

# Governing Global Security in the Departure Lounge<sup>1</sup>

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*In the 1990's in the sub-disciplines of development studies and security studies a number of research programmes began to take shape. In the former the literature increasingly became concerned with the decentring of the state, the growth of global governance and the privatisation of development, while in the latter a number of different approaches emerged or re-emerged – security regimes, securitization and balance of power, etc. – that were also to some extent concerned with the growth of non-traditional threats, the broadening of the security agenda to include such issues as health and the environment, and the growing use of private military contractors. Despite the obvious synergies between the two strands of literature, few works have attempted to draw these perspectives together. While the concept of governance has gained ground in the comparative and development literature it remains under examined in security studies with some notable exceptions. This paper aims to draw out the implications of taking a global governance perspective for our understanding of the less studied aspects of the War on Terror. It develops a theoretical framework based on the governance literature and applies it to the intersection of national and international, private and public control of security at Airports in the EU and US. The goal is to trace the multi-lateral and multi-level strategies that operate above, below and between the State in this aspect of the quiet 'War on Terror'.<sup>2</sup>*

## KEYWORDS

Airport Security, Risk, Governance

## BIOGRAPHICAL STATEMENT

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## Introduction

The events of September 11 demonstrated the links between national and international security in a manner that demonstrated the complexities of security in an age of globalized risk. Airports in particular represent key nodes where global and national security concerns intersect. By examining the structures that seek to regulate airport security, this paper hopes to shed some light on the emerging global security governance architecture through which contemporary security challenges are negotiated. This paper aims to map the evolving international regimes governing airport security, including the creation of the first supranational airport security regime in the EU and the interactions between the EU and US in relation to airport, airline and border security. It will trace the emergence and implementation of new initiatives and reflect on the implications of these for Security studies and Global Politics. Adopting an analytical approach that seeks to incorporate aspects of theories of risk, global governance and security, this paper aims to explore the overlapping multi-level and multi-lateral dynamics of one aspect of the emerging Global Security architecture, which has remained relatively neglected and unmapped thus far in studies of the War on Terror.<sup>3</sup> It begins with a discussion of the governance, risk and security literature before turning to look in more detail at aspects of continuity and change in the airport security architecture in the EU and the US since September 11. The paper concludes with some suggestions for further research on the role that border sites such as airports play in a world of globalized risks.

## Government or Governance: A Framework for Analysis

The concept of security has been at the heart of theories of the state since their inception. The relationship between the state and security has operated at two levels, one internally oriented and the other externally oriented. Internally, security concerned questions of civil order, enforcement and territorial integrity, while externally it concerned potential threats from other functionally similar units with a defined territory and government. Central to this conception of the relationship between security and the state was the clear distinction between inside and outside as realms of sovereignty and anarchy respectively. The internally ordered sovereign state provided an escape from the 'state of nature' and

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<sup>3</sup> Some notable exceptions to this gap in the literature include H George Frederickson and Todd R LaPorte, "Airport Security, High Reliability and the Problem of Rationality" in *Public Administration Review* 2002; Jens Hainmuller and Jan Martin Lemnitzer, "Why do Europeans fly safer? The politics of Airport Security in Europe and the US" in *Terrorism and Political Violence* 2003; and Mark B Salter, "Governmentalities of an Airport: Heterotopia and Confession" in *International Political Sociology* 2007.

the external security environment was characterised by just that anarchic system of a state of war of all against all, in the Hobbesian sense of an inclination or constant possibility of conflict.<sup>4</sup> This model of the state implies a Governmental model of a single authority operating within a defined territory in terms of the maintenance of law and order (Domestic Security) and externally as the representative of that territory in relation to other functionally similar units (International Security). In the latter part of the twentieth century this sovereign model of the state came under increasing scrutiny as, domestically, policy studies challenged the formal hierarchical model of authoritative government and, internationally, the changing security environment in the aftermath of the Cold War pushed new dimensions of security and new actors to the fore. The next section deals with the redefinition of security in this period; the remainder of this section more closely examines the shifting understanding of government as governance domestically and the cooption of this concept to our understanding of the interplay of different actors and institutions in the global arena.

In a discussion of the relationship between borders and state control, John Crowley touches on the heart of the problem alluded to above. He argues that there are two common or garden approaches to defining the state – one which emphasises the authority to pass or enact laws, obedience to which is obligatory, and the other which focuses on the Weberian model of a monopoly on the legitimate use of force in a given territory.<sup>5</sup> Crowley goes on to highlight that the reality of contemporary statehood rarely, if ever, matches up to these definitions and is better envisaged as a regulatory or managerial state that is both a part of and regulator of the society which it governs. “The functions most characteristic of the contemporary state thus erode its neatness conceptually, institutionally and territorially.”<sup>6</sup> This idea that a different conception of government needs to be developed to capture the dynamics of contemporary policy making is one that already has made some headway in the public administration literature and will be developed below. But first we must consider the decoupling of the state and territoriality in light of the challenge this presents to the international security aspects of state hood. By allowing for at least the possibility of regulation or government beyond the conventionally recognised boundaries of the state and involving non-traditional policy actors the scope for security initiatives is fundamentally reconfigured, as are the challenges of adequately researching such initiatives. Part of the argument of this paper is that a less stringently state-centric approach to examining security allows us to circumvent the arbitrary distinction between domestic and international security that has already been rendered problematic by the challenge of global terrorist organisations such as Al-Qaeda. The challenge then is envisioning what such a conception of government and security might look like.

