Chapter Five, an interviewee reported how a Prime Minister relates to his or her ministers. The No.10 source said that *inter alia*

> … there are things that the minister wants to do that the PM can support, or not, if it proves difficult – and this [mergers] was in the latter category…[770]

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[767] Interview with Author 2016-2107 (F11)
[768] Interview with Author 2016-2017 (F11)
[769] Interview with Author 2016-2017 (P9)
[770] Interview with Author 2016-2017 (P9)

So, even in the best of circumstances, the support from No.10 and the Prime Minister is always going to be qualified. The interviewee goes on to say that when things go astray then 'if you can persuade people this is right, that's fine. But … if we end up in the situation where we are going to have to drive through several brick walls to get there, there's a limit.'[771]

A special adviser in No.10 at the time, Kieran Brett, said that Blair

> … showed some interest in whether … public sector reform could be imported into the police reform agenda … for a while he was persuaded that mergers might provide the vehicle for further improvement, but the level of opposition changed his mind.[772]

Sources close to the Prime Minister at the time went further. For them, Blair was 'reasonably agnostic' on police mergers, but he

> …had a tremendous amount of confidence in Charles, so the fact he was proposing it made [him] want to look at it…and give it some leeway to see if it could run. But…[he] wasn't committed to as…other reforms that we were doing in education or health care or whatever.[773]

So, No.10 was prepared to give Clarke licence rather than push the policy itself. Officials in No.10 were clear that, for Blair, the core agenda 'was to change the laws so we gave the police … greater power to deal with the problems in people's ordinary lives' and in this context the policy was 'not a top priority.' [774] The interviewee went further and suggested that the Prime Minister was always sceptical on reorganisation and that although he understood

> … that there was a rational case for what Charles was proposing… it was always going to be a calibration between the substantial political pain that this could engender, and the diversion of energy and the tension, to benefit…the proportion of pain to gain…[775]

In other words, it was not that the Prime Minister was unconvinced about the policy, but that he 'wasn't convinced it was worth pulling the house down for.'[776] Certainly, as I recall, the Home Office got no assistance at all from No.10 when it came to trying to deal with DCLG or the Treasury towards the end of the process.

So, the policy did not fail to be implemented because of antipathy from No.10. The Prime Minister was not against the policy but rather agnostic. This was fine if the policy was on track, but not helpful as things started to go astray. It is also clear both from my own recollections at the time and the more recent interviews with colleagues that the message to Reid as the incoming Home Secretary was not 'you have to carry

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[771] Interview with Author 2016-2017 (P9)
[772] Seldon (2008) Op.cit. pp. 456-457
[773] Interview with Author 2016-2017 (P9)
[774] Interview with Author 2016-2017 (P9)
[775] Interview with Author 2016-2017 (P9)
[776] Interview with Author 2016-2017 (P9)

on with this at all cost'. Equally, it was not, 'get us out of this', Reid had the leeway to assess the situation and make his own choices. One of the first questions he would have asked is how well-prepared the Home Office was to deliver this policy – internally, intra-governmentally and, particularly important for him, politically. By the time Reid inherited the policy it was bereft of any support at – and there was no compelling reason in terms of political process or electoral pressures to defend it or press on with it.

Conclusion

This was a sorry end for such a major platform of government policy on police reform. Police force mergers were a solution that was pursued before the details and issues around the 'problem' were fully articulated and proposals and details agreed. There was a failure of policy preparation and development. The restructuring of police forces from 43 forces to perhaps 12 to 15 would have had a profound effect on policing in England and Wales but the plans were defeated by a mixture of professional and political lobbying by key groups such as the APA and the opposition of a range of Government and Opposition MPs. They were helped in this endeavour because the solution of large, regionally based strategic forces was being proposed at a time when the key policy success of the government had been neighbourhood policing. The latter was based on micro-localist solutions to community policing issues. These two facets of policing were seen as competing rather complementary policy solutions. A senior civil servant at the time thought that the lack of success was more about timing and resources than anything else and was clear that:

> It was organisationally the right thing to do. It should have been able to save money in the long run, we just didn't get the phasing of the money right, we had to put money up front to get it back…we could have done it.[777]

The Home Office certainly failed to get it right – there was a complete failure of policy development, not least because successful police reform was happening in other aspects of policing. It faced a Treasury that did not want to engage in a policy that would save money in the longer term. It got locked into a dysfunctional and closed path dependence that could only end in failure.[778] Lowndes is right to contend that '… an institution is destabilised when change occurs in the institutional environment' and this is particularly the case when the institutions with which it is connected are

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[777] Interview with Author 2016-2017 (F12)
[778] Mahoney (2000) Op.cit.

destabilised.[779] The nexus of detailed policy reform was already creating a degree of destabilisation in the policing world, principally with the introduction of neighbourhood policing.

I thought at the time, and continue to think, that the policy was an appropriate response to O'Connor's report [780] but the manner of the response to the report was wrong and led to failure. Two senior figures at that time, agree. One said in interview that one of their 'regrets was that the police force merger was stopped in its tracks.'[781] A leading Chief Constable from the time said '… it was a lost opportunity … the service did act parochially. Chief Constables did, police authorities did…and we probably lost an opportunity…'[782] There has been some progress on collaborations and sharing backroom services, but thirteen years on from O'Connor's report and Clarke's enthusiasm, the number of police forces in England and Wales in 2018 remains at 43 exactly the same as it was in 2005 and, indeed, in 1972.

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[779] Lowndes (2013) Op.cit. p.42
[780] HMIC (2005)
[781] Interview with Author 2016-2017 (F16)
[782] Interview with Author 2016-2017 (F2)

Chapter Seven

Case Study

Pre-charge detention – pick a number 28, 42, 90 days

Funny old world: success and failure ?

The final public policy case study looks at the Labour Government's attempts to introduce further counter-terrorism legislation. The provisions for pre-charge detention of terrorist suspects were the most controversial elements of both the Terrorism Bill 2006[783] and the Counter-Terrorism Bill 2008.[784] To set the scene for this case study, it is useful to consider the progress of the bills through both houses. In the topsy-turvy world of government policy, this is a narrative that includes the first Commons defeat of the Labour government in 2005 on an extension of the provision to 90 days. Nonetheless, this led to a substantial change in legislation and an increase of the existing provision from 14 to 28 days. It also includes a Commons success for a government proposal to extend the 28 days limit to 42 days in 2008 that led to the government withdrawing its proposals entirely.

In November 2005, the Labour government experienced its first defeat in the House of Commons by a majority of 31 - 322 votes to 291 - with 49 of his own backbenchers voting against 90 days and many others abstaining or simply absenting themselves.[785]

A backbench compromise of 28 days' detention was passed by 323 votes to 290 votes – a majority of 33. The government, facing certain defeat, did not pursue 90 days in the Lords and the Bill with 28 days secured Royal Assent in 2005.

Three years later, Brown's government returned to the issue and in June 2008 won the crucial vote on 42 days by 9 votes by 315 to 306. Whilst 36 Labour MPs voted against the proposal, 9 MPs from the Democratic Unionist Party voted with the government thus assuring victory. This led to instant accusations about a deal being done between the government and the DUP, but my judgement as a participant is that this was

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[783] I have referred to such legislation as Bills when being discussed prior to royal assent, and as Acts thereafter. This bill became the Terrorism Act 2006
http://www.legislation.gov.uk/ukpga/2006/11/contents Pre-charge detention provisions are at sections 23-27 http://www.legislation.gov.uk/ukpga/2006/11/part/2/crossheading/detention-of-terrorist-suspects

[784] *Counter-Terrorism Act 2008* 22/4/2008 Available at:
http://www.publications.parliament.uk/pa/cm200708/cmpublic/counter/080422/am/80422s01.htm

[785] Complete numbers are always difficult to assess with these 'rebellions' as those who do not vote could have any number of reasons for their absence from the division lobbies. For further general discussion on rebellions, see Cowley, Philip (2005) *The Rebels: How Blair Mislaid His Majority* Politico's London

unlikely.[786] The Bill went up to the House of Lords where the 42 days provision was unceremoniously dumped, and the Lords passed an amendment that read:

> No extension of pre-charge detention: For the avoidance of doubt, nothing in this Act allows the Secretary of State to extend the maximum period of pre-charge detention beyond 28 days.

his amendment was passed by 309 votes to 118, a majority of 191 and it was clear that there would be no scope for a compromise between 28 and 42 days.[787] The government subsequently withdrew the provisions on 42 days pre-charge detention and the rest of the Bill proceeded through both Houses. The provision for 28 days pre-charge detention remained on the statute books,[788] but the then Home Secretary, Jacqui Smith, responded to the defeat by publishing a three-clause bill entitled 'Counter-Terrorism (Temporary Provisions) Bill.[789] When conceding defeat and introducing the new bill, Smith said that:

> Some may take the security of Britain lightly, I do not. The Counter-Terrorism (Temporary Provision) Bill now stands ready to be introduced if and when the need arises. It would enable the Director of Public Prosecutions to apply to the court to detain and question a terrorist suspect for up to a maximum of 42 days.[790]

As any attempt at consensus had passed, she continued by saying that of course 'we cannot defeat terrorism through legislation alone, but where legislation can help to protect the innocent from those who would afflict atrocity upon us, I am steadfast in my determination to do the right thing for the British people.'[791] Opposition parties and Labour backbenchers spoke of 'gears clunking into reverse', 'crushing defeat', and 'haemorrhage of support from her benches in another place.' This was because the bill she introduced would essentially provide the same emergency provision that an amendment to the Civil Contingencies Act 2004[792] would have done. This had

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[786] I have had as many interviewees tell me with absolute certainty that there was such a deal, as I have had say with equally certainty that there was not. My analysis of the evidence suggests the latter.
[787] Hansard (2008d) Counter-Terrorism Act 2008, 13/10/08. HL cols.491-545 at https://publications.parliament.uk/pa/ld200708/ldhansrd/text/81013-0002.htm#0810135000003
[788] The maximum limit reverted to 14 days when the Draft Terrorism Act 2006 (Disapplication of Section 25) Order 2010 was debated and passed on 14 July 2010. The effect of the 2010 Order expired on 25 January 2011 and accordingly the current order lapsed on January 25.
[789] Counter-Terrorism (Temporary Provisions) Bill at https://publications.parliament.uk/pa/ld200708/ldhansrd/text/81013-0002.htm#0810135000003
[790] Hansard (2008e) Home Secretary – Counter Terrorism Bill cols. 624-636 at https://publications.parliament.uk/pa/cm200708/cmhansrd/cm081013/debtext/81013-0017.htm#08101334000001 and https://publications.parliament.uk/pa/cm200708/cmhansrd/cm081013/debtext/81013-0018.htm
[791] Ibid col.625
[792] Civil Contingencies Act 2004 at https://www.legislation.gov.uk/ukpga/2004/36/contents See also Home Office (2007) Options for pre-charge detention in terrorist cases 25 July 2007

been one of the options on which the government had consulted previously. The Shadow Home Secretary, Dominic Grieve, [793] asked:

> Can she please explain why this measure is of any usefulness when, as she knows, at the start of the process, we said to her that we would be only too happy to co-operate with the Government on an amendment of the Civil Contingencies Act 2004 to provide for almost identical powers to be exercised in the case of an emergency?[794]

Considerable political capital and parliamentary time had been expended on an outcome that could have potentially been secured by consensus – a strange denouement for legislation on such an important issue.

This purpose of this case study is to identify and explain how this unsatisfactory denouement happened. It considers how and why the 2005 Commons 'defeat' led to success and the 2008 'success' led to ultimate failure. It considers how the policy and decision-making processes failed, and how ministers misread the way the Commons responded to government decisions. It will also look out how the roles played by individual ministers in the policy-making and decision-making processes under can determine outcomes. In particular, it assesses the relationship between the two events – the 90 days 'defeat' and the 42 days 'success'. A senior civil servant, reflecting on the run-up to the 432 days debate, observed in interview that it was

> …a period of heightened tension… our mind-set is still…we need all the powers we can get… [yet] in truth there wasn't much evidence for going beyond twenty-eight days, was there?[795]

Central to the theme of the chapter is the simple question, why did the government rush to revisit the legislative option on pre-charge detention so soon after the failure of 90 days? There was little or no evidence for revisiting the pre-charge detention provision, the police and security services were not asking for it, why then did the government persist? Legislation was invariably part of any response to the threat of terrorism, but why this legislation and why at this time? Indeed, where was the evidence in 2008 that previous legislation, particularly that with regard to the provisions for pre-charge detention, had either been effectively used to date or needed any further extension at all?

International Backdrop

On the international stage, the Bosnian conflict is seen by many UK terrorism experts as a key event in encouraging greater involvement in violent Islamist[796] terror in the

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[793] Greive, MP for Beaconsfield from 1997- to date
[794] Hansard (2008e) Op.cit. col.626
[795] Interview with author 2016-2017 (F1)
[796] ' Islamist' as a phrase has been increasingly accepted as a shorthand description for the political creed of Salafism and other versions of religiously inspired but avowedly political terrorism.

UK. The roots of al-Qaida, it is suggested, go back to Peshawar in Pakistan as early as 1988. The earliest significant events carried out by or inspired by al-Qaida were the bombing of the New York World Trade Centre in 1993 and the suicide bombings of the USA embassies in Nairobi, Kenya, and Dar es Salaam in Tanzania in 1998. There was also a direct attack on the USS Cole whilst it was in port at Aden in Yemen in 2000 in which seventeen US naval personnel were killed.[797] The struggle of the various clans and tribes in Afghanistan against the Soviet Union's military incursions and occupation in 1979-80 is also identified as a major factor behind the rise of Islamism in the region.[798] There were a range of other events throughout this period that had an impact on the growth of the Islamist threat as can be seen in Table 7:1 below.

Much of the foreign policy of the first parliamentary session of the Labour Government from 1997-2001 was influenced by the close and strong relationship between Blair and Clinton. Clinton was the US President from 1992-2000 and had a significant impact on both Blair and Brown, when they were in opposition as well as when Blair was Prime Minister. It is reasonable to suggest that much of both the Labour government's foreign policy and the development of counter-terrorism policy was influenced by, or at least influenced by, the UK/USA relationship particularly

Figure 7:1 : Selected pre-cursor events up to 2005

Pre-cursor events		
1992-95	Bosnian Conflict	Clinton US President 1992-2000
1993	Attack on World Trade Centre	George W Bush President 2000-2008
1998	Bombs at Embassies in Kenya and Tanzania	1997 – Labour Government elected
2000	Attack on USS Cole	
2001	9/11 Attacks – World Trade Centre, NYC; Pentagon, and Pennsylvania.	Foreign Secretary Robin Cook, Home Secretary Jack Straw
2001	War in Afghanistan	
2003	Iraq War	2001-2006 Foreign Secretary Jack Straw
2003/4	Operation Crevice Plot	2001-2004 Home Secretary David Blunkett
2004	Madrid Commuter Train Bombs	2004-2006 Home Secretary Charles Clarke
2004	Operation Rhyme Plot	
2005	7/7 London Bombings	52 dead, over 400 injured
2005	21/7 Failed London Bombings	Perpetrators + cohorts arrested

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[797] English, Richard (2016) *Does Terrorism Work?* Oxford University Press Oxford pp.42-92. See also Burke, J Al-Qaeda*: The True Story of Radical Islam* Penguin London
[798] For further discussion see Naftali, Timothy (2005) *Blind Spot* Basic Books NY USA; Coll, Steve (2004) *Ghost Wars: The Secret History of the CIA, Afghanistan, and Bin Laden.* Penguin Harmondsworth

after the 9/11 attacks in New York, Pennsylvania, and the Pentagon.[799]

As Table 7:1 shows, however, there was a history of Islamist terrorist-inspired events – including casualties – before the attacks of 9/11 and before the Iraq War of 2003. Too often assumptions are now made that somehow all Islamist terrorism stems from the 'twin evils' of the Afghanistan War that followed 9/11 and the Iraq war.

A new emerging threat….

Prior to the 7/7 attacks in London, the deadliest terrorist attack in Europe since the 1988 Lockerbie bombing was the March 2004 Madrid train bombings. The explosions killed 192 people and over 2000 were injured.[800] The attack happened in the middle of a general election campaign and, after an intense controversy over whether or not it was an ETA[801] attack, it rapidly became clear that it was Al-Qaida-inspired.

The most significant manifestations of the emerging and immediate threat from Islamist terror in the UK were two separate plots in 2003/2004 – codenamed Crevice and Rhyme by the Metropolitan Police. Both plots were disrupted, and the perpetrators arrested, but away from the glare of publicity. Certainly, once arrests were made, the details of the nature of each plot were not permitted to be released into the public sphere and would only emerge at the subsequent trials much later.

