

Ministry of Higher Education and Scientific Research

University of Tlemcen

Faculty of Foreign Languages

Department of English



Human Rights and the U.S. Anti-Terrorism Measures from George W. Bush to Barack Obama

Thesis Submitted to the Department of English Language in Partial Fulfillment of the
Requirements for the Degree of Doctorate in 'Civilization'

Prepared by

Mrs. Fatima BOUCHAREB

Supervised by

Pr. Abderrahmane BASSOU

Board of Examiners

Pr. Daoudi FRID	President	Professor	Tlemcen University
Pr. Abderrahmane BASSOU	Supervisor	Professor	Tlemcen University
Dr. Badra MENOUE	Examiner	MCA	Tlemcen University
Pr. Mohammed Seghir HALIMI	Examiner	Professor	Ouargla University
Dr. Fazilet ALACHAHER	Examiner	MCA	Maghnia University Center

Academic Year: 2025 / 2026

Declaration

I hereby solemnly declare that the present thesis, entitled *Human Rights and the U.S. Anti-Terrorism Measures from George W. Bush to Barack Obama*, constitutes an original and independent piece of scholarly research carried out by me. All ideas, arguments, data, and materials derived from existing literature and other sources have been appropriately acknowledged and accurately referenced throughout the text and in the list of references, in accordance with established academic standards and principles of scholarly integrity.

Fatima BOUCHAREB

Dedication

Praise to almighty *Allah*, who gave me the ability and the courage to complete this work.

I am honored to dedicate this work to my beloved family, who have been my source of happiness and motivation. To all my teachers, colleagues, and students, whom I cannot mention individually, and to everyone who knows me and might be interested in reading my work.

Acknowledgement

I wish to begin by expressing my profound gratitude to *Allah* for granting me the fortitude and inspiration to embark on this academic journey and see it through to completion.

It is my great pleasure to extend my most sincere gratitude to my supervisor, Pr. Bassou Abderahman, for his guidance, support, and mentorship throughout the research process. I also express my genuine appreciation and thankfulness to the board of examiners for accepting this work for assessment and evaluation.

Finally, I will not forget, of course, to express my deep gratitude to my colleagues and my students in the English department at Djilali Bounama University, Ain Defla.

Abstract

Following the 9/11 attacks, the United States administrations under Presidents Bush and Obama adopted sweeping counter-terrorism measures justified as necessary to protect national security. This study addresses the following central research question: To what extent did the counter-terrorism policies of the Bush and Obama administrations violate internationally recognised human rights norms, and did Obama's policy reforms represent a substantive break from his predecessor or a continuation of the same logic of exception? Focusing on four concrete policy domains, such as arbitrary detention, extraordinary rendition, enhanced interrogation, and drone strikes. The study conducts a comparative historical analysis of both administrations using a qualitative, doctrinal legal methodology that draws on government records, international legal instruments, human rights reports, and scholarly literature. The research reveals systematic human rights violations committed in the name of combating terrorism. It demonstrates that, despite the U.S.'s proclaimed commitment to human rights, its conduct in Afghanistan, Pakistan, Iraq, and beyond entailed a systematic erosion of civil liberties and violations of international legal obligations. The study's original contribution is a structured comparative interpretation of the Obama doctrine as a recalibration rather than a repudiation of Bush-era exception logic, arguing that Obama institutionalised and technocratised practices his predecessor had improvised, thereby normalising a permanent state of legal exception. The analysis advances existing scholarship by offering a sequential, policy-domain framework that distinguishes rhetorical reform from operational continuity and situates both administrations within the broader theoretical tension between security imperatives and inalienable rights. In doing so, the study assesses whether President Obama's policy changes constituted substantive reform or a continuation of previous practices, examining how the Bush and Obama administrations balanced national security and human rights in each administration and across the four policy domains.

Keywords: 9/11 attacks, Bush administration, counter-terrorism, drone strikes, extraordinary rendition, human rights, Obama administration, state of exception, war on terror

List of Abbreviations

ACLU: American Civil Liberties Union

AfPak: Afghanistan and Pakistan as a single theater of operations

Art. Article

CIA: Central Intelligence Agency

CTC: Counter-Terrorism Committee

DHS: Department of Homeland Security

ECHR: European Convention on Human Rights

ECR: European Court Reports

EU: European Union

FBI: Federal Bureau of Investigation

GWOT: Global War on Terror

HRC: Human Rights Council

HRF: Human Rights Foundation

HRW: Human Rights Watch

HVTs: High-Value Targets

ICC: International Criminal Court

ICRC: International Committee of the Red Cross

IHL: International Humanitarian Law

IHRC: International Human Rights Commission

IP : Internet Protocol

MCA: Military Commissions Act

MI: Military Intelligence

MP: Military Police

NGO: Non-Governmental Organization

NSA: National Security Agency

OLC: Office of Legal Counsel

OOD: Operation Odyssey Dawn

OSF: *Our Stolen Future* (Theo Colborn book)