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<sup>4</sup> Thomas Hobbes *Leviathan* Pelican Classics, Middlesex, 1968 P185-86

<sup>5</sup> John Crowley “Where does the state actually start? The contemporary governance of Work and Migration” in Didier Bigo and Eslpeth Guild (eds) *Controlling Frontiers: Free movement into and within Europe* Ashgate, Aldershot 2005 P146-147

<sup>6</sup> Ibid. P149

At the domestic level, there has been a growing interest in the concept of governance defined as the process of governing “ultimately concerned with creating the conditions for ordered rule and collective action.”<sup>7</sup> Regulation rather than direct control is the key here. Regulation does not mean that the state plays a secondary role or even no role, but rather that the means through which ordered rule is pursued need to be looked at in a different light. As Krahman puts it:

Governance denotes the structures and processes which enable a set of public and private actors to coordinate their interdependent needs and interests through the making and implantation of binding policy decisions in the absence of a central political authority”<sup>8</sup>

Obviously the claim of an 'absence of a central political authority' requires some justification here, and perhaps the meaning intended is better captured by re-phrasing this as the 'de-centring of a central political authority'. The literature's main focus has been on what has been termed the 'hollowing out of the state', that is the increasing delegation and/or privatisation of functions previously the sole domain of the government.<sup>9</sup> This involvement of new actors in the policy making process reflects a relocation of policy making responsibility away from the state to a number of different bodies including government agencies, expert groups and the private sector. As suggested by Crowley above, not only is the state becoming rather frayed at the edges, but also internally the dynamics of the managerial state operate at some remove from a straightforward hierarchical model. At the international level, despite some discussion of the impact of governance for security studies<sup>10</sup>, the full implications need to be drawn out in more detail. One possible approach to this has been outlined by Elke Krahmann, who in a number of articles has done more than any other author to attempt to bring together contemporary security studies and the global governance literature.<sup>11</sup>

One of the starting points for such an analysis is to outline the relationship between government and governance and how movement from one to the other might be measured for want of a better term. The second point is how this can be related to security policy in general, more specifically to attempts to combat international terrorism and the question of airport security regimes in the EU and US. The next section deals with the relationship between security in general and the War on Terror in particular and security governance. The following section goes into some detailed analysis of the reorganisation of airport security regimes since September 11. Returning then to the

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<sup>7</sup> Gerry Stoker “Governance as Theory: Five Propositions”, *International Social Science Journal*, 50 (155) 1998, p 17

<sup>8</sup> Elke Krahman (b) "Conceptualizing Security Governance" in *Cooperation and Conflict* 2003, 38, 5, 5-26

<sup>9</sup> See for example Rhodes, R.A.W. 1996. *Understanding Governance*. Buckingham: Open University Press.

<sup>10</sup> See D Senghaas “Global Governance: How could it be conceived?” in *Security Dialogue* 24 (3) 1993 pp.247-56

<sup>11</sup> Elke Krahman (a) "National, Regional, and Global Governance: One phenomenon or many?" in *Global Governance* 9, 2003, 323-346; Elke Krahman (b) "Conceptualizing Security Governance" in *Cooperation and Conflict* 2003, 38, 5, 5-26; Elke Krahmann "Security Governance and Networks: New Theoretical Perspectives in Transatlantic Security" in *Cambridge Review of International Affairs* 2005, 18:5, 15-30

question of governance and government, as Krahmman notes, the relationship between the two concepts is one of ideal types at opposite poles on a continuum.<sup>12</sup> Table 1 reproduced below gives an outline of the dimensions involved and the differences between the two anchors.