Operation Crevice – the 'fertiliser bomb plot' - resulted in eight men being arrested and charged with a range of terrorist offences and the seizure of over 600kg of ammonium nitrate fertiliser. This was used as an example of the increasing threats faced by Assistant Commissioner Specialist Operations (ACSO), Andy Hayman. In a memorandum to the then Home Secretary, Charles Clarke, on proposals to change the law on terrorism, Hayman stated that

> … the advent of terrorist attacks designed to cause mass casualties, with no warning, sometimes involving the use of suicide ...means that we can no longer wait until the point of attack before intervening.[802]

The Crevice plotters discussed several focal points for a future attack including a football stadium, trains, pubs, and nightclubs. The fact that the gang was considering

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[799] The 9/11 Commission (2011) *The 9/11 Commission Report; The Attack from Planning to Aftermath* Norton New York; Burke, Jason (2011) *The 9/11 Wars* Allen Lane London; Burleigh, Michael (2009) *Blood and Rage* Harper Perennial London

[800] BBC News Madrid train attacks at http://news.bbc.co.uk/1/shared/spl/hi/guides/457000/457031/html/nn4page1.stm

[801] Basque terrorist group -Euskadi ta Askatasuna – Basque Homeland and Liberty

[802] Hayman, Andy (2005) *Anti-Terrorist Branch (SO13) – Three Month Pre-Charge Detention* Metropolitan Police 6/10/05

an attack on the public transport network – especially in the light of the 'success' of the Al-Qaida attack in Madrid – would not have been lost on the authorities. They also discussed attacking the Bluewater shopping centre in Kent, the National Grid, and the Ministry of Sound nightclub in Central London.[803]

Operation Rhyme 'set new standards in terms of its scale and complexity and forced police to confront new technological challenges and adapt their investigative methods to meet the challenges posed by the new brand of international terrorism.'[804] It revolved around the activities of Dhiren Barot and his extensive reconnaissance of targets in the USA for terrorist attack – including the International Monetary Fund and World Bank buildings in Washington DC, the New York Stock Exchange and Citigroup buildings in New York and the Prudential building in Newark.[805] He and his group were also planning attacks in the UK using limousines packed with gas cylinders and explosives[806] and a radioactive, so-called dirty bomb, with the intention of causing "fear, terror and chaos."[807] The complexity of the case was compounded by its international dimensions rooted in the UK, the USA, and the Pakistan. Senior officers at Scotland Yard described it as an 'extraordinary investigation', that largest and most complex ever carried out at the time.

The legislative response up to 2005

Up to, and in the immediate aftermath of 9/11,[808] there had been only limited legislative interventions around counter-terrorism to deal with the perceived terrorist threat. Table 7:2 below highlights the pre-7/7 legislative activity. Importantly, The Human Rights Act was one of the first significant bills passed by the new government.[809] Amongst other things, the *Terrorism Act 2000*[810] confirmed that suspects accused of being terrorists could be held without charge for up to 48 hours and that this could be extended to 7 days as the maximum period of detention without charge, but judicial approval was required for the extension.

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[803] BBC News (2007) Fertiliser bomb plot: the story 30/4/07 at
http://news.bbc.co.uk/1/hi/6153884.stm
[804] The Guardian (2006) Barot operation posed complex challenge, 7/11/06 at
https://www.theguardian.com/uk/2006/nov/07/usa.terrorism
[805] The Guardian (2006a) Man admits plotting UK and US terror strikes at
https://www.theguardian.com/world/2006/oct/12/terrorism.usa
[806] Operation Seagram – the Haymarket attack – would use similar explosive devices in 2007
[807] The Guardian (2006a), (2006) Ibid
[808] For further details on 9/11, see footnote above.
[809] Human Rights Act 1998 https://www.legislation.gov.uk/ukpga/1998/42/contents
[810] Terrorism Act 2000 http://www.legislation.gov.uk/ukpga/2000/11/contents

Figure 7:2 Parliamentary/political events up to 2005

Legislation	Key aspects	
Human Rights Act 1998	Incorporated ECHR rights into UK law	
Terrorism Act 2000	Allowed police to detain terrorists suspects for up to seven days	
Anti-Terrorism, Crime and Security Act 2001	Passed in wake of 9/11. Part 4 allowed foreign terrorist suspects to be detained indefinitely	
Criminal Justice Act 2003	Doubled period of period of pre-charge detention of terrorist suspects from 7 to 14 days	
Anti-Terrorism, Crime and Security Act 2001 (Continuance in force of sections 21 to 23) 2003	Renewed part 4 of the 2001 Act – done by vote in Parliament because of controversial nature of the measure	
Prevention of Terrorism Act 2005	Established 'control orders' in response to courts striking down 'part 4 provisions.	

Following the 9/11 attack on the twin towers of the World Centre on New York, the UK passed the *Anti-Terrorism, Crime, and Security Act 2001*[811] which included provision in Part 4 for the indefinite detention of terrorist subjects who were non-UK citizens. The *Criminal Justice Act 2003*[812] amended the 2000 Act and doubled the period for pre-charge detention for terrorist suspects from 7 to 14 days.

In December 2004, Charles Clarke replaced David Blunkett as Home Secretary and by co-incidence, the next day, the Law Lords ruled that detaining non-UK citizens pre-emptively, without trial, was unlawful. The appeal was made on behalf of nine men who were detained under the Part 4 provisions of the 2001 Act. These provisions were due to expire in March 2005 – hence the speed with which the *Prevention of Terrorism Act 2005* [813] was introduced. The core focus of the 2005 Act was the establishment of 'control orders' in response to the judgement that struck down the 2000 Act's Part 4 provision. The new Act was secured three days before the provisions expired.

So, prior to the attack in London on 7/7, there had been some limited legislative interventions, but they were becoming increasingly more serious in import and direction. One senior government minister from the time stated that he

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[811] Anti-Terrorism, Crime, and Security Act 2001
http://www.legislation.gov.uk/ukpga/2001/24/contents Part 4
[812] Criminal Justice Act 2003 http://www.legislation.gov.uk/ukpga/2003/44/contents Criminal Justice Act 2003 Section 306 doubled the pre-charge detention period for terrorist suspects from 7 days to 14 days http://www.legislation.gov.uk/ukpga/2003/44/section/306
[813] Prevention of Terrorism Act 2005 http://www.legislation.gov.uk/ukpga/2005/2/contents

> ... understood … the state has too much power and it should not be increased… we were … trying to reconcile those two irreconcilable principles: the security of the country and individual liberty.[814]

As Security Minister at this time, I knew that the government was increasingly clear that it needed to develop a narrative in case further legislation was needed and the balance between these two principles would be again tested.

7/7 – the road to 90 days

Much of the work that succeeded in preventing terrorist plots such as Crevice and Rhyme went on unnoticed by the public due to *sub judice* rules. The attack on 7 July 2005 in London was different - it succeeded. The death of 52 people with hundreds injured, many severely, brought home clearly the nature, depth, and danger of the threat.[815] The reaction to it was all the more pronounced when it emerged that the perpetrators were young men born and bred in the UK.[816]

The 7/7 attack also brought the phenomenon of suicide bombers to the UK. [817] One of the most vulnerable elements of any crime, any terrorist outrage – including planting bombs – is the proposed escape route. If escape is no longer a factor, there are profound ramifications for the respective roles of the intelligence services, the police, and the law. One former security official noted that '… the big lesson … was that if you have suicide bombers then the emphasis has got to be on preventative intelligence.'[818]

Prime Minister Blair, at Gleneagles to chair the annual G20 meeting, announced that 'whatever they do, it is our determination that they will never succeed. We are united in our resolve to defeat this terrorism.' [819] He reiterated some of the themes he had been using since 9/11:

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[814] Interview with Author 2016-2017 (P2)

[815] For more on the perpetrators see BBC News (2007e) Profile: Mohammed Siddique Khan 30/4/07 at http://news.bbc.co.uk/1/hi/uk/4762209.stm ;BBC News (2006a) Profile: Shehzad Tanweer 6/7/06 at http://news.bbc.co.uk/1/hi/uk/4762313.stm ; BBC News (2006b) Profile: Germaine Lindsay 11/5/06 at http://news.bbc.co.uk/1/hi/uk/4762591.stm ;BBC News (2006c) Profile: Habib Mir Hussain 11/5/06 at http://news.bbc.co.uk/1/hi/uk/4762263.stm

[816] See Herrington, Lewis (2015) 'British Islamic extremist terrorism: the declining significance of Al-Qaeda and Pakistan' *International Affairs* Vol.91 No.1 pp.17-35

[817] The Stationary Office - HC 1087 (2006) Report of the Official Account of the Bombings in London on 7th July 11/5/06 at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228837/1087.pdf

[818] Interview with Author 2016-2017 (F3)

[819] YouTube (2005) Terrorist Attack on London Tony Blair at https://www.youtube.com/watch?v=5Cntv8JtuJA

> Our determination to defend our values and our way of life is greater than their determination to cause death and destruction to innocent people in a desire to impose extremism on the world...[820]

Home Secretary, Charles Clarke, made a short statement to the Commons at the earliest opportunity – 12.54pm on the same day.[821] He reported the situation on the transport network in London and the work of the emergency services. He also reported that he had chaired a number of meetings of the COBRA[822] emergency committee to 'ensure that the whole government commitment is properly co-ordinated, and any necessary support is provided' and that the Prime Minister was returning from Gleneagles to chair a COBRA meeting later that day.[823]

Blair flew to London, chaired a COBRA meeting, then made a further statement from No.10. As he was unaware at the time of the suicide nature of the attack, he made clear that there would be the 'most intensive action to make sure we bring those responsible to justice.'[824] Blair resisted visiting any of the sites of the atrocities and flew back to Gleneagles to resume the G20 round of meetings. He wanted the public to see the G20 meeting take place as planned – a normality resumed – rather than 'give the terrorists the pictures they wanted' – a PM visiting the sites of such murder and mayhem.[825]

Importantly, the initial reaction to Clarke's statement by the opposition spokespersons helped project a unified response to a national crisis by the House of Commons. The shadow Home Secretary, David Davis, declared that:

> This morning's explosions were acts of almost unspeakable depravity … planned with the deliberate intention of taking innocent life, and the whole House condemns them utterly… the Government will have our full and wholehearted support in dealing with this assault on our society.[826]

Clarke responding by saying that

> … it was encouraging that right across every fragment of opinion in the House, we say that our democratic methods are the way to prevail and that we are determined to do whatever we must in order to ensure that those who seek to destroy that democracy are unable to carry out what they would wish to do.[827]

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[820] Rawnsley, Andrew (2010) Op.cit p.333

[821] Hansard (2005) Home Secretary Statement on 'Incidents in London' cols. 465-469 at https://publications.parliament.uk/pa/cm200506/cmhansrd/vo050707/debtext/50707-11.htm#50707-11_head0

[822] COBRA is an acronym for Cabinet Office Briefing Room A – the original room where such emergency meetings took place. It is now shorthand for the national crisis centre in the Cabinet Office

[823] Hansard (2005) Op.cit c.465

[824] Rawnsley (2010) Op.cit p.334

[825] Ibid (2010) p.334.

[826] Hansard (2005) c.466

[827] Ibid. c.470

Two weeks later, on 21/7/2005, there was a further attack involving bombs on London's trains, but they failed to explode and a more traditional 'flee and pursue' scenario ensued. It was also marked by the accidental shooting dead of an innocent young Brazilian man, Jean Charles de Menezes, at Stockwell tube station by special forces officers charged with tracking leads on the terrorists.[828] Even though the attack failed, it was again clearly an Al Qaida-inspired suicide attack by radicalised young men – albeit this time from East African origin rather than Pakistan. Although it ended in the capture of the terrorists, it reinforced the nature of the threat and the need for a government response in substance rather than in symbolism and words. I remember thinking at the time that the patience and tolerance of London as a city would have been sorely tested had they succeeded too.

Blair's Twelve Point Plan – 'the rules of the game are changing'

The first substantial policy-focussed response became clear at a press conference from Tony Blair on 5 August 2005.[829] He announced a twelve-point plan, as shown at Table 7:3 below. The plan framed the government response in terms of politics, legislation, and policy. It was a mixture of measures already in train, measures already discussed but in abeyance and new measures – both practical and aspirational. Two of the points related to citizenship. He ordered a review of the threshold prescribed by the new requirements for 'citizenship ceremonies, the swearing of allegiance to the UK and a rudimentary grasp of the English language.'[830] He also announced that the government would consult on extending the powers available to the state to strip citizenship from people involved in terrorism and making the procedures more effective and simpler. Two further proposals pointed towards both the extension of the control orders system – first implemented as a result of the Prevention of Terrorism Act 2005 – and an expansion of the capacity of the courts to deal with such an extension.[831]

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[828] The Guardian (2016) Who was Jean Charles de Menezes? Haroon Siddique,Wed 30 Mar 2016 at https://www.theguardian.com/uk-news/2016/mar/30/jean-charles-de-menezes-your-questions-answered; The Independent (2008) Seven mistakes that cost De Menezes his life Mark Hughes, Crime correspondent, Saturday 13 December 2008 at https://www.independent.co.uk/news/uk/crime/seven-mistakes-that-cost-de-menezes-his-life-1064466.html

[829] No.10 had received plaudits for not overreacting in policy terms prior to the press conference announcing the 12-point plan. Personal recollection of Author

[830] No.10 (2005) Full text of PM's press conference 5/8/05 at http://webarchive.nationalarchives.gov.uk/20060715135117/number10.gov.uk/page8041

[831] Ibid.

Figure 7:3 Blair's 12-point plan : the emergence of a narrative and plans for legislation

1.	New grounds for deportation and exclusion	
2.	New anti-terrorism legislation in the autumn	
3.	Automatic refusal of asylum for anyone involved in terrorism	
4.	Extend powers to strip UK citizenship	
5.	Introduce maximum time limit for extradition	
6.	New court procedure which would allow pre-trial process	
7.	Extend use of control orders	
8.	Expand court capacity to deal with 7.	
9.	Proscription of Hizb-ut-Tahir and successor to Al Mujahiroun	
10.	Citizenship tests, ceremony, allegiance, English language	
11.	Closure order for places of worship	
12.	Enhance and increase security at borders.	

He also announced an enhancement and increase in security at the country's borders by bringing forward a range of measures that were already in train such as biometric visas and the greater use of no-fly lists and other international databases to exclude people from entry to the UK. Four of the proposals were plans to reform or refine existing measures – new grounds for deportation and extradition; automatic refusal for asylum for anyone who had ever participated in terrorism; the introduction of a maximum time limit for all future extradition cases; and the proscription, under existing laws, of Hizb-ut-Tahir and the successor organisations of Al Mujahiroun and a proposal to widen the laws on proscription.[832]

Further, he announced plans to consult on a new power to order the 'closure of a place of worship which is used as a centre fomenting extremism.' He indicated that there would be 'new anti-terrorism legislation in the autumn' which 'would include an offence of condoning or glorifying terrorism.'[833] Blair mentioned also that the government was already 'examining a new court procedure which would allow a pre-trial process. Importantly he asserted that the government would also

> …examine whether the necessary procedure can be brought about to give us a way of meeting the police and security service request that detention, pre-charge of terrorist suspects, be significantly extended.[834]

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[832] Ibid.
[833] Ibid.
[834] The Guardian (2005a) *The Prime Minister's 12-point plan* at
https://www.theguardian.com/politics/2005/aug/05/uksecurity.terrorism2

Blair was alive to the need to try to reconcile the irreconcilable – the balance between security and liberty. On the one hand he said, 'Let no one be in any doubt that the rules of the game are changing', on the other, he was clear that whilst the public had responded to the attacks with tolerance, this tolerance was in danger of being stretched. He was '… acutely aware that alongside those feelings that there is also a determination that this very tolerance and determination should not be abused by a small fanatical minority and anger that it has.'[835] He knew that the government had a duty of care in terms of security, but also 'responded with a determined effort to extend 'outreach links' to the Muslim community'. He 'knew [he] would upset the civil liberty *Guardian/Observer* lobby, but this left him unphased.'[836] He understood the need to reconcile liberty with security but believed that 'if only the public knew what I knew about all the people out there who want to hurt and kill … they would understand what I'm trying to do.' [837] As a narrative on its own, this 'trust me' approach would not have been sufficient after Iraq, but the emerging story was clear – any extension of the 14 days limit on pre-charge detention was 'a way of meeting the police and security service request'[838]

The new legislation was to be fast-tracked and introduced into the Commons as early as possible. The broad package of measures received only muted coverage at first – largely because it was announced at the start of the summer recess. This gave both the government and its detractors the opportunity to consider all aspects of the package before the House resumed in the autumn. The proposal to extend the time limit on pre-charge detention soon became one of the key focal points for discussion on the impending legislation, as did the origin of the proposal and the role of the police. Overall, the 12-point plan formed a powerful core for the emerging government narrative.

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[835] The Guardian (2005b) 'The rules of the game are changing' 5/8/05
https://www.theguardian.com/uk/2005/aug/05/july7.uksecurity5
[836] Seldon (2008) Op.cit pp.397-398
[837] Ibid. p.397
[838] No.10 (2005) Ibid.

Where did 90 days come from? [839]

Seldon contends that the police would later dispute that they asked for such a long period.[840] Blair reported in 2010 that 'the police were clear the power [the 90-day extension] would help'. Although their apparent views are often bandied about during these sorts of debates, both MI5 and MI6 did not make clear their respective positions at all. They would also resist doing so later on the similar provisions in the 2008 bill. The growing narrative was that this sort of legislation would form a core element of the government's response to the threat from terrorism and that the police thought it essential to help them counter this threat.