**Table 1: Government and Governance**<sup>13</sup>

<b>Dimensions</b>	<b>Government</b>	<b>Governance</b>
<b>Geographical</b>	Subnational National	Subnational National Regional Global Transnational
<b>Functional Scope</b>	Several Issue Areas	Single Issue Area
<b>Distribution of Resources</b>	Centralized	Dispersed
<b>Interests</b>	Common	Differentiated
<b>Norms</b>	Sovereignty Command and control Redistribution	Limited sovereignty Self-government Market
<b>Decision-making</b>	Hierarchical Consensus Formal Equality	Horizontal Negotiation Inequality
<b>Implementation</b>	Centralized Authoritative Coercive	Fragmented Self-enforced Voluntary

Generally speaking the trend from left to right is one of dispersion and decentralisation, an increase in the number of actors and the differentiation of roles and influence among actors. For example, equality on the decision making dimension refers to the formal equality among states or other actors, treated as functionally similar units as discussed above, in a governmental model and the inequality among different actors in certain forms of organisation or cooperation which may include a variety of different actors with different levels of input and influence on decision making.<sup>14</sup> A move towards governance in the security arena would then be reflected by an increased role for global actors, a greater role for cooperation in specific issue areas rather than attempts to create institutions with universal goals, and flexibility and negotiation in relation to deciding on policies and their implementation. Before looking in detail at the case studies in hand, we will now turn to discuss the shifts in both the security challenges of global terrorism and our understanding of security that suggest linking security with governance might produce some fruitful insight into the emerging airport security regime after September 11.

<sup>12</sup> Krahmman, 2003a, op. cit. P331

<sup>13</sup> Ibid. P332

<sup>14</sup> Ibid. p338-339

## Risk, Security and Governance

It has become commonplace to suggest that how security should be defined has been debated ad nauseum in the aftermath of the Cold War. Baldwin even goes so far as to suggest that redefining security has become something of a “cottage industry.”<sup>15</sup> Where agreement can be reached, though, is that the concept of security in so far as it is used by security studies and policymakers has been broadened in a number of ways. First, it is extended downwards from a concern with the security of states to a concern with the security of individuals.<sup>16</sup> Second, it is extended upwards to the security of the global system, from the nation to the biosphere. Third, it is extended horizontally in that the number of issues that can properly be considered 'security' issues has increased. The first two extensions involve a redefinition of what is to be secured, the third relates to the sorts of security in question. Thus new security items are added to the agenda – political, economic, social, environmental etc. Finally, the responsibility for the provision of security is diffused in a number of directions – upwards towards international organisations, down towards regional and local government, horizontally to NGO's, public opinion and the media.<sup>17</sup> This extension of the concept of security sits well with the above discussion of governance – invoking a de-centring of the traditional role of the state, the ability to focus in on specific issues, and the scope for involvement of multiple actors – and indeed, it's this flexibility of the definition of security along with the emergence of de facto new governance structures that Krahan uses to highlight the usefulness of the governance literature to security studies.<sup>18</sup> However, a second consideration that needs to be examined is to what extent are security problems treated as problems of regulation or management? One possible answer to this question might be found in the literature on risk and globalisation.

if we are to understand the security threats of a globalised world, as well as the way Western Societies respond to them, then we will have to figure out how to conceptualise a security environment transformed by technological change and the rise of non-state actors...security policy has become much more like the policies pursued in other areas of the “risk society.”<sup>19</sup>

But what precisely might such policies look like? One of the key insights of a world risk society as defined by Beck is that it undercuts the ability of the nation-state to perform its

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<sup>15</sup> David A Baldwin. "The concept of security" in *Review of International Studies* 1997, 23, P5

<sup>16</sup> It should be noted here that a concern with the security of individuals was always the concern of politics at the domestic level, what is new here is that the boundary between inside/outside are being blurred if not outrightly obliterated; that is to say human or individual security is as much a concern of international as domestic politics.

<sup>17</sup> Emma Rothschild "What is Security?" in *Daedalus* 1995, 124,3, p55

<sup>18</sup> Krahan 2003b, op. cit.

<sup>19</sup> Mikkel Vedby Rasmussen "It sounds like a riddle: Security Studies, the War on Terror and Risk" in *Millennium: Journal of International Studies* 2004, 33:2, P382

traditional role as security provider. Therefore a cosmopolitan approach has to form the basis of any potentially successful security policy designed to effectively manage globalised risks, be they environmental disasters, health scares or international terrorism. For Beck this highlights the role expert knowledge will play in identifying and managing risks.<sup>20</sup> Others have raised questions over the normative aspects of Beck's conception of the world risk society. For example, Aradau and Van Munster have suggested that rather than increasing the role of experts and evidence in decision-making, a world risk society will be characterised by governance of decision where time constraints force those in positions of power to make choices based on instinct rather than evidence.<sup>21</sup> Beck has also acknowledged the potential uncertainties in a risk based approach, stating that a key aspect of the risk management approach is "how to feign control over the uncontrollable."<sup>22</sup> Furthermore he goes on to argue that in the specific area of counter-terrorism considered as a globalised risk it nevertheless empowers governments and states. Of particular significance here is the fact that it is the very transnational character of international terrorists that empowers already powerful states. The responsibility of identifying global terrorists rests with the very states those terrorists are trying to attack and weaken. As we shall see in the discussion of changes in airport security regimes below, states have used the terrorist threat to link together and categorise a variety of 'risky' identities to manage and at least appear to reduce risks to an acceptable level.

The remainder of the article discusses in some detail the elements of risk and governance involved in reforming airport security regimes in the US and EU. Of particular interest is the apparent tension between the logic of governance, which would appear to be better suited to the globalised risk of terrorism, and the logic of risk that empowers states and thereby pulls security reform in the opposite direction toward a more classic governmental model. Specifically, it seeks to examine whether the changing structure of airport security regimes in the aftermath of September 11 represents a shift from a governmental to a governance approach to security or vice versa. A secondary aspect of the transformation of security we will touch on is the routinization or mainstreaming of security practices. Contrary to the securitization thesis<sup>23</sup> the argument here is that in a world risk society security is just another mundane aspect of regulatory government and, far from being an exceptional state, is placed below rather than beyond political dissent or discussion, a technical administration matter rather than a political endeavour.

## Airport Security in Action

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<sup>20</sup> Beck, Ulrich "The Terrorist Threat Revisited" in *Theory Culture and Society* 2002, 19:4, 39-55

<sup>21</sup> Claudia Aradau & Rens van Munster, 'Governing terrorism through risk: taking precautions, (un)knowing the future', *European Journal of International Relations*, Vol. 13, No. 1, 2007, p.89-115

<sup>22</sup> Beck, 2002, op. cit. P41

<sup>23</sup> Buzan et al 1998.

Traditionally, airport security has been treated quite differently on either side of the Atlantic and for the most part was viewed as part of the internal security apparatus of the state or even, at least in the case of the US, primarily the concern of private actors directly involved in air transportation. Furthermore, in terms of security as a broader issue, airport security rarely played more than a cameo role in the literature and the public eye, only generally intruding in cases of hijacking or other sporadic terrorist activities.<sup>24</sup> The net effect of these points was a widely inconsistent and arbitrary airport security regime at the global level. As Hainmuller and Lemnitzer have noted:

Despite the generally high interest of citizens in safe air travel, a systematic cross-national comparison reveals that the performance of airport security regimes on both sides of the Atlantic is diverging widely, with Europe at the top.<sup>25</sup>

Part of the reason for this divergence, the authors note, is the lack of comprehensive government involvement in airport security, particularly the lack of a single authoritative government agency with responsibility for enforcement of standards.<sup>26</sup> As Frederickson and LaPorte have noted:

The organization and management of commercial air travel in the United States is a complex, fragmented array of horizontal, vertical and lateral linkages between multiple jurisdictions at all levels of government; a wide range of types of corporations and unions; and a wide range of types of contractors – a system rather than a hierarchy or an organizations.<sup>27</sup>

In European states, by contrast, the norm is for strong state-centred system controlled at the national level by a single overarching authority. In Germany, for example, a number of Lander states introduced security screening in 1970. In the decade that followed a number of hijackings of German aircraft raised the profile of airline security in the public eye. As a result of these and the growth in the practice of passenger screening across Germany in this period, a new civil aviation act was passed in 1980 that set the legislative frame for the airport security regime that lasted almost until the present. The new act stipulated the state itself take responsibility for the practice of screening and security, although changes have been introduced since to offset the additional cost of securing the ever-growing aviation sector. Since 1995, private companies have been allowed to

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<sup>24</sup> As Paul Wilkinson noted in a piece concluding a collected edition on Aviation security and terrorism, “The establishment of a more powerful global aviation security regime would require a degree of consensus among the member states of ICAO...In our new world disorder, governments, regulatory agencies and the aviation industry are more likely to muddle through, responding to each crisis as it comes.” (Paul Wilkinson “Enhancing Global Aviation Security?” in Paul Wilkinson & Brian Jenkins (eds) *Aviation Terrorism and Security* Frank Cass, London 1999 p165.)

<sup>25</sup> Jens Hainmuller and Jan Martin Lemnitzer "Why do Europeans fly safer? The politics of airport security in Europe and the US" in *Terrorism and Political Violence* Vol 15, No 4 (Winter 2003) p1

<sup>26</sup> Ibid. P2

<sup>27</sup> H George Frederickson and Todd R LaPorte "Airport Security, High Reliability and the Problem of Rationality" in *Public Administration Review* 2002 P33.

provide screeners to airports, albeit under strict state regulation and control.<sup>28</sup> So even though the German system is relatively hierarchical and bureaucratic, it still reflects some of the features of a governance system defined by Krahan above, albeit before 2001 and in a limited fashion.

For current purposes then, we have on either side of the Atlantic divergent airport security regimes. The question is whether the response to September 11 would involve a shift to a more centralised approach in the US or to a more decentralised approach in the EU. Or would the response push the regimes towards a middle ground and some degree of standardisation or homogeneity?