In its reply to the Fourth Report from the Home Affairs Select Committee Session, the government stated that the extension of the maximum period of pre-charge detention was based on:

> The strong advice… was that because terrorist investigations are now more complex the then current maximum period of detention – 14 days – was no longer … adequate.[841]

Reflecting later, Clarke noted that he had already committed to further counter-terrorism legislation during the proceedings of the Prevention of Terrorism Bill in order to 'implement some of the proposals about new laws and so on which, at that stage, we had envisaged happening much later.'[842] In July 2005, he thanked the opposition spokespersons for agreeing to go straight to legislation in the autumn rather than waiting for any pre-legislative scrutiny, provided 'they could have sight of the draft legislation and that the normal parliamentary procedures and timetables were followed in both houses.'[843]

The first mention of the extension of pre-charge detention to a 90 days maximum had been in an Association of Chief Police Officers (ACPO) response in 2005 to a

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[839] Hansard (2005) Home Secretary Statement 20/7/05 HC cols. 1254-1273 at
https://publications.parliament.uk/pa/cm200506/cmhansrd/vo050720/debindx/50720-x.htm
[840] Seldon (2008) Op.cit. p.398
[841] The Stationary Office – HC 910 (2006) The Government Reply to the Fourth Report from the Home Affairs Committee Session 2005-06 HC910 September 2006 at
https://www.gov.uk/government/publications/terrorism-detention-powers
[842] House of Commons Home Affairs Committee (2006) Terrorism Detention Powers Fourth Report of Session 2005-2006 HC910-911 at
https://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/910/910ii.pdf Ev 56 Q281
[843] Hansard (2005) Home Secretary Statement 20/7/05 HC cols. 1254-1273 at
https://publications.parliament.uk/pa/cm200506/cmhansrd/vo050720/debindx/50720-x.htm

government request for views on the broader issue of a review of counter-terrorism legislation. This review process was hastened by, not caused by, the 7/7 attacks. As part of this process, Hayman, recalled later that 'we felt from experience and investigations that 14 days was not sufficient and we were looking for an extension.'[844] He went on to say that 'ACPO were being pushed for a judgement on that – and it was no more than a professional judgement – which is 90 days.' He was clear that any such extension would 'always be in line with any human rights legislation, and that would be subject to a judicial review.'[845] The Deputy Assistant Commissioner Peter Clarke, Head of the Metropolitan Police Service Anti-Terrorist Branch and National Co-Ordinator of Terrorist Investigations, told the Home Affairs Select Committee that officers working on terrorist investigations all the time came to that conclusion

> … not through working groups, not through documents, but through discussion over a period of time … not the subject of a formal working party within the Police Service…(but) … the product of a lot of discussion and reflection by practitioners over a period of some two or three years.[846]

Thus, ACPO suggested changes to the law in the context of a wider review of legislation that was already in train but brought forward by the July events. Blair endorsed this approach in his August 2005 statement and made clear that legislation would be forthcoming in the autumn. In his letter and memorandum to the Home

Figure 7:4 ACPO rationale for extension of pre-charge detention legislation

Growth of international networks, global in origin and span of operation, involving many jurisdictions
Time taken to identify suspects – use of forged or stolen documents.
Use of interpreters – particularly use of more dialects from remote parts of the world.
Growth in terrorist capability in use of technology – multiplicity of computers, hard drives, examination and decryption – sequence of data capture, analysis and disclosure prior to interview.
Forensic requirements in modern terrorist cases are far more complex and time consuming than in past.
Increasing use of mobile telephony as a means of secure communication.
Time allowed for religious observance by detainees.
Some limits to defence expertise when one firm of solicitors represents multiple clients
Summary of case made for legislation in memo, dated 5th October 2006, entitled 'Three-Month Pre-Charge Detention' in Hayman's letter dated 6th October 2005.
Source: Letter from Assistant Commissioner Special Operations (ACSO) Andy Hayman, Anti-Terrorist Branch (S013), 6/10/05

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[844] House of Commons Home Affairs Committee (2006) Terrorism Detention Powers Fourth Report of Session 2005-2006 HC910-911 at
https://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/910/910ii.pdf Ev 35 Q186
[845] Ibid Q186
[846] Ibid Q188

Secretary in October 2005, Hayman spelt out in more detail why the police thought there should be an extension of the limits on pre-charge detention to three months from two weeks.[847]

Table 7:4 above outlines the key developments that he offered, based on recent counter-terrorism experience, as the reasons why there should be such an extension to the limit. He argued very strongly that it was the cumulative impact of each of the claimed was 'compelling'.

Adverse reactions

The campaigning organisation *Justice* came out against the proposals very early on. In a letter to the Home Secretary on 27 July 2005 it stated, amongst other things, that 'the current period [14 days] is the maximum period that would be compatible with fundamental rights (short of seeking a further derogation from the Human Rights Convention) and we would strenuously oppose any attempts to extend them'.[848] Although presented in such a definite matter, this legal opinion was simply that – an opinion. The government was clear that its proposals were human rights compliant and did not require derogation from the convention. The organisation would remain opposed to any extension throughout the process, as would its fellow organisation *Liberty*. Whilst Liberty conceded that 'the state must be permitted the ability to detain for a reasonable period without laying charges.' and seemed to accept 14 days as the maximum, it was clear that there was, in its opinion, no need for an extension.[849] Its witnesses to the Home Affairs Select Committee in October 2005 seem to imply that the main concerns of the police around factors such as the international dimensions, greater use of IT and broader complexities were a matter of resources, despite the police saying otherwise. [850]

The Joint Committee on Human Rights also had doubts. In its Third Report Session 2005-2006, it concluded 'in our view the proportionality case for any increase from the current 14-day limit has not so far been made out on the evidence.'[851] Indeed, the

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[847] Hayman (2005) Op.cit

[848] Justice (2005) Letter to Charles Clarke on Terrorism Bill 2005
https://web.archive.org/web/20060929213405/http://www.justice.org.uk/images/pdfs/cc270705.pdf

[849] Hansard (2005c) Home Affairs Select Committee, Minutes of Evidence, 11/10/05 athttps://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/515/5101106.htm Q103-105

[850] Hansard (2005c) Ibid. Q109-110

[851] Joint Committee on Human Rights, Third Report of Session 200506, *Counter-Terrorism Policy and Human Rights: Terrorism Bill and related matters,* HC 561-1, para 92.

two committees – the Home Affairs Select Committee and the Joint Committee on Human Rights – worked a convincing double act as two key focal points of dissent on many aspects of the proposed legislation – including pre-charge detention. Not surprisingly, parliamentary dissent would grow as time passed between the horror of the events in July 2005 and the eventual publication of the legislative proposals in the form of the Terrorism Bill 2005/6.[852] This was remarked upon by the Home Affairs Committee in its fourth report:

> We recognise the value of seeking to achieve cross-party consensus on the issues. The immediate response to the July bombings was a strong cross-party approach to new counter-terrorism powers. By the time the Terrorism Bill was debated in the House, this consensual approach had broken down.[853]

The government was clear that it would 'continue to believe it is important to have cross party consensus' and will 'strive to achieve this in relation to future counter terrorism legislation.' The Committee and the government could not agree on why this consensual approach had broken down – for the government it was the intransigence of the opposition and their view of 90 days and for the committee it was the government's 'lack of care with which the case for 90 days was promoted.' [854]

Clarity of government response and policy

Notwithstanding the view of the Committee, the government was developing a detailed and cogent narrative of its view on further legislation. There was public support for the changes to legislation, but it was not wholly unqualified. Blair could not understand how 'a whole section of the right went into completely nonsensical civil liberties mode' He was at pains to ensure that people understood that he did not mean 'the whole civil liberties critique was nonsense – I didn't concur with it, but I respected it.' He meant

> …right-wing law and order types who suddenly discovered that preserving the liberty of suspects was what they had really been about all along…it was the beginning of the unholy coalition after Iraq proved such a force, a sort of *Daily Mail/Guardian* alliance.[855]

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[852] Terrorism Act 2006 http://www.legislation.gov.uk/ukpga/2006/11/contents

[853] House of Commons Home Affairs Committee (2006) Terrorism Detention Powers Fourth Report of Session 2005-2006 HC910-911 para 27-29 at https://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/910/910ii.pdf

[854] The Stationary Office – HC 910 (2006) The Government Reply to the Fourth Report from the Home Affairs Committee Session 2005-06 HC910 September 2006 paras.1-3 at https://www.gov.uk/government/publications/terrorism-detention-powers

[855] Blair (2010) Op.cit pp.274-275

The government was clear that, in the wake of 7/7, it had public opinion on its side, even if it faced a rather strange parliamentary coalition of opponents – dissident Labour MPs, the Liberal Democrats and the Tories led by the shadow Home Secretary, David Davis. The government also seemed to be winning the more detailed arguments. In the *YouGov* Sky News poll in the week the legislation was before Parliament, 71% agreed that 'the threat from terrorism has fundamentally changed because of terrorists' use of technology and their willingness to commit suicide', 76% thought the police 'genuinely believe that the 90-day limit is necessary to fight terrorism' and 61% thought that critics 'of the Terrorism Bill are more worried about the civil liberties of terrorists than the rights of the public to be protected from terrorism.' [856] The need for legislation was central to the government's core narrative which was based on Blair's 12-point plan. Both were rooted in broad public support, even if the media response was far more mixed. The narrative was also very clear about how the legislative proposals fitted into the government's overall response. The government's overall narrative was cogent and clear.

Government 'glorious defeat' and a different sort of rebellion…

The government had accepted the 'compelling case' that the police had made for the 90 days provision, despite critics accusing the government of 'politicising' the police, that is, confusing security concerns with political concerns.[857] The consensual approach had evaporated, and the stage was set for a parliamentary showdown. The government made some changes to elements of the provision to try and secure further support, in the normal manner of the legislative process.

On the 9 November 2005, in the week of the debates on the Bill in the Commons, the Leader of the Opposition, Michael Howard, accepted that the Bill had been amended to 'provide for High Court supervision of detention, annual renewal and revisions to the code governing the questioning of suspects' and asked Blair if he agreed that these changes improved the Bill.[858] Blair responded by saying that 'we have made changes

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[856] The Sky News YouGov poll is quoted in the following report : Anti-Terrorism Laws
http://ukpollingreport.co.uk/blog/archives/date/2005/11/page/3
[857] The Guardian (2005) Police support Blair on terror detentions 7/11/07
http://www.theguardian.com/politics/2005/nov/07/terrorism.uksecurity
See also : The Guardian (2005c) A failure of political judgment, The Guardian, 11/11/05
http://www.theguardian.com/politics/2005/nov/11/terrorism.lab
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97994/contest-summary.pdfour
[858] Hansard (2005d) Prime Ministers Questions 9/11/05 at

to try and reach a compromise' but 'this is an occasion when it is important to do what is responsible, right and necessary to protect this country's security.'[859] By the time the defeat came, Blair knew that the vote was lost, but argued that 'sometimes it is better to lose and do the right thing than to win and do the wrong thing.' [860]

A compromise of 28 days' detention, reviewed on an annual basis, was proposed by Labour backbencher, David Winnick,[861] which was passed by 323 votes to 290 votes – a majority of 33. The Bill eventually secured Royal Assent with the 28-day provision in place. As indicated earlier, the government did not pursue the 90-day provision in the House of Lords and appeared, at least, to accept the 'settled' will of parliament - a 28-day limit on pre-charge detention.

Blair was clear that he had done the right thing. Public opinion was more mixed. A poll by ICM for the *Guardian* after the vote reported that 28% of people thought 28 days was a sufficient length of time, 18% objected even to this Table as too long. Of the remaining 49% who gave an opinion, 29% thought the government should have compromised and 20% thought the government was right to stick to its view on 90 days.[862] Only 31% of people thought Blair had emerged unscathed from the defeat in the Commons. Some 22% thought Blair's authority had been greatly damaged and 41% thought it had been somewhat damaged.[863] A majority (55%) thought he would have to learn to compromise more if he wanted to get his measures through while 47% thought he should stick to his guns and re-assert his authority.

The Prime Minister remained unmoved. He said, 'when it came to the vote I decided not to compromise on the essentials, but to lose without having yielded.' He continued:

> Of course, when we lost there were all sorts of articles about the prime minister's vanishing authority, etc; but I could sense that the very recklessness of it, on something I believed was so right, got me traction amongst the public.[864]

Having arrived at such a compromise, the House would defend it vociferously. The compromise at twenty-eight days was regarded as a 'job well done' by a House of Commons that felt it had recognised the need for some movement but recognised too

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https://publications.parliament.uk/pa/cm200506/cmhansrd/vo051109/debtext/51109-03.htm#51109-03_sbhd0 c.297-298

[859] Ibid c.299
[860] Ibid c.302
[861] Winnick had been MP for Croydon South 1966-70 and Walsall North from 1979-2017
[862] UK Polling Report Archives (2005b) Did Commons defeat damage Blair? at http://ukpollingreport.co.uk/blog/archives/date/2005/11/page/2
[863] Ibid
[864] Blair (2010) Op.cit. p.585

that the government was trying to go too far.[865] As one of the key participants related in interview, the origin of the compromise was quite prosaic. The key mover of the amendment, Winnick, said that

> … given that we are already have 14 days, and in view of the acute terrorist threat and the police request, I thought it would not be unreasonable … to double that to 28 days.[866]

He was clear too that, in his opinion, the role of MPs was not to simply follow public opinion, but to lead it. He was clear that in the past even when in a minority position, it was the job and responsibility of the Commons to lead and that 'on this issue we should again give the lead.'[867]

A member of the government at the time was clear in interview that an extension was the right thing to do but was less clear about the settlement at 28 days. S/he said

> …I don't think I ever thought 28 days was the final position. There were just so many legal, administrative, and judicial complexities involved that it was absolutely necessary to hold people for longer. I just do not believe that we have gotten the right answer in this respect. [868]

Reflecting on the result of the vote, a former senior police officer said that 'not enough work was done to sort of win hearts and minds at the outset and simply using chief constables as amplification routes to get to MPs was clumsy…' [869] He also remarked that there were lots of undercurrents running through it, some rational, some emotional, some political.'[870] Nonetheless, the government relented and accepted the 28-day provision.

From my experience as a government whip from 2001-2005, the defeat of the Labour Government for the first time, and the Commons determining policy through compromise rather than at the behest of the government, created a very different event from previous 'rebellions' by the usual malcontents and political mavericks. Normally, a number of government backbenchers would object to a particular course of action or policy and, after numerous meetings with ministers and, if necessary, with the Prime Minister or other cabinet ministers, would either maintain their position against the government, or relent and 'fall in line'. [871] It was different this time because there was an alternative to the government position – and a well-thought out and cogent alternative position. This time it was a Labour backbencher, Winnick, who

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[865] Personal recollection of Author

[866] Hansard (2005e) Debate on 28-Day/90-Day proposals – Winnick speech cc. 357-361
https://publications.parliament.uk/pa/cm200506/cmhansrd/vo051109/debtext/51109-21.htm

[867] Ibid c.361

[868] Interview with Author 2016-2017 (P2)

[869] Interview with Author 2016-2017 (F2)

[870] Interview with Author 2016-2017 (F2)

[871] Personal recollection of Author

decided to proffer an alternative. He cleverly did so within the context of the broader narrative put forward by the government. He said

> … one thing should be made absolutely clear: there is no division among us about acceptance of the terrorist threat…we know that there are mass murderers who want to bring death and destruction to our country…I do not challenge the authority of the Prime Minister in anyway. I want him to stay in office…the police have a perfect right to request more time…[872]

It would have been highly likely that the government would not have secured any increase in the maximum period of pre-charge detention had it not been for this compromise. If the battle lines had been drawn between the 90-day provision and the status quo position of 14 days, then it would not be difficult to envisage a scenario where the government was defeated on 90 days and any other proposal except for the 14-day existing provision. The government had implicitly agreed that pursuing 90 days was a strategy unlikely to achieve any success. When asked if he thought Blair was happy to go down to defeat on 90 days, a very senior former cabinet minister answered 'yes' and that Blair

> …thought it was more important to stand with the position that we had, and he thought, at the bottom line, people would make their judgement based on what our stance had been.[873]

Asked if Blair was happy in the knowledge that ' twenty-eight days was there as a fall-back rather than nothing', he agreed.[874] As it was extremely unlikely that the Lords would have supported anything beyond 28 days, the 90 days provision was not pursued any further by the government and the 28 days provision was duly endorsed in the Lords. Ironically, Winnick had probably saved the day for Labour and Blair – and, importantly, embedded 28 days into the broader narrative of government and nation on counterterrorism.

Post 7/7 – the path from 90 to 42 days

Despite many thwarted attacks, plot disruptions and continuing intelligence activity, there was only limited legislative intervention following the passage of the 2005 Bill. The Crevice and Rhyme plots[875] were finally coming to the courts, with much previously unheard detail being placed into the public domain for the first time.[876]

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[872] Hansard (2005e) Op.cit. cc.357-361
[873] Interview with Author 2016-2017 (P1)
[874] Interview with Author 2016-2017 (P1)
[875] For further details on Operation Crevice or Rhyme see the following :-BBC (2007a) Timeline – Operation Crevice 30/4/07 at http://news.bbc.co.uk/1/hi/uk_politics/6207348.stm ; BBC (2007b) Fertiliser Bomb Plot – The Story 30/4/07 at http://news.bbc.co.uk/1/hi/6153884.stm
[876] RUSI (2007) Operation Crevice Trial Ends at https://rusi.org/commentary/operation-crevice-trial-ends ; BBC (2007c) UK al-Qaeda cell members jailed at http://news.bbc.co.uk/1/hi/uk/6755797.stm ; MI5 The Rise of the Islamist Terror Threat at https://www.mi5.gov.uk/fr/node/312 ; The Guardian

Table 7:5 below shows only a selected summary of the events that took place during the crucial 2005-2008 period. The most important contextual matter is that for all this level of intense activity by both the state and those that would seek to commit terrorist atrocities in the UK, no-one was talking in any seriousness about further legislation – certainly not in terms of the specific policy of extending the limit on pre-charge detention.

Figure 7:5 Events in interim period 2005-2008

July 2005	7/7 London Bombs	52 dead, over 400 injured
July 2005	Failed London Bombs Attack	Perpetrators + cohorts arrested
August 2005	Blair's August 12-point manifesto	Including further legislation
March 2006	Crevice Trial	Significant evidence exposed in court
June 2006	Forest Gate Raid	Significant community disquiet
August 2006	Operation Overt	Airline Plot
October 2006	Rhyme Trial	Significant evidence exposed in court
February 2007	Operation Gamble	Plot to behead a soldier in Birmingham
June 2007	Operation Seagram	Haymarket/'Tiger-Tiger' failed bombs.
June 2007	Glasgow Airport Attack	The Denouement of Seagram

For some, the details that emerged in the trials of those involved in either the Crevice or Rhyme plots, illustrated how the police and security services could be successful within the existing legal framework. The details that many in government thought would assist in the justification and rationale behind further legal intervention, were being used by to explain how 'normal' legislation was working. Every success of the existing legislation indicated that there was no need for further forays into such legislation.

The ensuing publicity around the details of the court cases potentially weakened further any case for a further extension to the legislation. The cases were reported as victories for the existing legislation.[877] Nonetheless, Brown, as Chancellor, still felt it was important enough to keep the options of further legislation open. In a speech on

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(2006a) Bharot operation posed complex challenge at
https://www.theguardian.com/uk/2006/nov/07/usa.terrorism

[877] BBC News (2007a) 'Timeline – Operation Crevice' 30/4/07 Available at: http://news.bbc.co.uk/1/hi/uk_politics/6207348.stm ; BBC News (2007b) 'Fertiliser Bomb Plot – The Story' 30/4/07 Available at: http://news.bbc.co.uk/1/hi/6153884.stm (Accessed: 12 May 2016)

national security in February 2006 he made this clear. Symbolically, he prefaced his remarks with a reference to the government's record:

> Very few cases currently run to 14 days and we would expect an even smaller proportion to run beyond that. We are rightly proud of civil liberties. No-one should be held arbitrarily without safeguards and the longer the detention the more concerns there may be about arbitrary treatment.[878]

Brown felt that it was important for him as Chancellor of the Exchequer to join the public conversation about terrorism – so soon after the November 2005 vote on 90 days. He also felt it necessary to emphasise his pride in civil liberties and to recognise that there were arbitrary dimensions to the power of the state and the more arbitrary such dimensions, the more safeguards there should be. He felt that the 'tradition of impartial judicial oversight' would protect the civil liberties of a person detained before charge and that this was how to reconcile the balance between the needs of security and an affirmation of civil liberties.[879] In what was one of the government's first explicit references to a revisit to the issue of pre-charge detention, Brown continued by saying

> … it may be… that … Parliament may be prepared to consider going beyond 28 days … And it may be … to ensure … accountability we might consider not just that a senior judge approve continued detention every seven days and that there be an appeal to high court …'[880]

He was clearly thinking about the potential, at least, for a further foray into this complex and contested terrain. This was not, however, the start of a detailed elaboration of the government's narrative on counter-terrorism. This speech shows that even as Chancellor, Brown was already thinking about the future of counter-terrorism policy and legislation.

No demand for extension and the roots of a lost narrative

Operation Overt,[881] the plot to murder hundreds of people by to bringing down a number of airliners over the Atlantic by using liquid bombs, was foiled in the summer of 2006. It was disrupted much earlier than anticipated partly as the result of some very precipitative and unhelpful action by the Pakistani and US authorities.[882] A

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[878] RUSI (2006) Gordon Brown at RUSI – Speech on National Security 13/2/2006 at https://rusi.org/event/gordon-brown-rusi p.8

[879] Ibid. p.8

[880] Ibid p.8

[881] For more on Project Overt see Daily Telegraph (2008) How MI5 uncovered the terror plot 9/9/08 http://www.telegraph.co.uk/news/uknews/2709379/Airliner-bomb-trial-How-MI5-uncovered-the-terror-plot.html; Daily Telegraph (2008) 'Airliner bomb trial: Three British Muslims guilty of conspiracy to murder' Gardham, Duncan and Rayner, Gordon 8th September 2008 at https://www.telegraph.co.uk/news/uknews/2706494/Airliner-bomb-trial-Three-British-Muslims-guilty-of-conspiracy-to-murder.html

[882] See Independent (2008) 'The Life and Death of Rashid Rauf' at http://www.independent.co.uk/news/world/asia/the-life-and-death-of-rashid-rauf-1031217.html and

senior, former member of the government thought that even after the horror of the airline plot many in the police and security forces did not call for a change in the law because they were 'once bitten, twice shy' after their role in the 90 days debate. [883] This source was adamant that the services should be 'put on the spot because of what happened last time' and that no proposal should proceed without 'clear operational demand from the police'[884] He clearly felt that the services – particularly the police but also, by implication if not explicitly, the intelligence agencies, had held too much sway during the prelude to the 90 days debate – and that the government should not proceed further with legislation in this area unless the services demanded change in a very public fashion. The most important point about the aftermath of Overt was that here was a well-developed plot that sought to use explosives to blow a number of trans-Atlantic airlines out of the sky resulting in innumerable deaths – and there was still no pressure from any quarter for an extension to the pre-charge provision.[885]

The starting point for any new government narrative on counterterrorism would have to begin with either 'We accept that, for the moment at least, there is no need or desire to go beyond the 28 days provision' or 'Having reviewed the situation, we are persuaded that there is a need to look again at the 28 days provision'. By making the pre-charge detention provisions so central to the legislative dimension of his 12-point plan in 2005, Blair had afforded it a status that was probably way beyond its efficacy as a legislative tool, but it would be the core of any future narrative.

Others were mindful too of the political impact on the Labour Party. Unlike the position in 2005 and the 90-day debate, the government's narrative was either absent or hopelessly underdeveloped. This left some members of the Parliamentary Labour Party (PLP) both angry and disappointed.[886] A backbencher who was particularly influential around the issue of human rights, asked plaintively, 'Why do it when everybody knew how unpleasant the ninety-day debate had been throughout the PLP…. It'd been really divisive in the country…. Why the hell stir it all up again?'[887] If the government failed to explain in any substantive detail why a change in the law was necessary, then its detractors could, and did, create a counter-narrative that helped

Guardian (2009a) Rashid Rauf: missing 'mastermind' of the airline bomb plot at
http://www.theguardian.com/uk/2009/sep/08/rashid-rauf-airline-bomb-plot
[883] Interview with Author 2016-2017 (P8)
[884] Interview with Author 2016-2017 (P8)
[885] Personal recollection of Author
[886] Personal recollection of Author
[887] Interview with Author 2016-2017 (P6)

frame the key debates on counterterrorism and the government would struggle to frame any narrative at all.

Frustratingly, at the time, I felt that all the elements required for such a coherent narrative existed and were rooted in two key factors.[888] The problem was that key opportunities were being missed. Firstly, there was a steady drumbeat of criticism of much of the work of government by both the Home Affairs Select Committee and the Joint Committee on Human Rights. Secondly, the new Home Secretary, Reid, wanted to review the government's counter terrorism capabilities.

Both committees were particularly concerned with any new legislative initiatives in the area and produced a range of reports throughout this period.[889] The government could and should have used its statutory obligations to respond to these reports as the platform on which to develop its own narrative on counterterrorism and linked these responses to the development of the Reid review.

The government might well have been determined in 2007 to revisit some aspects of the legislative agenda, but it would not be allowed to do so in a vacuum. Both committees constantly referred to 28 days detention as the 'settled will' of Parliament[890] which ensured that there would be a competing narrative to the government's views. Both committees, and the opposition parties, were clear in their own belief that there was no need to revisit the legislation. Often the government can craft and frame the narrative for a new piece of legislation, but without such a developed narrative, any attempt to look again at the time limit on pre-charge detention would be framed as simply a rerun of the 90-day debate that the government had lost some years before.

The only way the government would have been able to confront this view was if it went right back to basics and explained why the 28-day provision had been found wanting at any stage since its introduction and how any change to the limit would fit in with all other aspects of the government's overall strategy. In short, how would any

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[888] Personal recollection of Author

[889] See for example, Home Affairs Select Committee (2007) Fourth Report Terrorism Detention Powers HC 910 (*Cm 6906);* Home Affairs Select Committee (2007) The Government's Counter–Terrorism Proposals; First Report of Session 2007–08; Joint Committee on Human Rights (2007) Twenty-Fourth Report Counter-Terrorism Policy and Human Rights: Eighth Report Counter-Terrorism Policy and Human Rights: Draft Prevention of Terrorism Act 2005, HL Paper 60/HC365; Prosecution and Pre-charge Detention, HL Paper 240/HC 1576

[890] Ibid.

Table 7:6 Parliamentary/political events 2005-2008

Parliamentary/political events	PM/Home Secretary
Terrorism Bill 2006 (90 days)	Blair/Clarke
Identity Cards Act 2006	Blair/Clarke
Review of Government's Counter Terrorism Capacity 2006	Blair/Reid
Establishment of Office of Security and Counter-Terrorism (OSCT) 2007	Blair/Reid
Change in PM - Brown replaces Blair Change in Home Secretary – Smith replaces Reid	Brown/Smith
PM Statement on Security – July 2007	Brown/Smith
Home Office – Options for pre-charge detention in terrorist cases July 2007	Brown/Smith
PM Statement on Security – July 2007	Brown/Smith
Variously 2006-2008 Home Affairs Select Committee Reports – Government's counter-terrorism proposals; Terrorism detention powers.	Brown/Smith
Variously 2006-2008 Joint Committee on Human Right Reports – 42 days, Counter-Terrorism Bill, Annual Review of Control Orders, 28 days, intercept and post-charge questioning	Brown/Smith

change in the law fit in with its counterterrorism strategy, CONTEST, [891] especially the non-legislative elements? Without such a challenge to the incessant drumbeat of reports from the Joint Committee on Human Rights and the Home Affairs Select Committee, the government let its opponents develop a counter-narrative that would challenge belated attempts by the government to get its act together. The counterterrorism context was an arena of significant activity throughout this period as can be seen from Table 7:6 above.

In 2006, Reid, the new Home Secretary made it clear that he wanted to instigate a comprehensive review of the government's counter-terrorism effort and he did so. He also wanted to establish a national security council and made it clear to that he favoured a 'European-style' split of responsibility between a security-focussed Home Office and a Ministry of Justice that would be responsible for offender management and prisons.[892] This marked new territory in a UK context. He began his review of all aspects of the government's counter-terrorism policies, resources and structures and all government departments remotely involved in counter-terrorism were invited to attend a high-level series of meetings over the course of late 2006 and into 2007. It was to be one of the most detailed and through reviews of such an important aspect of government activities.

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[891] Home Office (2006) The government Contest strategy was developed in 2003 but not made public until 2006. It has since been revised and this is the third edition at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97994/contest-summary.pdfS
[892] Personal recollection of Author

The fact that the Home Office should be the centre of the government's counter-terrorism effort is entirely uncontroversial today, but the prospect was both deeply controversial and fiercely contested across government at the time. One participant suggested that

> …the Cabinet Office didn't want it to be based in the Home Office because they thought their job was coordinating things, but they weren't up to the task…the Foreign Office thought it was a great idea, but of course they were the lead department for MI6 …. and didn't want anything to threaten their position.[893]

Interestingly, for the first few meetings, many of the departments sent either junior civil servants or ministers along and clearly had no intention of taking the process seriously at all. Once it became clear, however, that the review had the full support of the Prime Minister and the Chancellor of the Exchequer, all participants worked with the review to get the best they could from the outcome. By then, as the Security Minister, I was a member of the review and attended all the meetings. [894]

The review reported in May 2007 and, as expected, the Home Office took full responsibility for the government's counter-terrorism strategy for the first time. A new Ministry of Justice was created by a merger between the Department for Constitutional Affairs and the offender management, probation, and prison elements of the Home Office. Also, a new Office of Security and Counter-Terrorism was formed (OSCT) reflecting the new Home Office responsibilities. The Foreign Office remained in control of GCHQ and MI6, the Cabinet Office still serviced COBRA when it met, but there was to be a weekly security meeting in the Home Office, chaired by the Home Secretary or the Minister for Security, where all interested parties would meet and go through all serios developments. The meetings began with reports from MI5, MI6, GCHQ and the senior counterterrorist Police – and would prove to be, for me, some of the most important and useful meetings I ever attended as a minister.[895]

When he introduced these changes, referring to the OSCT, Reid spoke of 'a new strategic centre' that would 'add capacity that is currently non-existent or stretched too thinly for the scale and duration of the challenge we face.'[896] In this seminal speech introducing the outcome of the review and, crucially, only weeks before Brown took over, legislation was not mentioned at all.

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[893] Interview with Author 2016-2017 (P8)
[894] Personal recollection of Author
[895] Personal recollection of Author
[896] Home Office (2001a) John Reid speech on 'New Security Ethos' at OSCT Dinner, 25th April 2007

The Reid speech was in April 2007, Brown's 'On Liberty' speech in July. So, the government's most senior minister in the policy area, after a lengthy detailed and comprehensive review of the government's counter-terrorism capacity, did not choose to highlight further legislation around the issue of pre-charge detention as a necessary way forward to enhance the country's capacity to resist terrorism.[897] Yet barely three months later such a change to legislation would become a government priority. The outcome of the review was the time to settle the government line on any new legislation and to develop and frame the government's narrative including legislation. The issue of legislation had been discussed. The police had been asked if they wanted change, as without police support securing such a change to the law would be difficult. They were told that such a change of law would only be forthcoming if the they gave the Home Office a letter that stated clearly that 'we want it and we need it.' They demurred, and no such letter was 'forthcoming.' [898]

Under New Management – the state is always the servant of the people

Brown took over the premiership in June 2007 and on the 29 and 30 June there was an unsuccessful bomb plot - Operation Seagram. This started in the Haymarket in central London and ended in flames at Glasgow Airport. [899] He made a statement on security to Parliament some weeks later and related that the events were

> …the 15th attempted terrorist plot on British soil since 2001…the police and security services are currently having to contend with around 30 known plots and monitor more than 200 groupings or networks and about 2,000 individuals.[900]

Brown announced that he was going to 'explore whether a consensus could be built on the most measured way to deal with (the) …remaining risk.' [901] There was little discussion with the Home Office and it is unclear how the options were arrived at but he made clear that the government would consult on four options – a state of emergency option rooted in the Civil Contingencies Act; an extension of the pre-charge detention limit; an extension but with a vote in Parliament before

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[897] BBC News (2007c) Terrorism focus for new-look Home Office BBC News 29/3/07 http://news.bbc.co.uk/1/hi/uk/6507523.stm ; BBC News (2007d) In Quotes: Home Office Split Reaction BBC News 2 http://news.bbc.co.uk/1/hi/uk_politics/6507185.stm9/3/07
[898] Interview with Author 2016-2017 (P8)
[899] See HMSO (2011) Report on the operation in 2010 of the terrorism act 2000 and of part 1 of the terrorism act 2006 by David Anderson Q.C. at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/243552/9780108510885.pdf
[900] Hansard (2007) PM Statement on national security 25/7/07 HC col. 841-865 http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070725/debindx/70725-x.htm
[901] Ibid. col. 841

implementation and the development of a European-style investigative magistrate system[902] The options were considerably influenced by the output of the Joint Committee on Human Rights and the Home Affairs Select Committee and the influence of Liberty.[903] The relative success of both Liberty and the Joint Committee on Human Rights, especially in framing the limitations of the legislative discourse was, in my opinion at the time, only possible in the absence of a comprehensive government discourse and narrative.[904] It was a view shared in the Home Office. [905] Brown was clear that he did not 'want a return to the previous proposal rejected by the House' but he also hoped that the House could 'agree that there must be a maximum limit – and that that should be set by Parliament.'[906] But he did not put in the 'slow boring of hard boards,'[907] the hard graft of politics and policy-making necessary to show that this was a new proposal. He also referred to the notion that 'more important even than the consensus here in the House is the consensus that we seek in communities across the country' and spoke of how

> … as a nation we both defeat terrorism and isolate violent extremism …I hope that in doing so, an all-party consensus that will extend into every community in this country is possible…[908]

The problem for Brown was that he was seeking to develop a consensus after the fact – after he had already determined that new legislation was at least part of the answer to the threat. This was why he emphasised 'consensus' so much and why he sought to work with groups like Liberty – but without a clear government narrative, the consensus would be problematic from the very beginning. It was tainted.

The Leader of the Opposition asked what evidence 'does he have that was not available in December, because it was then that the then Home Secretary, Attorney-General and Lord Chancellor agreed that fresh evidence was needed before any further change.[909] The Liberal Democrat leader, Campbell asked 'what has changed in the past 18 months that merits asking MPs to change their minds about detention without

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[902] Home Office (2007) Op.cit
[903] Personal recollection of Author. Interview with Author 2016-2017 (P2)
[904] Personal recollection of Author
[905] Personal recollection of Author.
[906] Hansard (2007) PM statement on national security Op.cit. col. 844
[907] Weber, Max (1921) Op.cit pp.396-450
[908] Hansard (2007) Ibid. col.845
[909] Hansard (2007) Ibid col.847

charge?'[910] It was a reasonable question and one that was difficult to answer in the context of the Reid review and the absence of the political narrative.