## Airport Security Post September 11

Two dynamics of change took place in the US and the EU in response to the September 11 attacks. “Nationalisation” characterised the response of the US government to reforming airport security regimes, while within the EU “transnationalisation” was the order of the day. As mentioned above, US aviation security was largely fragmented. Commercial airports were directly responsible for the law enforcement presence on site, controlling access to secure areas and the airport perimeter. In real terms these functions were carried out by directly controlled staff, private security firms and in some cases local police forces. Commercial Airlines were responsible for the security of the aircraft, which implied responsibility for screening passengers, baggage and other cargo, usually a job for private contractors. Federal Aviation Authority had regulatory responsibility for setting and enforcing security standards and providing a limited amount of funding for security activities.<sup>29</sup> Given the fragmented nature and lack of effective funding and enforcement for security activities, it’s perhaps unsurprising that the US record in aviation security fell behind that of the EU. In the aftermath of the September 11 attacks the immediate impulse was to gain greater direct control of security in US airports. This ultimately took shape in new transportation legislation, signed into law on Nov 19, 2001, that created a new federal agency, the Transportation Security Agency (TSA), which in turn assumed all of the security tasks outlined above, and was to do so with its own employees, except in the case of five airports.<sup>30</sup> However, despite the increased federal involvement the airline industry has lobbied hard both to win back control of some areas (e.g. the pilot schemes using private security under TSA authority) and to restrict the introduction of some practices such as positive passenger and baggage matching.<sup>31</sup> Despite these caveats, the reforms of airport security in the US have strengthened this cog in the national security framework. When coupled with bilateral initiatives on passenger

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<sup>28</sup> Hainmuller & Lemnitzer, 2003 op.cit. P11.

<sup>29</sup> Paul Seidenstat, “Terrorism, Airport Security and the Private Sector” in *Review of Policy Research* Vol 21, No 3 2004, P275-6.

<sup>30</sup> Ibid P284.

<sup>31</sup> Hainmuller & Lemnitzer 2003, Op. Cit. P26.

information and intelligence, which will be discussed below, the emergence of a new security governance network can clearly be discerned.

Before looking in detail at the development of new practices in airport security, we first must discuss changes in the EU airport security regime characterised above as an exercise in transnationalisation. Among the EU member states the model of airport security pursued was much more coherently state centred, although in a number of cases private contractors were used for functions such as baggage and passenger screening. As Hainmuller and Lemnitzer note, the European security record was far more robust than its US counterpart.<sup>32</sup> As a result, at least at the domestic level wholesale reorganisation was neither required nor pursued beyond ad hoc measures to beef up security immediately after the attacks and at a number of subsequent occasions when intelligence warranted such a move. However, at the EU level, the post-September 11 atmosphere provided an opportunity to standardise and improve airport security standards. Although the path to securing the changes was far from straightforward, requiring a long conciliation procedure, the net result Regulation 2320/2002 effectively established the world's first supranational airport security regime, giving the Commission power to demand compliance with the established best practice and authority to inspect airports.<sup>33</sup> Indeed, in terms of establishing best practice the influence of the EU stretches beyond the member states to include most if not all of the members of the European Civil Aviation Conference (ECAC), which states on its website:

This work [development of the aviation security audit programme] has been carried out in close co-ordination with the European Union, which in 2002 for the first time issued regulations in the security area. This co-operation effectively ensures a single 42-State European aviation security policy.<sup>34</sup>

Individual states also took steps to improve their own airport security regimes. In Germany steps were taken to improve on board security in line with new international standards.<sup>35</sup> In the UK the government launched a review of Airport Security by Rt Hon John Wheeler. Part of Wheeler's recommendations highlighted the complexity of the issue, particularly the intersection of private and public institutions in the delivery of airport security, as can be seen in the figure below reproduced from his published recommendations:

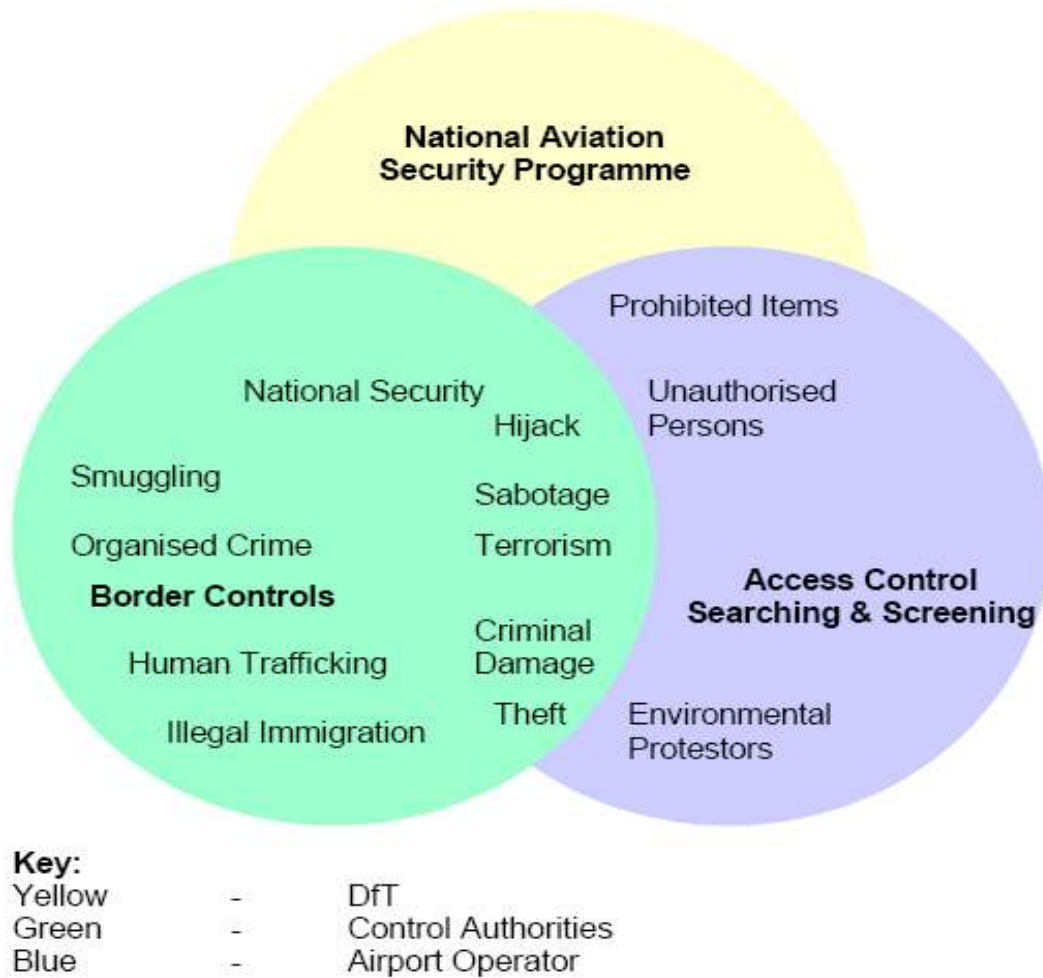
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<sup>32</sup> Ibid. passim.

<sup>33</sup> Ibid. P27-8.

<sup>34</sup> "About ECAC – Five Decades of Shaping Civil Aviation in Europe 1995-2005" available at: <http://ecac-ceac.org/index.php?content=historique&section=historique13> accessed 24/01/08

<sup>35</sup> Hainmuller & Lemnitzer, 2003, Op. cit. P27.



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As can be seen above, the landscape of airport security involves a variety of actors both public and private and, in the EU at least, the supranational as well as the national and federal. There does appear to be at least something of a drift towards the European model by the US regime, and the next part of the paper looks in more detail at the development of new techniques or modes of governance within these airport security regimes to see if further convergence is evident.

## Practices of Control

Two aspects of the airport security regime are particularly relevant, first the controlling of things going onboard and into security areas – namely baggage screening techniques and,

<sup>36</sup> Rt Hon Sir John Wheeler “Airport Security: Report”, October 2002, p3 available online at: <http://www.dft.gov.uk/pgr/security/aviation/airport/airportsecurityreportbythert4872> accessed 24/01/08

controlling people – profiling potential terrorist suspects, data-sharing, and surveillance techniques.

The first key concern in the context of airline security is the controlling of things going onto the aircraft. This traditionally takes the form of baggage screening but also control of other externalities, such as food and duty free supplies. In the US, improvements in baggage screening was tackled in two ways – federalising the screeners (moving those responsible from under-trained, under-staffed menial jobs to better paid public jobs<sup>37</sup>) and improving the standard of screening technology, including the roll out of new explosive detecting equipment.<sup>38</sup> Further restrictions were placed on what could be taken on board, for example between February 2002 and March 2003:

"federal screeners... intercepted more than 4.8million dangerous items, including 1101 firearms, nearly 1.4 million knives, 39,842 box cutters, 125,273 incendiary or flammable objects, and 15,566 clubs. This is an impressive figure, but it has to be kept in mind that most of these items were by and large permissible prior to September 11."<sup>39</sup>

In contrast few such additional were restrictions were necessary in European airports, although some more items such as sharp metallic objects like nail-clippers and nail files were added to the list.

On both sides of the Atlantic though, further restrictions were introduced on an ad hoc basis in response to terrorist events. For example, when Richard Reid attempted to bring down American Airlines Flight 63 with a bomb concealed in his shoe in December 2001<sup>40</sup>, new measures were introduced requiring the removal and screening of shoes at airports in the EU and US. Likewise, and one of the more far reaching changes, after UK authorities foiled a plot to blow up 10 American-bound flights using liquid explosives, which would be smuggled on board in separate components, reminiscent of a similar plan known as Bojinka to blow up 12 American jets in the pacific, liquids, gels and pastes were restricted to not more than 100ml. The size and number of containers were similarly limited, but some exceptions were made for baby food and verifiable medical needs.<sup>41</sup>

<sup>37</sup> Prior to September 11 the starting salary for a baggage screener was \$6 per hour, less than could be earned in a fast food restaurant. Source: Dirk Haubrich "Modern Politics in an age of Global Terrorism: New Challenges for Domestic Public Policy" in *Political Studies* Vol 54 2006 p415

<sup>38</sup> Seidenstat ,2004, Op. Cit. P288 Although it should be noted that the recent General Accountability Office on the TSA has criticised it for the slow roll out of these and other vital technologies and lax alternatives. See GAO Testimony Before the Committee on Oversight and Government Reform, House of Representatives "Aviation Security: Vulnerabilities Exposed through covert testing of TSA's passenger screening process", 15.11.2007 available at <http://www.gao.gov/new.items/d0848t.pdf> accessed January 2008

<sup>39</sup> Hainmuller & Lemnitzer, 2003, op. cit. P24-5

<sup>40</sup> [http://news.bbc.co.uk/onthisday/hi/dates/stories/january/30/newsid\\_4081000/4081741.stm](http://news.bbc.co.uk/onthisday/hi/dates/stories/january/30/newsid_4081000/4081741.stm) accessed 24/01/08

<sup>41</sup> See for example the passenger advice at Heathrow, available at: <http://www.heathrowairport.com/portal/controller/dispatcher.jsp?ChPath=Heathrow^General^Airport%20information^Security%20control&securityCountryGUID=a058b7b277c35110VgnVCM1000036821c0a> accessed 24.01.08

Similar restrictions were placed on the amount of hand luggage allowed, although these restrictions have varied more widely. The restrictions on liquids have been questioned, though, in terms of both their effectiveness and relevance. In September the European Parliament voted strongly in favour of scrapping the restrictions unless evidence of their effectiveness could be provided.<sup>42</sup> Serious questions have been raised about the likelihood of a successful liquid explosive attack, with some suggesting that the restrictions were a 'placebo' for a nervous public rather than an effective security measure.<sup>43</sup> In Europe, these restrictions were driven at the EU level; however, they are best perceived as reactions to exogenous shocks rather than concerted governance efforts. Even so, the redefinition of what is and is not safe to bring on a plane does implicate a similar nexus of private and public actors and challenges the reduction of security issues to the national territory. What September 11 highlighted is that with limited technology, a dedicated group of individuals could transform civilian aircraft into missiles. The increasingly dense network of flight paths within and between the EU and the US only serves to highlight the precariousness of security in light of these threats.

The other main reform in airport security regimes relates to the control of the other key variable in the threat outlined above – controlling who gets on a plane. The *US Aviation and Transport Security Act*, in November 2001, required that all flights to and from the US provide US authorities with electronic access to Passenger Name Records (PNR).<sup>44</sup> Although it has been contentious in the EU, the sharing of passenger data forms a key part of US Homeland Security strategy, which aims to allow agencies such as the Department of Homeland Security, the Department of Justice, the FBI and other law enforcement agencies to use "advanced data-mining techniques to reveal patterns of criminal behaviour and detain suspected terrorists before they act."<sup>45</sup> For similar reasons, there has been a move to machine-readable passports containing biometric information, the finger-printing of all individuals entering the US, and towards advance passenger information systems.<sup>46</sup> All of these methods provide the data necessary for comparison of passenger information with terrorist watch lists and for accumulating such data for possible future use.

These data collection and control techniques are a classic example of risk management at work, allowing authorities to break "the individual up into a set of

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<sup>42</sup> Times Online, "Vote to scrap flight ban on liquids" by David Charter, available at: <http://www.timesonline.co.uk/tol/news/world/europe/article2395509.ece> accessed 24.01.08

<sup>43</sup> Amitai Aviram "The placebo effect of law: Law's role in manipulating perceptions" in *The George Washington Law Review* Vol 75 No 1 November 2006

<sup>44</sup> "The Passenger Name Record (PNR): FAQ" available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/294&format=HTML&aged=0&language=EN> accessed 24/01/08

<sup>45</sup> Stevens as quoted in Sam Nunn "Preventing the next terrorist attack: The theory and practice of homeland security information systems" in *Journal of Homeland Security and Emergency management* Vol 2 Iss 3, 2005 p4