Winnick told the Prime Minister that 'parliament agreed to 28 days…because of the acute terrorist threat to our country' and that because of this

> …we should be very hesitant indeed and reluctant to go further … consensus was found on 28 days, so we should be hesitant about taking the controversial steps that divided the House nearly two year ago.[911]

As 'Mr. 28 days', Winnick would clearly be a totemic presence in any new debate on further legislation. He played an important role in the 90-day debate and was pivotal in the push to compromise around 28-days. Recognising this, Brown responded to him in the most conciliatory of terms and emphasised consensus once more. Yet again though, the government had still to develop the narrative that would be necessary to build any such consensus and could not answer the point on 'new evidence'. There was a growing view that the push for new legislation was coming from the Prime Minister rather than from the Home Office – and that it might have its origins in the old antagonism between Brown and Blair rather than a coherent policy direction. Rawnsley attributes some of the apparent confusion to Brown himself and his inability to know quite how he wanted to take his premiership forward. He said that

> … part of the explanation for the internal contradictions and cramping caution of Brown was that he could not decide what he wanted to preserve about the Blair decade and what he wanted to repudiate…[912]

The obfuscation around the rationale for introducing new legislation was part of the reason for the stunted development of a narrative to explain the government's position. Brown's 'cramping caution' and 'internal contradictions' clashed with his strong signal about how he wanted to relate to 'liberal Britain'. Rawnsley went on to say that

> … a test case was security and civil liberties. Brown began his premiership with a strong signal that he intended to rebuild bridges with liberal Britain by softening the authoritarianism of his predecessor.[913]

Brown had made clear in both his speech to RUSI[914] in February 2006 and in his statement on National Security in July 2007 that there might indeed be a case to revisit

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[910] Hansard (2007) Ibid col.851
[911] Hansard (2007) Ibid col. 864
[912] Rawnsley (2010) Op.cit. p.547
[913] Ibid. p.547
[914] The Royal United Services Institute – a defence and security think tank, hereafter RUSI.

the limits on pre-charge detention.[915] He was trying to work with the 'civil liberties' lobby to reflect his 'change' from Blair whilst simultaneously sending signals on legislation that showed 'continuation' with Blair. The signals were mixed to say the very least. Rawnsley relates that Brown reached out to talk to opposition parties and to groups like Liberty and that one of his motives was 'to show that he could win a battle which had defeated Blair.'[916] This does not fully explain the 2006 RUSI speech or the view in the Brown camp that he was seriously trying to protect the nation from the very real threat and try to do so with as broad support as possible.[917]

Brown made a speech entitled 'On Liberty' on the 25 October 2007 within which he outlined his broader view on civil liberties and constitutional change. Clearly, this represented a further move in his 'reaching out' to liberal Britain. Symbolically, this was important for a number of reasons. The title of the speech evoked the memory of John Stuart Mill yet the government had already published its consultation paper on new legislation.[918] In the speech, Brown was 'concerned that too often in recent years the public dialogue in our country has undervalued the importance of liberty' but also declared that 'in the future 28 days may not be enough and we are also considering other proposals including post-charge questioning.'[919] He ended the speech by saying that 'the state is always the servant of the people. We must remember that liberty belongs to the people and not governments.' Again, such framing would have been useful as a prelude to 'the desirability of a debate over pre-charge detention,'[920] but its message was lost at it took place at a time when the government had determined it wanted further legislation.

A flawed process, a flawed proposal: victories evaporate, defeats linger

The one thing that the Prime Minister wanted to resist was the notion that any new proposal would be seen and understood in the context of the previous debate on 90 days. An insider said in interview that

> … the reaction to [the] proposal was just the same people re-running the old proposal and they weren't prepared to look at it in a fresh light…and that was one of the problems.[921]

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[915] RUSI (2006) Gordon Brown at RUSI – Speech on National Security 13/2/2006 at https://rusi.org/event/gordon-brown-rusi p.8 and Hansard (2007) PM Statement on national security Op.cit. col. 841-865
[916] Rawnsley (2010) Op.cit. p. 548-549
[917] Range of interviews with the author 2016-2017
[918] Home Office (2007) Op.cit
[919] BBC News (2007f) In full: Brown speech on Liberty 25/1007 at http://news.bbc.co.uk/1/hi/uk_politics/7062237.stm
[920] Ibid
[921] Interview with Author (2016-2017) (P8)

Brown had made the mistake, in my opinion, of assuming that the civil liberties lobby, especially *Liberty*, were people who understood government and who the Prime Minister could do business with. He was clearly torn between his political instinct that was telling him to do and say more on the issue of civil liberties and his instinct to protect the public and ensure their safety by legislating.

The problems stemmed from Brown's overly swift response to the Haymarket attack. It would prove difficult to establish and sustain the government narrative on the need for legislative change given the cumulative impact of three things. First, the absence of a government narrative to match the 'drumbeat' of the negative and critical committee reports from the Joint Committee on Human Rights and the Home Affairs Select Committee; secondly, the absence of any proposals for new legislation from the very recent 'reality' of Reid's detailed counter-terrorism review findings; thirdly, the absence of any real consultation before Brown's 'instant' decision to go forward with legislation. His mixed messages to the supporters of civil liberties were so apparently contradictory that they pointed towards, if anything, no further legislation. These factors would haunt the entire process until the government relented and dropped the proposal for 42 days completely - albeit under the fig leaf of the temporary emergency legislation that would sit in its collective 'back pocket'.[922]

In the summer of 2008, the recently retired Director-General of MI5 took her seat in the House of Lords as the Bill was about to go into the Lords. She declared in her maiden speech that

> … successful counterterrorism work depends on many things, but in particular on good intelligence and good police work, not necessarily on changes in the law. That said, all the legislation has had some important and enabling provisions.[923]

The government would have been happy with this intervention, had it ended there, but the speech had a sting in its tail. She continued by saying

> … there is no such thing as complete security and the importance of our hard-won civil liberties. Therefore, on a matter of principle, I cannot support the proposal in the Bill for pre-charge detention of 42 days.[924]

So, just as the government was scrambling to find a narrative for the forthcoming legislative proposals, one of the most senior people, who had until recently been at the

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[922] Counter-Terrorism (Temporary Provisions) Bill at
https://publications.parliament.uk/pa/ld200708/ldhansrd/text/81013-0002.htm#0810135000003
[923] Hansard (2008) Eliza Manningham-Buller Maiden Speech col. 648 House of Lords 8/7/08 at
https://publications.parliament.uk/pa/ld200708/ldhansrd/text/807080004.htm#08070843000181
[924] Ibid col.648

core of the counter-terrorism effort in the country, had decided she could not support the centrepiece of the new legislation.

All of these factors, but especially the spectre of the 90 days debate, haunted the development and eventual scrutiny of the Bill and its proposals. The government assumed that there would be a consensus on which to go forward but there was none. Worse than this, as a senior government member now describes it 'the absence of a narrative …allows a counter-narrative to prevail…so it becomes just a rerun of ninety days with no real substantial basis for it.'[925] This same source asserted that, in part, it was a counter-narrative that said it was 'Gordon's turn. Tony had his hard man ninety days, twenty-eight days, now Gordon just wants to have the same…'[926]

It was felt by many, particularly by those Labour backbenchers who felt little loyalty to the new Prime Minister, that the government was not taking the Commons seriously if it thought it could reintroduce these matters, without detailed reasons as to why it was doing so.[927] A senior backbencher from the time reported in interview with me he asked the Home Secretary 'What the fuck are you doing on pre-charge detention?' and went on to say that

> … its mad, completely mad. There is no and, to my knowledge never has been, a strong demand from the police for this. They don't want to be dragged back into this. Why is he (Brown) doing this? [928]

Although the 90 days defeat was not on the order paper when it came to the parliamentary debates on 42 days, it was there in the air, nonetheless. Time after time, a range of participants - government and opposition, frontbenchers and backbenchers, veterans and neophytes, said that if the government had understood the political capital exhausted in achieving the 28-day compromise, then it would have never come back with further changes – certainly not without a full and comprehensive explanation and narrative of why change was so important in the fight against terrorism.[929]

As we have seen, to fully understand fully the importance of the 28 days settlement in 2005, one needs to understand what it cost parliament to reach that compromise. The government maintained that it sought to legislate on 90 days in a spirit of agreement. Some of those involved in government were clearly willing to go further than others

[925] Interview with Author 2016-2017 (P2)
[926] Interview with Author 2016-2017 (P2)
[927] Various interviews with Author 2016-2017
[928] Interview with Author 2016-2017 (P8)
[929] Various interviews with Author 2016-2017

in forging a compromise – and were not 'fixated on the number 90'.[930] It became clear, however, that the Prime Minister, Blair, wanted to stick with 90 days and 'thought it was more important to stand with the position that we had'.[931] It was reported to me that 'Tony wants this to be a binary issue' meaning 'a polarised issue on which there can be no possible compromise.'[932] Defeating the government but responding to public concerns over terrorism by alighting on the 28 days compromise mattered to the tradition of Parliament. The compromise of 28 days in 2005 was a reaction to the heavy handedness of the government's 90 days proposal, but it was also a recognition that something had to be done to allay the fears of the public and to address the threat. One of the provisions of the compromise on 28-days was that the order had to be agreed by Parliament on an annual basis. I was the Minister who had to put the renewal order before parliament in the three years after it had passed. While always anticipating trouble and a re-run of the old debate on the manner of pre-charge detention, it was never forthcoming, and renewal was secured with relative ease. I reflected that this was because of the way in which the compromise had been secured. In other words, Parliament did not defeat the government lightly back in 2005 and felt that it collectively 'owned' the 28-day compromise as its 'settled will'[933]

Revisiting the issue in 2008 on what appeared to be a flimsy basis devoid of even a substantive government narrative would have irked Parliament. A senior former minister who had been comfortable with 90 days knew this. He said that despite being comfortable with 90 days '… once it had gone I couldn't find the evidence that actually losing it was giving us considerable difficulty.'[934] He added that 'there was nothing that justified the 42 days in the end' and felt that the government would have been in a much stronger position overall had Brown said that '28 days…seems fine for now, we'll keep it under a watchful [eye].'[935] This would have recognised the importance of the compromise that 28 days represented and put the Commons on notice that it might need to be reviewed in the future – thus at least attempting to incorporate the Commons dimension into any future outcome. Instead, Brown was destined to become the 'prisoner' of the 90 days defeat and its legacy.

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[930] Interview with Author 2016-2017 (P1)
[931] Interview with Author 2016-2017 (P1)
[932] Seldon (2008) Op.cit p.398. Blair (2010) Op.cit. pp.583-584
[933] Personal recollection of Author
[934] Interview with Author 2016-2017 (P4)
[935] Interview with Author 2016-2017 (P4)

Signs of desperation

The government insisted throughout the period of scrutiny in 2008 that this package of measures was essential for the security of the nation and it had been carefully thought through following consultation. However, at the report stage, with potential defeat looming, the entire package changed completely, as can be seen in Table 7:7 below. There was to be a 'trigger' to the period being extended arising out of 'grave exceptional terrorist threat', it was to be available for only 30-days and parliament had and to approve the decision within seven days. This opened the entire process – nominally an operational matter for the police – to instant political scrutiny. The Director of Public Prosecutions had to approve any extension beyond 28–days which some contended might threaten his position as the independent prosecuting authority. A statement had to be laid before the Commons within two days , again confusing the operational and the political.

Table 7:7
Refinements of government proposals for extension of pre-charge detention

• Reserve power increases limit to 42 days in exceptional circumstances supported by police and CPS and approved by Home Secretary	• Trigger – only when needed for investigating 'serious terrorist offences' arising out of 'grave and exceptional terrorist threat.
• Available for up to 60 days, no renewal	• Available for only up to 30 days, not 60.
• Parliamentary approval – both houses – within 30 days	• Parliamentary approval – both Houses – within 7 days.
• Senior judge to determine extension in blocks up to 7 days	• Senior judge to determine extension in blocks up to 7 days. DPP to approve individual extension beyond 28 days.
	• Notification to Chairs of Home, ISC and JCHR committees
	• Statement to be laid before House within 2 days
	• Independent legal advice to be obtained before order and laid with statement
	• Independent review and report
	• Only exercisable if 28 days is in place

The government had to seek independent legal advice before the order to extend the period and publish this advice with the statement. Further, the government had to notify the chairs of the Home Affairs, Intelligence and Security and Joint Committee on Human Rights before taking the order forward. Hayman reflected later that the proposal was flawed as 'it had too many built-in hurdles. They were aimed at pacifying opponents but would have made it unworkable.'[936] He felt this was political

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[936] Hayman (2009) Op.cit. pp.134-135

interference in operational matters – and 'might have marked the end of the operational independence of the police.'[937]

Superficially, this looked like a government ready and willing to work with its opponents and detractors to secure the legislation. Others thought it was more readily the actions of a government determined to secure victory in the Commons – at almost any cost. Rawnsley argued that, after recent defeats on the 10p rate of tax and the recent loss of the Crewe and Nantwich[938] seat in a by-election, 'Brown was frantic to avoid yet another authority-shredding defeat.'[939]

As has been seen, the government won the crucial vote by 9 votes. So, the new Prime Minister secured the victory in the Commons but at what cost? One senior backbencher when asked if in interview 'Gordon would have been better off not dealing with [42 days] at all', answered 'Oh yes, absolutely'.[940] Another thought that 'nothing of value came out of the process', and agreed it was 'a complete waste of time, effort and an indulgence.' [941]

What went wrong?

A range of very different factors had an impact on the decision-making process that culminated in the failure of the 42 days proposal in the Bill. Detractors would no doubt have it that the attempts to revisit the issue were about appealing to the more authoritarian instincts of many of the 'backwater' communities that Jennings and Stoker have identified, but there is no significant evidence to sustain this view. [942] Rather, the revisit owes as much to Blair's rhetoric about 'tough on crime and tough in the causes of crime'[943] than it does to any crude triangulation purely for electoral purposes as implied by a simplistic view of the Downsian model of voter maximisation.[944]

A former senior cabinet minister thought that 'it was the right thing to do but I think we went about it the wrong way' and reflected later that it was 'bound up in the failure

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[937] Ibid p.134

[938] The by-election was caused by the death of Gwyneth Dunwoody MP. Labour lost on a swing of nearly 18% to the Tories.

[939] Rawnsley (2010) Op.cit. p.549

[940] Interview with Author 2016-2017 (P3)

[941] Interview with Author 2016-2017 (P3)

[942] Jennings and Stoker (2106) pp.372-382

[943] Blair first used the quote on 'toughness' in an article in the New Statesman on the 23/3/1993 at http://www.newstatesman.com/2015/12/archive-tony-blair-tough-crime-tough-causes-crime

[944] Hindmoor (2004) Op.cit. See also Hindmoor (2005) Op.cit pp.402-417

of Brown's Prime Ministership.'[945] In reality, the government lacked the courage to 'wait and see' if 28 days would suffice. Given the pressure to act, it confused 'legislating with action' rather than explaining in detail the vast range of other activities that were being carried out successfully to enhance the country's counter terrorism capacity. The government had developed its counter-terrorism capacity and had all the key policy ingredients to construct a compelling narrative on the issue. These revolved around the recommendations of Reid review and their implementation. This could and should have been the core of any narrative in this area that could have been used to persuade, as Hindmoor would have it, the public that the government had a clearly defined policy on counter-terrorism. All three elements of the theoretical framework have been of use in this analysis. As well as Hindmoor's adaptation of Downs, the path dependence and critical juncture dimensions of institutionalism and the informal and decentred analysis of interpretivism have been applied to the analysis of the case study in this chapter.

Unusually, the centre – No.10 – overlooked and ignored developments in a key policy network, that is, the department, the Home Office. Rhodes argues that

> networks are self-organizing and the centre's capacity to regulate them remains undeveloped; it has only 'loose leverage'… it shows the limits to managerial reforms which stress either intra-organizational control and management by objectives or competition, masking the need for trust and cooperation with the language of the market. [946]

No.10, under new management, ignored the significant advances that the Home Office had made in counter-terrorism. Any subsequent narrative on the need for new legislation in the area would been flawed because of this omission. Normally the difficulty in government is that while 'there are limits on the centre's ability to steer, it still attempts to do so.'[947] In this case, Brown, as the new Prime Minister, to no account of the department's policy legacy. Rather, he treated July 2007 as some sort of policy year-zero and went on to develop counter terrorism policy on the premise that the world was the same in 2008 as it was in 2005; that the Haymarket attack was as much a 'focusing event' as 7/7 and that the 'periphery' – the Home Office - should have done what the 'core' told it to do.[948] The key to steering is to recognise 'the importance of wearing the other person's shoes to understand their objectives and

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[945] Interview with Author 2016-2017 (P2)
[946] Rhodes (1996) Op.cit pp.652-667
[947] Bevir and Rhodes (2003) Op.cit pp.73-74
[948] Kingdon (1995) Op.cit

build and keep suitable relations of trust.'[949] Brown's No.10 never managed this degree of empathy for the policy networks that represented the core of government activity.

Uniquely, the Home Office had the policy answers to hand, and No.10 ignored them. This omission was compounded further because the new regime pushed itself into a legislation-driven dependence path with no pressure from any other source.[950] No-one in the Home Office was insisting on legislation on pre-charge detention, no-one in the police or security services was pushing for such legislation and, indeed, all the signs from Parliament were that such a move would be strongly resisted. Bevir and Rhodes have noted that '... even when an institution maintains similar routines while personnel changes, it does so mainly because the successive personnel pass on similar beliefs and preferences.'[951] Whilst there can be little doubt that Brown did inherit similar beliefs and preferences from Blair, there was no reason why Brown should have thought that he had to legislate because Blair had done so.

Process – preparing the political ground

Brown took from Blair's earlier response that legislation should be central to the government's approach. He had said as much in his RUSI speech as Chancellor in early 2006. There is no doubt that the 7/7 attack was, by any definition, an event of some magnitude – it was a 'focusing event' as described by Kingdon.[952] It was an agenda setting incident that needed a swift reaction.

The government's immediate response to 7/7 had worked and worked well – from the narrative that was developed to the 'glorious defeat' on 90 days and the 'settled will' of parliament on 28 days. By the time that Brown announced the potential road to further legislation in 2007, he did so in a vacuum. Without extensive explanation, the pursuit of legislation looked dated, almost a second attempt to rerun the 90 days debate without any immediate cause. In short, it looked like a belated response to the 'focusing event' that had happened over two years before. No-one was saying that Haymarket was such an event. It looked like 'fighting the last war.' One senior minister said since that they were:

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[949] Bevir and Rhodes (2003) Op.cit. p.73
[950] Mahoney (2000) Op.cit pp,509-510.
[951] Bevir and Rhodes (2003) Op.cit. p.41
[952] Béland (2005) Op.cit. pp.9-12 ; see also Kingdon (1995) Op.cit.

> … proud of both the policy structure and the results of (our)…counter-terrorism work – and that's one of the reasons why I think 42 days was a distraction. [953]

The world had not remained the same as it was in 2005. There was a failure of insight and perception, including not recognising the non-legislative advances in capability and capacity since 2005. There was a failure to perceive the importance and significance of the 'settled will' of Parliament on 28 days – and this had not changed since it occurred in 2005. Above all, there was a failure to understand that there were options beyond a dependence path to legislation.