<sup>46</sup> IATA "The Air Transport Industry since 11 September 2001" available at <http://www.iata.org/NR/rdonlyres/92FC0755-1D63-4931-A983-847CC1EA897A/0/airtransportsince911.pdf> accessed 31/07/08

measurable risk factors."<sup>47</sup> In particular, linking these large databases containing passenger information to other law enforcement and intelligence databases allows the creation and maintenance of profile information for all passengers that enter the system, in some cases indefinitely. In the US this has taken the shape of the new US VISIT programme, a database that links more than 20 existing databases with a view to "weeding out" criminals and terrorists. Some of the databases linked include IDENT, the automatic fingerprint ID that stores biometric data on all foreign visitors, immigrants and asylum seekers; ADIS, which stores entry and exit data; APIS, which stores passenger manifest information; SEVIS, which stores information on exchange and foreign students in the US; IBIS, a watch list linked to Interpol and national crime data; CLAIMS 3, a database holding information on foreign nationals claiming benefits "and an array of links to local law enforcement, financial systems and educational records."<sup>48</sup> The goal of linking such information is to be able to categorise and identify people by their degree of "riskiness."<sup>49</sup> In the EU, US demands for greater access to passenger information was quite contentious. After much negotiation the EU and the US signed an agreement on the sharing of PNR's with thirty-four pieces of data being shared. However, this agreement was struck down by the European Court of Justice in May 2006, and has since been replaced with an interim agreement in July 2007. The amended agreement reduces the number of elements being shared to nineteen, to comply with EU privacy laws. Even so, the data being transferred contains quite comprehensive information, as the EU "Frequently Asked Questions" on the topic note:

"The US Department of Homeland Security (DHS)...will filter out and not use sensitive information, save in exceptional cases where life is at risk. Sensitive information means data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership or concerning the health or sex life of the individual"<sup>50</sup>

Even though EU data protection laws are more robust than the US's, similar moves towards the creation of databases and sharing information have been taken. For example, the *EU Data Retention Directive*, which gives states until 2009 to comply, requires the collation and retention of internet and other communications data for a period ranging from six months to 2 years.<sup>51</sup> When coupled with initiatives such as the proposed moves to an e-border system in the UK, the probability of an equivalent of the US VISIT programme emerging is quite high.

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<sup>47</sup> Amoores, Louise & Marieke De Goede "Governance, risk and dataveillance in the war on terror" in *Crime, Law and Social Change* Vol 43 2005 P150

<sup>48</sup> Ibid. P162

<sup>49</sup> Ibid. P162

<sup>50</sup> EU FAQ on PNR, op cit.

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/294&format=HTML&aged=0&language=EN> accessed 25/01/08

<sup>51</sup> Victoria Shannon "Europe's plan to track Phone and Net use" in *The New York Times* Feb 20 2007, available online at <http://www.spiegel.de/international/0,1518,467475,00.html> accessed 24/01/08

## Conclusion

Having discussed the changes in airport security regimes after September 11 two key points need to be clarified. To what extent can the reforms in airport security regimes be considered representative of a 'governance' approach to security? Using the dimensions of government and governance outlined by Krahan we can begin to draw some provisional conclusions. In terms of geographical scope, in the EU there has been a definite shift to involving the regional in addition to the national level in establishing and regulating the security regime, which indicates a shift toward the governance end of the spectrum for the member states. On the other hand, in the US, the establishment of a federal agency with responsibility for the issue suggests a shift in the opposite direction. That said, the PNR initiatives will only function with international cooperation/involvement suggesting something of a compromise between the two poles. In terms of functional scope, the focus in both the US and EU on single-issue areas again indicate a more governance oriented approach – pushing specialist agencies and knowledge to the fore. However, in the remaining categories – distribution of resources, interests, norms, decision-making, and implementation – the trend in both the EU and US is towards the government end of the spectrum. Perhaps this reflects the tension between the globalized nature of the risks involved and the logic of terrorist risks that empowers state actors. This is not to say that governance has nothing to tell us in terms of airport security reforms; it by its very nature requires the kind of complex interaction of private and public, national and international players that the concept of governance captures. But the dynamic between the centripetal forces of government and centrifugal forces of governance require careful examination in the context of globalised risks.

Which brings us to the other aspect of the paper – risk itself. Clearly, both in terms of regulations concerning baggage and hand luggage screening as well as passenger information and profiling, the aim has been to both reduce risk and emphasise control and security. As Beck has noted a key aspect of the risk management approach is "how to feign control over the uncontrollable."<sup>52</sup> Although some moderate successes have been seen, the main aim of security restrictions appear to be aimed as much at projecting this image of control as actively reducing risk. The liquid restrictions on hand luggage are probably the best example of this. Similarly, the large databases containing passenger information appears to create the ability for social sorting between risky and safe individuals. Reducing people to a series of probabilistic indicators raises ethical and normative questions that are yet to be answered. Indeed, the main opposition to the data retention policies came from companies concerned with practical issues such as cost and technical capacity. Overall the shift to a risk-based approach to airport security has improved the safety of air travel in terms of extending the prevention of certain dangerous items and preventing a number of attacks. However, as with military generals,

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<sup>52</sup> Beck, 2002, Op. Cit. P41

security regimes are frequently preparing to fight the previous war rather than the next one. 'Unknown unknowns' are out there and it remains to be seen whether the new security regime will be adequate to prevent further attacks.

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