Process – protecting the ground

There is little evidence for the charge that Brown opted for the legislative route, at least in part, because Blair had done so previously. Some argue, as one former cabinet minister did, that at least part of his motivation was to show that he 'could do things better than Tony did, which is a hopeless reason for doing anything'[954] If the motivation had been this prosaic, others would have intervened. It is likely Brown wanted this route because he thought it the most beneficial. He did however get too involved. Some relate that he was 'sitting in Downing Street by himself redrafting legislation'[955] or was meeting interest groups and individuals 'completely separate from what the [the Home Office] were doing.' As a participant, I remember this being deeply unhelpful and at times it led to real confusion in terms of relating to outside groups such as *Liberty*, relationships with our own backbenchers, and relations with officials within the Home Office. Another senior minister at the time relates that:

> the problems was … that he tried to do everybody else's job and it's a disaster, he was trying to do Jacqui's job and couldn't…no human being could possibly cover all … activity.[956]

At one stage in the proceedings, there were at least four whips' operations at play on the run-up to the vote – the official Whips' Office under Geoff Hoon,[957] a separate one organised by No.10 and the special advisers, a third unofficial operation run by elements in the Whips' Office who did not have faith in the Chief Whip, and a fourth informal one that largely involved the Prime Minister and his phone.[958]

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[953] Interview with Author 2016-2017 (P3)
[954] Interview with Author 2016-2017 (P2)
[955] Interview with Author 2016-2017 (F1)
[956] Interview with Author 2016-2017 (P2)
[957] Hoon was MP for Ashfield from 1992-2010. He was Chief Whip during the 42 days vote.
[958] Personal recollection of Author.

Policy Development: hiding in plain sight

The proposed legislation paid no regard to the key developments that had happened since 7/7, some at the government's behest :

- the Reid review;
- the Crevice and Rhyme trials;
- the threat from the 'airline plot' Overt ; or indeed
- Brown's own attempts to shift the narrative through speeches such as 'on Liberty';
- Reports on counter terrorism from the Joint Committee on Human Rights and the Home Affairs Select Committee.

How could these developments be 'hiding in plain sight'? The drumbeat of the reports from various committees, the Home Affairs Select Committee and the Joint Committee on Human Rights, that were so resolutely against further legislation on pre-charge detention were also 'hiding in plain sight.' They were not challenged by the development of a government narrative on counter-terrorism. The move to a pre-emptive consultation process almost locked the government into a path dependence trajectory from which it could not escape. As we have seen, despite indicating that he wanted to proceed on a consensual basis, in 2007 the Prime Minister and the new Home Secretary, Jacqui Smith, announced a consultation on four options for legislation.[959]

One backbencher commented on the potential for new legislation by saying that, 'I think a number of us were really quite surprised … we could not see what could happen to change the settled will.'[960] A former senior cabinet minister reflected that 'there's no point in going back into it [the limit on pre-charge detention] unless you've got law enforcement……unless the police were clamouring for it.'[961] And they were not.

There was also a strong view from those who did not support the legislation that it was wrong to consult if the decision to legislate was already taken. There was a consultation process, but 'the trouble is a lot of the responses to the consultation came out saying, 'Don't do it!'' [962] In short, there were no 'footprints' for such a change in policy.

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[959] Hansard (2007) PM Statement on security Op.cit. HC col. 842-848; Home Office (2007) Op.cit.
[960] Interview with Author 2016-2017 (P5)
[961] Interview with Author 2016-2017 (P9)
[962] Interview with Author 2016-2017 (P5)

Policy Development: the 'missing middle'

A developed government narrative could have made a virtue out of many of the things that had changed. Some things were completely new – a reformed Home Office, the outcome of a detailed review of every aspect of the government counter terrorism capacity, a new Home Secretary and a new Prime Minister. Although largely an internal review, no attempt was made to put the new call for legislation in the context of this new capacity. The problem was that at no point in the findings of the review was the need for a further extension to the period of post-charge detention identified. It was certainly discussed, but throughout his time at the Home Office, Reid never pursued this line. Even after the Overt plot was foiled, legislation was not pursued. Overt was not the 'focusing event' that 7/7 had been, nor was the Haymarket incident. Indeed, almost every development since 7/7 signalled the success of the current legislation and the growing capacity for detection. Examples include plots being disrupted; the police and the security services working closer and closer together; court cases showing the effectiveness of existing laws. The 'missing middle' was any real evidence or desire that another major distraction over 42 days was needed at all.

In normal circumstances, any proposal for legislation goes through a detailed internal government scrutiny process that includes both extensive consultation across government departments and an exhaustive process under the aegis of the Legislative Programme Cabinet Sub-Committee (LP). As part of this process, one essential document concerns how the government will handle the bill in the House of Lords. As minister, I knew that in taking the bill through this process that there was little debate over how to deal with the issues that would be raised in the Lords. I also remember that, unusually for this Committee, there was an intense debate about the legal coherence of the 42 days provisions and whether it was really the right way to go for the government. It is not the purpose of the proceedings of the LP Committee to reopen debates on the policy substance of a bill. It has been difficult to determine whether this reticence to either challenge the paucity of the handling document or to hold up the bill until the document was improved, as the committee could have done, was because of the clear signal from No.10 that the bill should proceed at all costs.[963] At the time, I felt that some of the ministers on the LP Committee who had been lawyers in a previous life took issue with some of the key points of law in the Bill because they

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[963] Personal recollection of Author

knew it would have to ultimately be allowed to proceed, but they wanted to register discontent nonetheless.[964] With hindsight, this could have been the opportunity to prevent the Bill from proceeding – the Committee could have blocked it, but chose not to do so.

Policy Development – joined-up government

It may well have been the case that the absence of an effective transition from one Prime Minister to the other was also part of the difficulties that the government faced. For at least a while, I was the ministerial 'corporate memory' at the Home Office – having been there for two years when Brown took over as Prime Minister and the only 'surviving' minister when Smith came in. There was little or no discussion before the consultation paper on the options was published and so the government was locked into a path without any real buy-in or ownership. There was even less discussion on the nature of the option finally alighted on – 42 days.

By opting, in the end, for an elaborate extension to 28 days based on a stated 'emergency,' the government opened itself up to criticism based on the confusion between making law and implementing law. Quite reasonably, many of the detractors of the Bill argued that, as drafted, it confused the role of the Commons as a legislative body with the role of the courts to discharge the law. If the police could not proceed with an extension to the period of pre-charge detention until Parliament has determined that there was a situation urgent enough to warrant such an extension, then how could the defendants have any guarantee of due process in the courts?

By basing the legislative change on 'emergency-style' provisions, the government ended up in a difficult position with some of the concessions that it made to get the Bill through. It was to avoid these problems that all previous extensions had just been simple extensions – with more and more judicial oversight for the longer periods.

Politics - potential of a strong ministerial sponsor

The relationship between Number 10 and strong ministerial sponsorship for a policy is complex and has mixed success. We have seen how successful policy can be produced – and sustained – when it has a strong ministerial sponsor and the active backing of Number 10, such as the points-based system for immigration. We have seen how a policy with a strong ministerial sponsor can still fail when the sponsor

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[964] Personal recollection of Author

departs for whatever reason – as was the case with the police mergers' policy. In this case, the Prime Minister could be considered the strong ministerial sponsor – something which can and did lead to some confusion. The other problem with strong Prime Ministerial involvement in a Bill is that it could undermine its lead minister. Although this was never the case with Jacqui Smith, this was largely due to her strong character and the fact that she had only just been appointed at the time Brown started as PM.

The government decided that it would listen to critics to such an extent that what it proposed at report stage had little or nothing to do with the provisions in the Bill. This meant essentially that the entire Commons Committee proceedings had been a waste of time in the context of 42 days. Nevertheless, however much Smith or the Prime Minister indulged the dissenting voices, the existence of Parliament's 'settled will' meant that the concessions and compromises discussed were just an elaborate game. The Bill was not supported and would not get anywhere in the Lords – despite the strength of the ministerial sponsorship.

Politics – PM and the role of No.10

No.10 had a front row seat in this case. It is debateable whether the second proposal started at No.10 or the Home Office. In the end, as one senior former minister reflected 'It took up too much time… the process of trying to ram it through took up too much time, political capital and energy for the benefit that they brought.'[965] 'Political capital' is a difficult concept to both measure and take account of but by the end of this process, no-one could argue that the government's political capital had been enhanced in anyway.

A senior source in the No.10 of the time remarked that

> …the people that had been in the Lords against … 90 days just regrouped. There was no rational argument… it was just the old sides being re-established … I thought we could have been able to break through that…[966]

The government had the chance but resisted constructing a new narrative on counter-terrorism policy. Without this, the new proposal was always going to be cast as a rerun of the 90 days debate. Once the proposals were framed in this way the government was always going to lose the issue. No.10 both misunderstood the informal rules and

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[965] Interview with Author 2016-2017 (P3)
[966] Interview with Author 2016-2017 (P12)

procedures of the Houses of Parliament – the 'settled will' of the Commons on 28 days and the importance of the Lords. The same No.10 source highlights this by saying that ' …none of us believe the Lords as important as the Lords believe they are.' [967] This view and the notion that Parliament was seen as 'a source of stress and irritation for ministers'[968] show clearly how they had lost their grounding as Members of Parliament. With such an insensitive view of the Lords and the Commons, ministers and No.10 were unlikely to recognise, let alone fully comprehend, the nuances of the informal rules and procedures of the palace – or the importance, as we have seen, of the 'settled will' over 28 days and the objections to 42 days.

Notwithstanding the outcome of ditching the policy of 42 days, the former minister quoted at the start of this section in interview said that he was pleased 'with the way that we developed both the government capacity and the …police and others in their ability to counter terrorism.'[969] There had been so much development of counter-terrorism capacity that it is difficult to describe it here in full. It was hugely successful despite the failure to establish new legislation. The failure of this particular element of the legislative route did not prevent successes elsewhere in the policy domain. One senior official was clear that 'the really important work was being done in parallel.'[970]

Conclusion

Decisions made in 2005 dictated policy responses in 2008. The new Prime Minister failed to take account of the development of policy since 2005 and the 90 days defeat. The government chose to allow the defeat to permeate every aspect of its decisions in 2008 - as though it thought that after 7/7 it was locked into a path dependent process that demanded revisiting the legislation as though nothing had changed since 2005.[971] The government never seriously questioned in 2008 why the extension of pre-charge extension might have been an appropriate response in 2005 but was not in 2008.

As indicated earlier, it was

> 'a complete mystery… because a high amount of effort was put into this legislation … when actually the really important work was being done in parallel…' [972]

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967 Interview with Author 2016-2017 (P12)
968 Rhodes (2011) Op.cit pp.230-231
969 Interview with Author 2016-2017 (P3)
970 Interview with Author 2016-2017 (F1)
971 Mahoney (2000) Op.cit. pp,509-510
972 Interview with Author 2016-2017 (F1)

The world did not remain the same. It was as though No.10 sought to see 'the world as it wanted it to be' rather than for what it was. There were four opportunities for avoiding this position. All of them are straightforward and all required merely a different emphasis on events and developments that had already occurred.

Firstly, all my experience, as both an academic and as a participant, indicates that the government could have constructed a fresh narrative around the emerging themes of the outcomes of the Reid Review on the government's capacity to tackle terrorism. The key elements would have been the positive benefits of the creation of an Office of Security and Counter Terrorism; the decision to base all of the government's efforts on counter-terrorism at the Home Office; the opportunity provided by the establishment of a Ministry of Justice to take over policy and operational control of prisons and offender management; the value of the regional co-location of MI5 and counter-terrorism specialist police; and the joining-up provided by a weekly security meeting for all elements of the government's efforts in this area – including the armed forces and a range of government departments as well as MI5, MI6, the Police, GCHQ and JTAC[973], chaired by the Home Secretary or myself as the Minister of Security. This could have been the basis of such a new narrative. It could have been constructed in the way that Hindmoor has suggested, complete with persuasion, spin and choice – and the underlying use of rhetoric.[974]

Reid would have certainly included revisiting the issue of legislation in the conclusion of his review, had he felt this was necessary. As we have seen, the prevailing view was that if the police and security services wanted such a move, they should say so. Confirming that, for the present time at least, there was neither a need nor a desire for advancing beyond the then '28 days' status quo would not have looked out of place in this new narrative. In reality, the outcomes of this excellent review were implemented without fuss in an extremely functional fashion, and without the development of a positive narrative.

The second opportunity for the government to reassess the need for legislation fell to me. After Reid resigned as Home Secretary in July 2007, I was the only surviving minister with Home Office experience. The other members of the ministerial team

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[973] Government Communications Head Quarters (GCHQ) is the government's listening post. JTAC is the government's Joint Terrorism Analysis Centre – it sets the threat level.
[974] See Hindmoor (2004) Op.cit and Hindmoor (2005) Op.cit pp.402-417

that came in with Jacqui Smith were all new to the Home Office. I could have pushed the view – from the spirit, at least, of the Reid review – and argued that no further legislation should be the position that the Home Office should take at the earliest opportunity. The fact that there was a terrorist attack on the very first day Smith was in office, only reinforced the notion that the Home Office should have a view sooner rather than later. From my perspective, having sat through all of the review meetings and worked closely with the police and the security service throughout the year, further legislation was an option, not a necessity. I told Smith she should at least think about pushing for no further legislation and defining a new outlook on counter terrorism and legislation – rooted in the Reid review. I did so in the knowledge that soundings from No.10 suggested that Brown was keen to move in this area. My view did not stem from an opposition to extending the provision, but more from my judgement that it just was not needed at this time, even after the Haymarket attack. I believed too that Smith could establish herself sharply as the new Home Secretary if she developed such a view. Events moved too fast and there was really little time for her to even consider this as an option and we both ended up locked into the Bill and the legislative process. Interestingly, had the Home Office narrative been developed as indicated above, then it would have been all the easier for Smith to nail these colours to the mast. I should have pushed further.

The third way in which the process of the Bill may have been stopped was if I, or the collective effort of the Legislative Programme Committee, determined that the legislation simply was not ready to pursue through parliament. Reasons for blocking the bill could have been because of the way in which the legislation was drawn up (which was flawed as it was based on, but not rooted in, existing emergency legislation) or because there was not a detailed handling document for the passage of the Bill in the Lords. In any normal circumstance, any remotely contentious Bill, which did not have the tactical chapter and verse of each and every stage of its passage in the Lords spelt out along with how any disagreement would be dealt with, was not allowed to proceed. The Bill was not ready. The handling strategy was not ready. Everyone around that table knew that – but also knew that the new Prime Minister wanted it – which is why it prevailed. Again, had the Home Office narrative been developed to reflect the outcomes of the Reid Review, this would have been a much

easier course of actions – if indeed Smith and Brown still chose to continue with the legislation.

Rawnsley noted, as we have seen that 'Brown began his premiership with a strong signal that he intended to rebuild bridges with liberal Britain by softening the authoritarianism of his predecessor.' [975] He made his 'on Liberty' speech soon after becoming premier but mixed the message. [976] He sounded more disposed towards the civil liberties agenda than Blair had done, but still insisted that the options for further legislation should stay open. Announcing that there was neither a need nor a desire to look at extending the provision on pre-charge detention would have fitted in neatly with the broad message of his speeches at the time. It would certainly have fitted in with the Home Office activities linked to the Reid Review. Ironically, one of Brown's strongest adversaries from Scottish Labour politics – Reid – could have saved him the embarrassment of ultimate failure on 42 days.

Unlike the other two case studies considered in this thesis, one of the biggest problems that the Brown government faced was that all the pros and cons of the proposed legislation had already been so clearly and definitively rehearsed barely three years beforehand, during the debates on the 90 days provision. In particular, it took no account of the strength of the 'settled will' of the Commons on 28 days. The government misunderstood the importance of this earlier rebellion and the consensus that emerged on 28 days. Given the manner in which the government approached both legislation and parliament during the 42 days debate, it was clear that it had learnt nothing from the earlier debates on 90 days and that it was a failure of both insight and perception. There was almost a blend of Minkins' 'wilful blindness', a collective and distorted version of 'groupthink' and silent complicity from those not at the No.10 table but intimately linked to the policy. Of all the failure in this study, this is perhaps the most bizarre, in theoretical and political terms.

[975] Rawnsley (2010) Op.cit. p.547
[976] BBC News (2007f) Op.cit.

Chapter Eight

Conclusion

The core of this study has been the consideration of three public policy case studies in which I was actively involved in my capacity as a Minister of State in the Home Office between 2005 and 2008. I was Minister of State for Immigration, Citizenship and Nationality during the first case study – the formulation and development of a points-based system for non-EU migrants; Minister of State for Policing, Crime and Community Safety during the key phase of the second case study, the proposed mergers of the 43 forces in England and Wales into 12-15 strategic forces; and Minister of State for Policing, Security and Counter-Terrorism during the third case study, the extension of pre-charge detention provisions for terrorist suspects.

This thesis makes a significant contribution to academic knowledge in political science by utilising this extensive experience as a minister to further our understanding of the role of ministers and the detailed decision and policy making processes of government. It has also highlighted some of the ways in which elements of political science theory can be useful. The thesis has used this experience together with a theoretical and methodological framework that offers a unique insight into the inner workings of government.

Theoretical Framework

I have used aspects of the three broad theoretical approaches that were discussed in chapter two – rational choice theory, new institutionalism and interpretivism – to explain and analyse the three case studies from my 'insider's view'. In doing so, I have shown the value of an academic analysis by a former participant, including how such a perspective brings unique insight and contributes significantly to academic knowledge.

Each of these case studies has contained elements of policy that were unpopular in some quarters. The government's move towards a 'managed migration' policy – of which the points-based system for non-EU migrants was a key element – has been described as a

> … seeming mismatch between public demands to limit immigration on the one hand and the expansive policies on the other – as there was no public demand for expansion, indeed quite the opposite. [977]

This deliberate pursuit of a policy on immigration that was apparently so different from what the public wanted was hardly the policy of a party intent of maximising its vote at the cost of any principle.

The government's policy on the merger of police forces was unpopular amongst both police forces and the public. The government's self-interest should have dictated that the policy is not pursued at all, rather than be pursued in the face of such opposition.

The government showed strong leadership in the wake of the 7/7 attacks in London and responded clearly to the public demands to do something to better protect it. But if the first foray into legislation to extend the provision for pre-charge detention had legitimacy, notwithstanding the mixed support for 90 days, the government proposal of revisiting the issue three years later commanded far less support and legitimacy, as we have seen, and cost the government a good deal of political capital.

Rational choice theory and the assumptions behind it were not sufficient to explain why a government should pursue such unpopular policies. Green and Shapiro's adage about the empirical limitations of such an approach seems to be valid.[978] The focus on the individual actor – methodological individualism – simply is not enough to help understand the complexities of today's political life. The role and the insight of the insider are absent. Hindmoor's adaptation of Downs spatial/voter maximisation approach was, however, found to be useful here in explaining some of the issues in each case study, particularly the theoretical construction of the political centre.[979]

New institutionalism was much more useful but not as a single theoretical framework. One aspect of new institutionalism that was useful was the notion that institutions change in 'stop/go terms, identifying long periods of path dependence punctuated by critical junctures.'[980] The notion that choices are increasingly limited, the longer an institution is set on a particular path, has been a useful one in the context of all three case studies.[981] As Pierson relates, in the context of change or indeed, decision-making

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[977] Consterdine, Erica (2015) p.1434
[978] Green & Shapiro (1994) Op.cit pp.5-7 pp.202-204
[979] Hindmoor (2004) Op.cit
[980] Lowndes et al (2013) pp.202
[981] Mahoney (2000) Op.cit pp.507-548

inside institutions, the 'earlier parts of a sequence matter much more than later parts' – timing matters.[982]

The concerns for the formal dimensions of organisational constraints such as 'rules and structures' remain important to this thesis, but the concerns of new institutionalism for 'discourse theory, narrative methodology and shades of political rhetoric'[983] have been of more use and this shift is reflected in the analysis of the case studies. The informal inside institutions matters, as do the new norms and values. As Bourdieu would argue 'what is essential *goes without saying because it comes without saying.*'[984] More prosaically those who say, 'we have always done it this way around here', are not always aware that they are delineating a clear set of norms and values. The way in which new institutionalism concentrates on how institutions remain stable and how they react to change has been useful, as has the notion that processes, procedures and structures inside organisations reflect power, politics and contestation – formal and informal. The link of this aspect of new institutionalism to the interpretivist/ethnographic approach was also of some use in this regard.

Institutionalism can dwell too much on institutions to the detriment of individual actors, just as rational choice theory can do the reverse. Both, as has been suggested, suffer from an absence of a detailed insider's view. Central to the concepts of both path dependence and critical juncture is the notion of 'feedback.' I have tried to show that the insider knows and understands the source, value and legitimacy of such feedback better than most as a participant. Yet, as Foucault relates:

> If we make institutions the starting point for our analysis of power relations, we run the risk of seeking in the former the origin and explanation of the latter, in other words of explaining power in terms of power.[985]

As has been seen in this analysis, political institutions in the UK polity are generally ineffective at feedback and reflexivity, but these concepts have been of some use in the analysis of the case studies. This was certainly so in the case on pre-charge detention. There seemed to be a very real sense in which the Brown government felt

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[982] Ibid. p.263
[983] Lowndes (2013) Op.cit pp.41-42
[984] Bourdieu (1977) Op.cit p.167
[985] Foucault, Michel (1985) 'Deux essais sur le sujet de pouvoir' in Dreyfus, Hubert and Rabinow, Paul (eds.) *Michel Foucault: un parcours philosophique* Gallimard, Paris p.315

locked into a path dependency regardless of changes to the world and the political environment that ended with a failed attempt at further legislation.

The decentred approach of interpretivism and its emphasis on the informal elements of institutions has also proved to be very useful. Understanding both the formal and informal nature of government departments and the 'hidden dimensions' of political life are central to understanding the role of ministers and the processes they are involved in.[986] Rhodes contends that interpretivism

> … takes a variously constructed world, the unintended consequences of human action and contingency of public affairs as its basic building blocks' and 'urges us to look for more and better ways of …. studying politics.'[987]

I would agree that interpretivism does this successfully, but it only takes our understanding so far, and is lacking because it lacks the insight of the involved – the participants. This thesis fills this gap with both my own recollections and the views of the range of active participants that I have interviewed.

A New Insight

All three approaches have had something to offer in seeking to understand what prevailed in each of these case studies. The rich data from the interviews with key participants has also shed light on these events and the choices made. This, complemented with my insight as a participant, has influenced the theoretical, methodological and empirical dimensions of this thesis. The literature on policy failure complemented the theoretical framework. McConnell's typology of three forms of policy failure – process, policy development and politics – was a useful device and was used to help develop and analyse the three case studies.[988] My research and this insight were used to establish seven key factors – the seven Ps - which were common to each and were helpful in assessing the relative success or failure of the policy interventions in all three case studies. These were:

- Process - Preparation of the political ground
- Process - Protection of the political ground

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[986] See the concept of backstage in Hunter, A (1995) 'Local Knowledge and Local Power: Notes on the ethnography of local community elites', in Hertz, R and Imber, J (eds.) *Studying Elites Using Qualitative Methods,* Sage, London pp.151-170 p.153-4

[987] Rhodes (2012) Op.cit

[988] McConnell (2015) Op.cit.

Figure 8:1 Schematic Analytical Framework
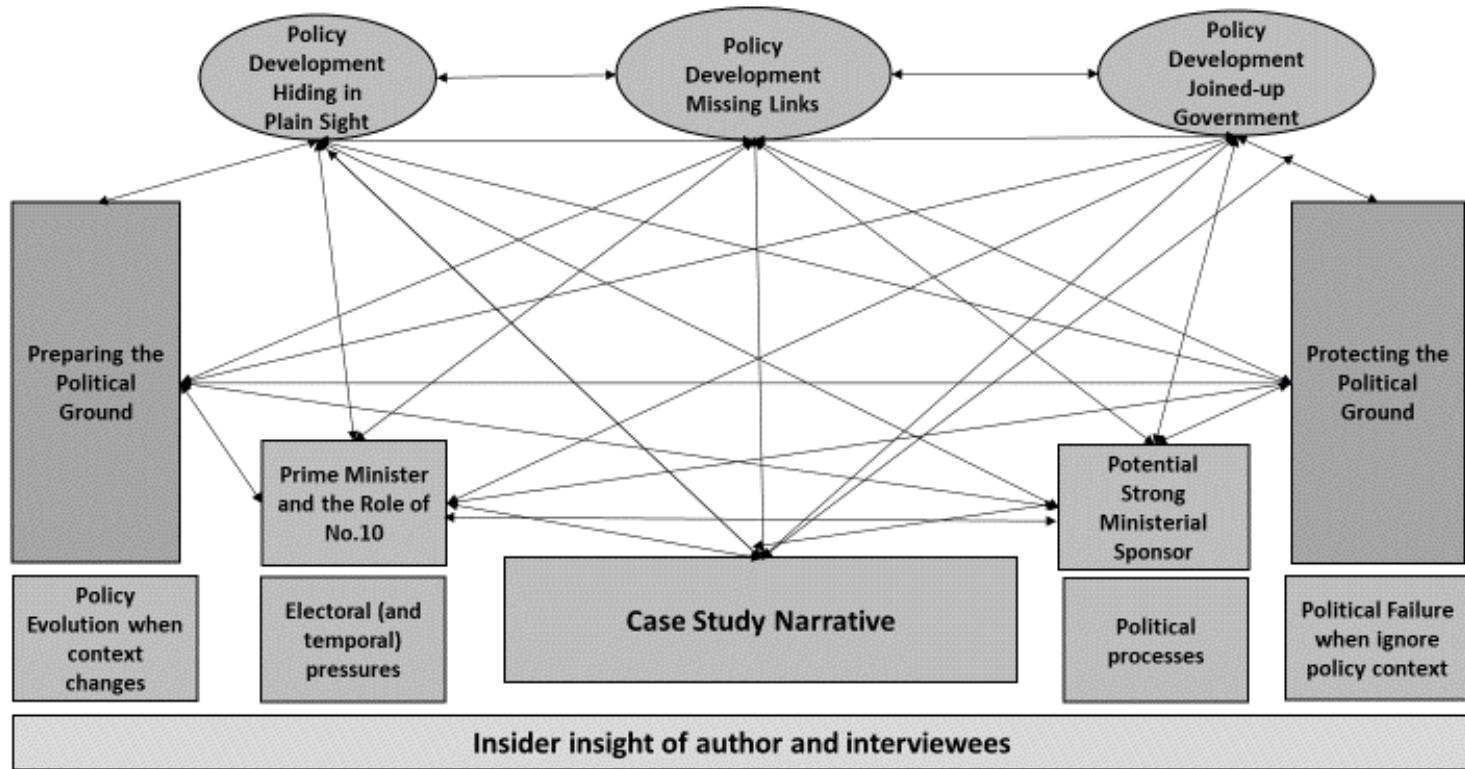
Policy Development Hiding in Plain Sight

Policy Development Missing Links

Policy Development Joined-up Government

Preparing the Political Ground

Protecting the Political Ground

Prime Minister and the Role of No.10

Potential Strong Ministerial Sponsor

Policy Evolution when context changes

Electoral (and temporal) pressures

Case Study Narrative

Political processes

Political Failure when ignore policy context

Insider insight of author and interviewees

- Policy development: hiding in plain sight

- Policy development: the missing middle

- Policy development: joined-up government

- Politics - Potential of a strong ministerial sponsor and Politics - Prime Minister and No.10

After a core narrative was developed for each case study, I assessed each against these seven factors and highlighted the key elements of the relevant theory. This allowed me to draw conclusions specific to each case study, but also to establish some broader themes across the three case studies, as shown in Figure 8:1.

I have also shown how there are key overarching factors – electoral and temporal processes and political pressures that need to be taken into account.

Key Problems

Notwithstanding the fact that there were elements of success within each of the three areas considered within the case studies, the ultimate conclusion must be that they each failed to achieve their policy ambitions. By the end of the Labour government in 2010, there was not a clear and positive narrative around asylum and immigration rooted in a points-based system; there were not 12-15 strategic police forces replacing 43 forces of various sizes and capabilities; and there was not a provision to detain terrorists suspects for up to 42 days before charging them.

Table 8:1	KEY PROBLEM AND OUTCOME FOR EACH CASE STUDY	
POINTS-BASED SYSTEM	**POLICE MERGERS**	**PRE-CHARGE DETENTION**
PROBLEM	PROBLEM	PROBLEM
ABSENCE OF AN INTEGRATED NARRATIVE ON COMPLEX POLICY	ABSENCE OF POLICY ENTREPRENEURS AND ADVOCATES	ABSENCE OF ASSESMENT OF POLICY LEGACY AND REVIEW OF POLICY CHOICES
OUTCOME	OUTCOME	OUTCOME
FAILURE OF POLITICAL WILL	FAILURE OF PREPARATION OF POLICY	FAILURE OF INSIGHT AND PERCEPTION
OUTRIGHT FAILURE	CONFLICTED FAILURE	TOLERABLE FAILURE

As we have seen, there were specific problems and outcomes relating to each case study, and it is these, as set out in Table 8:1, that are now reviewed, before looking at some of the themes common to each case study.

The key problem in the immigration case study was one of political will. The shift to a more liberal managed migration system was short-lived – Reid and No.10 were determined to move away from this critical shift in policy as a result of the public and media-driven discontent around the Foreign National Prisoners issue. There was an absence of a substantive and integrated narrative on a complex policy that was focussed on the government's message on asylum, immigration and the EU/A8 issue. In the end, this absence left the government little choice but to opt for either the coercive or liberal model, rather than pursue a more complex hybrid model. Ultimately, then, the failure of this policy was a failure of political will. It was what McConnell would term a 'outright failure.'[989] The policy failed, even though it was successful in some minimal respects. Minimal because although the points-based system for non-EU migrants has worked successfully, it did not, and could not, achieve 'the goals that proponents set out to achieve' because of the absence of both a comprehensive and integrated policy and an equally comprehensive and detailed narrative. Its failure outweighs this limited success and the overall policy, immigration, remains a political liability and 'opposition is great and/or support is virtually non-existent.'[990] Essentially the policy failed on all three counts – process, policy and politics.

More work on why this happened is needed. As the research moves beyond the internal machinations of the government to the broader policy discourse, the use of frameworks such as rhetorical policy analysis and discourse analysis would be valuable.[991] Analysing the rhetorical context, the rhetorical argument and the rhetorical effects of the speeches around the issue of immigration and the managed migration system would increase our insight into what happened.[992] As Atkins and Finlayson would have it

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[989] McConnell (2015) Op.cit. p237
[990] Ibid p.237
[991] On rhetorical political analysis see Atkins and Finlayson (2013) pp.161-177; Finlayson (2007) pp545-563; Martin (2013) Op.cit pp.25-42.
[992] See Martin (2013) Op.cit pp.25-42

> …rhetorical analysis … exposes the symbolic, ritualised aspect of contemporary political and ideological practices, the understanding of which requires the integration of rhetorical and performance theories.[993]

Using rhetorical analysis in this way, together with using rhetoric to construct the narrative, as is necessary in Hindmoor's cycle, would give further insight into how the government failed. It would also help explain how it failed to counter the signs of resistance from Jennings' and Stoker's 'backwater' communities. This failure led to the dropping of the liberal managed migration policy and employing a coercive migration model and a strongly coercive rhetoric. Such analysis should increase our capacity to understand the continuing bifurcation of the UK which has ultimately led to Brexit.

The key problem with the police mergers initiative was that, in the end, as one of the participants related, there were 'too many reasons to say no'.[994] In other words, too few people had a stake in the success of the policy and too many wanted to see it fail because it challenged other policies that they valued more. There was an absence of sufficient policy advocates and entrepreneurs. It was ultimately a failure of policy preparation, a failure of securing the necessary support for the option chosen, largely because it was imposed from above. The imposition from above, however, meant that the Home Office was locked into a path dependence that had no scope for 'increasing returns' or 'reactive sequences.' The Home Secretary had created a self-imposed, closed path that allowed for no feedback or option for change and took no account of surrounding influences of circumstances.[995] It was a 'conflicted failure', that is, it failure to achieve goals is 'fairly evenly matched with [the] attainment of goals, with strong criticism and strong defence in roughly equal measure.'[996] The process and politics failed, but there was some limited success in terms of police forces collaborating much more readily.

Although much has changed in the police environment, the argument for the merger of police forces remains a compelling one. A forensic look at why the

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[993]Atkins, Judi and Finlayson, Alan (2014) '"As Shakespeare So Memorably Said" ….: Quotation, Rhetoric and the Performance of Politics.' *Political Studies* doi: 10.1111/1467-9248.12156 pp.1-18 p.1.

[994] Interview with Author 2016-2017 (F10)

[995] See for further detail Capoccia and Keleman (2007) Op.cit pp.341-369 ; Mahoney (2000) Op.cit pp.507-548; Pierson (2000) Op.cit pp.251-267

[996] McConnell (2015) Op.cit. p.237

Home Office resisted the 'missing middle' would be useful. This would not just be about the recalcitrance of Clarke to look at any other option, but also the failure of allies such as ACPO to deliver their support. Most officials involved in the policy making process were clear that collaboration, lead forces and other options, discussed above, should have been exhausted before the imposition of mergers. A more detailed application of models such as that offered by Mahoney and Pierson's work would help us to understand this particular form of path dependence – the self-imposed one.

The key problem with the pre-charge detention proposal was that nobody said no to the Prime Minister. There was an absence of an understanding about how different the world was in 2008 compared with 2005 – in particular, the many positive advances in the area of counter-terrorism. There was an absence of explanation about how important the earlier vote on 28 days was to the Commons and to Labour's own MPs. Essentially, there was an absence of an assessment of the policy legacy that the new Prime Minister inherited in this area.

The 'headline' story in 2005 would have been 90 days and the defeat in Parliament, but any assessment of the non-legislative policy implementation since then would have contextualised the 90 days defeat and noted that 28 days had been a success. The absence of such an assessment clearly influenced the nature of the review of policy options and choices. Given that 'the moment at which a policy entrepreneur attempts to promote a policy alternative is crucial in determining its level of political influence,'[997] matters become complicated when it seems the chief political influence is also the policy entrepreneur. The absence of a rigorous review of options meant that a new legislative foray would prove to be a re-run of essentially the same debate and would end in ignominious failure.

Ultimately, it was a failure of insight and perception, not just by No.10 and the Prime Minister, but also collectively by government. There had been opportunities to ensure that events would have turned out differently, as we have seen, but they were not taken. In terms of McConnell's forms of failure, it was a 'tolerable failure', but only because of the 90-day debate that had gone before. Although it cost significant political capital, failure was tolerable because it did not

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[997] Béland (2005) Op.cit pp. 10-11

'fundamentally impeded the attainment of goals that proponents set out to achieve.'[998] These gaols were achieved by the implementation of the Reid Review which proceeded unimpeded by the unnecessary foray into legislation.

The legacy of the Labour government in the context of counter-terrorism policy should be considered a good one. Certainly, by the end of the government's term in 2010, the country's capability and capacity to deal with terrorist threats was far better than it was in 1997 or in the immediate wake of 2001. Yet, the key legacy is usually reported as the government that wanted 90 days detention – and then sought to impose 42 days detention. As a direct result of the government own failures, much of this good solid work was ignored. In terms of research, it would be useful to look further at how governments often mistake legislation for action. As this case study has shown, the most significant developments since the vote on 28 days in 2005, were both non-legislative and successful. This is an important lesson.

Some Common Themes

In addition to the seven factors identified above which were significant in each of the case studies, five common themes are worthy of highlighting :

- Construction
- Persuasion
- Feedback
- Path Dependence
- Timing

Construction

A common feature evident in all three case studies was the absence of a strong narrative by government – the story it had to tell on each issue.[999] This is linked to the 'preparing the ground' and 'protecting the ground' variables in the schematic analytical framework at Figure 8:1, above, which was discussed in detail in chapter two. The managed migration narrative was detailed and complex and failed because its coercive dimensions were too often favoured over the more liberal dimensions, as has been seen in chapter five. The police mergers' narrative failed

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[998] McConnell (2015) Op.cit. p.237
[999] Bevir and Rhodes (2012) Op.cit pp.201-208 pp.205-206

because it was not rooted in what had been a very strong story of police reform up to that time – especially neighbourhood policing. The pre-charge detention narrative failed because it ignored a whole range of policy advances in the area of counter-terrorism and concentrated simply on the legislation. This was probably the most troubling omission as, following the Reid Review, the government had a very strong story to tell in counter-terrorism policy.

More research needs to be carried out on the backdrop of successful policies. Kingdon's policy framework and processes approach could usefully be employed here.[1000] How have governments prepared the ground for policies that have been successfully implemented? How much is there really the notion of evidence-based policy rather than policy-based evidence?

My experience as in insider participant and now as a researcher would lead me to an analysis of two areas of successful policymaking which I was involved with. The first would be research into the successful negotiation with the Treasury to secure a £3 billion credit line for Transport for London which allowed it to make the necessary improvements to London's transport infrastructure to make an Olympic bid viable. The second would be research into the cross-government support necessary to establish the success of that Olympic bid, when I was again involved as a Transport Minister and had to present to the Internal Olympic Committee assessing London's bid. Research into why both these examples were successful would aid our understanding and learning.

Persuasion

In each area, there was little attempt to persuade the public about the enormity of the changes that the government was seeking to make. This links to the three 'policy development' variables in the framework at Figure 8:1, above. Given the profound nature of the changes proposed in each area, greater thought should have been given to conveying the message. Of course, this was hindered by the inefficacy of the narrative process. In immigration, the media was allowed to dictate terms and the government shifted into defensive and reactive mode; in police mergers, the government had managed to give the key opponents to the

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[1000] Kingdon (1995) Op.cit

policy – the APA – a key weapon in its the defence of local policing; in counter-terrorism, the government seemed to think it could depend on the strength of argument around security issues and the 'honeymoon period' of the new Prime Minister.

This theme is also linked to the variables at Figure 8:1 above, concerning both a strong ministerial sponsor and the role of No.10. The failure of immigration policy turned on losing a strong ministerial sponsor, Clarke, and a shift in commitment from No.10, in particular Blair, and the new Home Secretary, Reid. It remains unclear how much of the police mergers' policy would have been pushed through if Clarke remained at the Home Office, but its cause was certainly weakened by his departure. Blair's control of the first pre-charge detention debate was an example of how a strong ministerial sponsor can push a policy through, as was Reid's command of counter-terrorism policy as Home Secretary. However, Brown's subsequent intervention was ultimately dysfunctional and failed to persuade. Victory in the Commons was not sufficient for this policy to succeed.

Rhetorical policy analysis could again be useful here. As we have seen, the discourse of policy is often as important as the context and development of policy. There is an increasing blurring of the lines between the use of language and the use of policy, an increasing lack of distinction between the substance of policy and the rhetoric used to persuade the public of its virtues. There needs to be a rehabilitation of the notion of 'spin' so it is perceived as a legitimate element of the policy process, as Hindmoor would have it, and an understanding that Riddell's 'spin gap' is the fault of the politicians, not the public.[1001]

Feedback

In each of the case studies, the misunderstanding of feedback was frequent and significant. In the points-based system, there was a complete overuse of the coercive dimension in response to both media and public disquiet in the issue of both asylum and immigration. Given the complexity of the narrative, every time

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[1001] Riddell (2005) Op.cit. See also Daddow (2011) Op.cit pp. 41-43

the coercive dimension was used on any aspect of the broad area – asylum, immigration and EU migration – it diminished the liberal message and heightened its apparent problematic nature.

In the area of police mergers, there were problems both internally and from external stakeholders. The Home Office failed to understand the negative or indeed, recognise the meaning of, absent feedback from other government departments. Further, it misunderstood the growing animosity to the policy, led by the APA, across all stakeholders. There was little or no attempt to overcome these problems or even to consider how they might have been overcome – indeed, the chosen policy process exacerbated them.

On pre-charge detention, the government did not recognise the depth of ownership that the Commons felt towards the 28 days consensus in the first debate. The centre – No.10 – completely misunderstood how all the non-legislative advances in the government's counterterrorism capability and capacity pre-empted the need for revisiting the issue of legislation at all. More detailed preparation would have ensured both these elements were picked up more clearly in the feedback.

The feedback loop remains one of the weakest elements of the UK polity. How we assess the success and failures of public policy remains very important and more work needs to be undertaken. A detailed look at what the crisis management literature would be a useful way forward – although much of the substantive political science work is in foreign affairs.

Path dependence

Strong governments clearly know what they want to do and how to do it – and get on with it, but decisions already made influence decisions yet to come. Sometimes, however, governments get locked into policy processes that are path dependent and there is an increasing absence of choices as the path evolves.[1002] This is similar to Minkins's 'wilful blindness'[1003], and is not dissimilar to some aspects of the notion of groupthink.[1004]

[1002] Pierson (2000) Op.cit pp.263-264
[1003] Minkin (2014) Op.cit p.709-710
[1004] Stern, Eric and Sundelius, Bengt 'The Essence of Groupthink' *Mershon International Studies Review* Vol.38, No.1 pp.101-107 and 't Hart (1990) Op.cit

It is the notion that policy makers get 'locked in' to policy directions that they cannot escape, even if they wanted to – sometimes because of events beyond their control, sometimes because of their own choices and sometimes in reaction to other individuals or events. All of this occurred within the context of the seven 'Ps' discussed above that I have used in analysing the case studies. When first elected the government was locked into a coercive view on asylum and then struggled between the two polar opposites of coercive and liberal views on immigration as well as asylum – in response to both the media and the public. It could have locked in a positive narrative and policy framework on asylum and immigration, but the government did not have enough confidence in developing the complex, integrating both the coercive and liberal elements, necessary to follow that path. Blair was focussed on the end of his term, Brown on the start of his and the subsequently on the 2008 crisis.

Mergers were the only response to O'Connor's report because that is what the Home Office, led by Clarke, was locked into. There was no scope for the development of alternative responses to O'Connor. The Home Office developed an 'excessive anticipatory compliance' in this area as Clarke was so attached to it and became locked into a self-imposed, closed path dependence that was dysfunctional and ultimately failed.[1005] Similarly, Brown was locked into a legislative response path oblivious to the development of counter-terrorism policies and enhanced capacity in every area except legislation. The last policy intervention required was legislation – not least because of the development of all other aspects of the policy.

Timing

In each of the case studies, there is a key moment in the political cycle that has been misconstrued. In the immigration case study, the sacking of Clarke marked a turning-point in the development of the government's narrative. Faced with the choice to respond to events with an instant reversion to coercive policies or to stick with the development of an integrated liberal policy, Blair chose the former. Arguably he had more concerns for the last year of his government than he did for

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[1005] 't Hart (1990) Op.cit pp.177-178

the durability of the government, which had four years to run, and its immigration policy.

In the police mergers case study, the focus of the development of the policy was the then Home Secretary, Clarke and clearly the demise of Clarke spelt the end of the policy. It did not have to, but by then both Reid, the new incumbent, and the PM, had had enough of the opposition they faced with the policy. The policy did not have to fail because it lost its key sponsor, but it the timing of Clarke's demise was central to its ultimate demise.

In terms of the 42 days pre-charge detention case study, the timing of the end of the Blair era and the start of the Brown government was central to both its development and the ultimate failure of the legislation. Indeed, it could be argued that the only reason that the legislative path was even considered was because of the change in Prime Minister.

In each case, the importance of the timing of key developments – not least changes in senior personnel – in the political processes and broader electoral and temporal pressures cannot be underestimated.

These common themes highlight the complexities of the decision-making role of ministers and the processes that they use to determine policy. Together with the overall findings of each case study, they also accentuate the importance of the insider perspective that I bring to these narratives. The academic synthesis of my own personal experiences as a minster, the elements of each of the theories discussed and the interviews with some of the key participants have provided complex insights that are both unique and add to the sum of our academic knowledge through a contribution to theoretical and empirical advance of political science. All three of these areas could have been successes for the government, but for various reasons, they all turned into policy failures.

Concluding remarks

The role of the minister is central to the efficacy of government. The decisions ministers make on a daily basis are crucial to the success or failure of policies. Policies do not drop out of the sky – they are constructed. They are constructed, usually, through exhaustive processes of policy making and decision making.

Once decided upon, policies need to be 'promoted and sold' to the public as suggested, in Hindmoor's cycle of policy and position, creativity, spin and choice.

Considering the case studies against Hindmoor's cycle shows some successes in each policy area – but no real, long-term policy success. The points-based system for immigration has controlled the level of non-EU migration is a significant way, but the Labour Party is no nearer developing a comprehensive view or positive policy on immigration and asylum now than it was, however fleetingly, in 2005. The police mergers' debate prompted limited moves to collaboration and shared services by the 43 police forces, but there has been no appetite for the merger of police forces in England and Wales and there have not been any since 2008, although the Scottish forces merged in to one national force in 2012. The original debate on 90 days gave the government an extension of 28 days that was used during the Overt crisis and prompted a wider debate on counterterrorism legislation, but the 42 days debate marked the end of public debate on pre-charge detention and the Coalition Government dropped the provision back to 14 days in 2011. There is unlikely to be any attempt to review this in the future.[1006] However, the legacy of the Labour Government in terms of counter-terrorism has provided a framework and capacity that are much more durable and robust than what existed in 1997. This was a real and lasting success - the legislative proposals were ephemeral.

One of the underlying themes of this thesis has been the relationship between political science and politics and whether or not they can have the dialogical relationship that Béland identifies between policy paradigms and alternatives;[1007] that Rhodes sees between observer and the observed;[1008] and that Diamond argues can and should happen.[1009] This thesis has shown that all three can be satisfied and that politics can indeed inform political science and political science can inform politics.

[1006] House of Commons Library (2012) Pre-Charge Detention in Terrorism Cases, Alexander Horne and Gavin Berman. 15/3/12 Standard Note SN/HA/5634. See also The Guardian (2011) Theresa May allows 28-day limit on detaining terror suspects without charge to lapse. The Guardian 19/1/11 https://www.theguardian.com/politics/2011/jan/19/28-day-limit-terror-suspects-lapse
[1007] Béland (2005) Op.cit. pp.8-10
[1008] Rhodes (2012) Op. cit. p.174
[1009] Diamond (2011) Op.cit p.150

It has highlighted both the strengths and frailties of crucial policy and decision-making processes in these three key areas and the role of ministers within them. The result has been a study that brings both analysis and insight from a unique perspective to political science. Further work is required in taking forward the synthesis of Hindmoor's adaptation of the Downsian model; the path dependence model and the interpretivist approach to explain the construction of not only of policy-making processes but also of the political narratives. This thesis has reinforced the importance of narratives – especially in times of crisis, such as 7/7, and the relevance of potential critical junctures, such those within the point-based system and a managed migration system.

More forensic work needs to be carried out in the areas underpinning narratives, such as the construction and persuasion elements of the process, as Hindmoor outlines, and the central use of devices such as rhetoric. But the development of a stronger understanding of these internal processes and the role of narratives would be better served if there could be more use of the views of political insiders – both elected and appointed.

This thesis has shown the value of exploiting the role and experience of the participant. There needs to be more attempts to capture the difference that individuals can make to an understanding political processes. I remain convinced that no one school of thought has a monopoly on how best to learn from these case studies – and have become a determined *bricoleur*. A pragmatic researcher who, to paraphrase Rhodes, 'will employ a ragbag of tools' to recover, discover and explain meaning – from the ontological perspective of the participant as well as the researcher.[1010] The interpretivist approach has been the most useful, not least because it holds that 'beliefs and practices are constitutive of each other… that meanings and beliefs are holistic … and human cation is historically contingent.'[1011] Only by a detailed understanding of the key elements – such as the processes, the narrative, the rhetoric and the insider's perspective – can political science offer insight and advice to the political world.

[1010] Rhodes (2014) Op.cit p.326
[1011] Rhodes, Rod A.W. (ed.) (2018) *Narrative Policy Analysis: Cases in Decentred Policy* Palgrave-Macmillan Houndsmills Basingstoke pp.3-5

If the Labour government had had more finely tuned and developed narratives, rooted in coherent policies, then its message in each of these areas would have been more effective. Had this happened, the political landscape facing the country today might have been very different, at least in terms of Jennings and Stoker's 'cosmopolitan' and 'backwater' communities, the 2016 referendum and, of course, the impending dystopia that is Brexit.

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Appendix One

Table One : Immigration and related government policy and legislation activity 1997-2010[1012]

Policy/Legislation		Year
Fairer, faster and firmer: A modern approach to immigration and asylum	White Paper	1998
Human Rights Act	Act of Parliament	1998
Immigration and Asylum Act	Act of Parliament	1999
Race Relations (Amendment) Act	Act of Parliament	2000
Full and equal citizens: a strategy to integrate refugees	Policy strategy	2000
Anti-terrorism, Crime and Security Act	Act of Parliament	2001
Secure borders, safe havens: Integration with diversity in modern Britain	White Paper	2002
Nationality, Immigration and Asylum Act	Act of Parliament	2002
Asylum and Immigration (Treatment of Claimants, etc.) Act	Act of Parliament	2004
Controlling our borders: Making migration work for Britain	Five Year Departmental Plan	2005
Improving Opportunity, strengthening society: the government's strategy to increase race equality and community cohesion	Policy strategy	2005
Prevention of Terrorism Act	Act of Parliament	2005
Integration matters: the national integration strategy for refugees	Policy strategy	2005
Selective Admission: Making Migration Work in Britain	Consultation document	2005
A points-based system: making migration work for Britain	White paper	2006
Immigration, Asylum and Nationality Act	Act of Parliament	2006
Identity Cards Act	Act of Parliament	2006
Racial and Religious Hatred Act	Act of Parliament	2006
Fair, effective, transparent and trusted: rebuilding confidence in our immigration system	Policy Strategy	2006
Enforcing the rules: a strategy to ensure and enforce compliance with our immigration laws	Policy Strategy	2007
UK Borders Act	Act of Parliament	2007
Counter-Terrorism Act	Act of Parliament	2008
Borders, Citizenship and Immigration Act	Act of Parliament	2009

[1012] Adapted from Somerville (2007) Op.cit Table 2, p.24. Updated by author

Table Two : Key Government Initiatives towards managed migration and the building blocks of a points-based system 1997-2008[1013]

Policy/Speech/Initiative	Department	Year
Primary Purpose Rules dropped	Home Office	1997
Government opt-out of Treaty of Amsterdam	FCO/No.10	1997
Building the Knowledge-Driven Economy	DTI	1998
Prime Minister's Initiative on International Education (PMI)	DfEE/No.10	1999
Innovators Scheme introduced	Home Office	2000
Roche Speech on managed migration	Home Office	2000
Work Permit criteria reduced	DfEE	2000
Work Permits UK moved to Home Office	Home Office	2001
Seasonal Agricultural Workers Scheme (SAWS) quota increased to 15,200 places	Home Office	2001
Home Office/Performance and Innovation Unit research paper on migration published	Home Office/No.10	2001
Highly Skilled Migrants Programme (HMSP) introduced	Home Office	2002
UK Government decides on no transitional controls for A8 nations in 2004	FCO/No.10	2002
SAWS quota increased to 25,000	Home Office	2003
Sector-Based Schemes (SBS) introduced – hospitality and catering	Home Office	2003
Working Holiday Makers Scheme liberalised	Home Office	2003
Accession of A8 nations into EU	FCO/No.10/Home Office	2004
Blair speech on migration on run-up to election	No.10	2005
PMI2 renewed for further six years/ SBS closed	Home Office/No.10	2006
Migration Advisory Committee and Migration Impact Forum created/ A2 accession	Home Office	2007
Points based system operational	Home Office	2008

Source: Adapted from Consterdine, Erica (2014), Appendix One, pp.242-243 and updated/modified by author.

Appendix Two

Ministerial History

I held the assorted posts in the 1997-2010 government.

2008-2009 Department of Work and Pensions

Minister of State, Employment and Welfare Reform, Minister for London, attendance at Cabinet

2005-2008 Home Office

2006-08 Minister of State for Policing, Crime, Security and Counter-Terrorism,

2005-2006 Minister of State for Immigration, Nationality and Citizenship

2003-2005 Department for Transport

2004-2005 Minister of State for Transport – Railways

2003-2004 Parliamentary Under-Secretary of State

2002-2003 Office of the Deputy Prime Minister

2002-2003 Parliamentary Under-Secretary of State - Planning, Housing, Regeneration and Minister for London

1999-2002 Her Majesty's Government Whips Office

2001-2002 Lords Commissioner (Senior Whip) Cabinet Office,

1999-2001 Assistant Whip. Foreign and Commonwealth Office

1997- 1999 Department for Education and Employment Principal Parliamentary Secretary – PPS (Higher Education) to Secretary of State for Education, the Right Honourable David Blunkett MP