OUP: Operation Unified Protector

para. Paragraph

PBC: Pakistan Body Count

POW: Prisoner of War

PPG: Presidential Policy Guidance

SATP: South Asia Terrorism Portal

SHU: Secure Housing Unit

TBIJ: The Bureau of Investigative Journalism

TLO: The Liaison Office

UAV: Unmanned Aerial Vehicle

UN: United Nations

List of Acronyms

AQAP: Al-Qaeda in the Arabian Peninsula

AUMF: Authorization for Use of Military Force

CBP: Customs and Border Protection

CCPR: International Covenant on Civil and Political Rights

EITs: Enhanced Interrogation Techniques

FATA: Federally Administered Tribal Areas

FISA: Foreign Intelligence Surveillance Act

FISC: Foreign Intelligence Surveillance Court

ICCPR: International Covenant on Civil and Political Rights

ISAF: International Security Assistance Force

NDAA: Department of Defense's Authorization Act

PACE: Parliamentary Assembly of the Council of Europe

SEAL: U.S. Navy SEAL

SWAT: Special Weapons and Tactics

TTP: Tehrik-i-Taliban Pakistan

UDHR: Universal Declaration of Human Rights

UNAMA: United Nations Assistance Mission in Afghanistan

UNCERD: United Nations Committee on the Elimination of Racial Discrimination

UNSC: United Nations Security Council

WANA: West Asia and North Africa

List of Figures

Figure 3.1: Number of Civilians Killed in Afghanistan from 2001 to 2015

Figure 3.2: UNAMA Attribution of Civilian Death from 2007-2015

Figure 3.3: Coalition Military and Afghan Security Force Deaths, 2001-2015

Figure 3.4: Trends in Percent of Pakistan's Military Budget from U.S. Military Aid and Reimbursement, 2001-2015

Figure 3.5: South Asia Terrorism Portal(SATP) and Pakistan Body Count (PBC) Counts of Militant Suicide Attacks 2002 -1 July 2016

Figure 3.6: Number of People Killed and Injured in Militant Suicide Attacks, in Pakistan, 2002- June 2016

Figure 5.1: Number of Civilians Killed in Afghanistan from 2001 to 2015

Figure 5.2: UNAMA Attribution of Civilian Death from 2007-2015

Figure 5.3: Patterns of Civilian Killing in Afghanistan, 2009-2015

Figure 5.4: Afghan Civilian Deaths Due to Aerial Operations and All Other Pro-Government Operations

Figure 5.5: Afghan Civilians Killed and Injured from 2009-2015

Figure 5.6: Coalition Military and Afghan Security Force Deaths, 2001-2015

Figure 5.7: Number of People Killed and Injured in Militant Suicide Attacks, in Pakistan, 2002- June 2016

Table of Contents

Declaration.....	i
Dedication	ii
Acknowledgement	iii
Abstract	iv
List of Abbreviations	v
List of Acronyms	vii
List of Figures	viii
Table of Contents	ix
General Introduction	1

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

1.1 Introduction	8
1.2 Theoretical Framework and Key Concepts	9
1.2.1 Human Rights Theory	10
1.2.2 Human Rights	11
1.2.3 Human Rights Violations	13
1.2.4 Terrorism	14
1.2.5 Security	15
1.2.6 Security Studies Frameworks	15
1.2.7 International Relations Theory	16
1.2.8 Just War Theory	17
1.2.9 The War on Terror	17
1.3 Protecting Human Rights while Countering Terrorism	19
1.3.1 States' Obligation to Protect Everyone against Terrorism	21
1.3.2 The Right to Life and Penalties Incurred	21
1.3.3 Discrimination	23
1.3.4 The Right to Freedom from Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	25
1.3.5 Detention and Treatment of Detainees	28
1.3.6 Legal Proceeding (Fair Trial)	31
1.3.7 Measures which Interfere with Privacy and Right to Property	35
1.3.8 Asylum, Return ("Refoulement") and Expulsion	37
1.3.9 Extradition	40
1.3.10 Derogation	41
1.3.11 Terrorism and International Humanitarian Law	43
1.3.12 War Crimes and Patterns of Violence in Contemporary Conflicts	44
1.3.13 Humanitarian Intervention and the Limits of State Sovereignty	46
1.3.14 Compensation for Victims of Terrorist Acts	47
1.4 Post-9/11 War on Terror and Human Rights	48
1.4.1 Pre-emptive Self-Defence and Use of Force	51
1.4.2 The War Without Rules	52
1.4.3 Non-Discrimination and Immigration Enforcement	53
1.4.4 Institutional and Legal Challenges	54
1.5 Conclusion	55
Chapter Notes	57

Chapter Two: George W. Bush's War on Terror and Anti- Terrorism Measures

2.1 Introduction	59
2.2 Background and 9/11 Attacks	60
2.2.1 George W. Bush: <i>Political Background and Leadership</i>	62
2.3 The Global War on Terror and the Bush Doctrine	63
2.3.1 Preventive War and Unilateral Security Action	65
2.3.2 Rogue States and the 'Axis of Evil'	65
2.3.3 Democracy Promotion and the Freedom Agenda	66
2.4 The Transformation of U.S. National Security after 9/11	67
2.4.1 Expansion of Executive Power	68
2.4.2 Security versus Civil Liberties	69
2.4.3 The State of Exception and Emergency Politics	69
2.5 Counter-Terrorism Rhetoric and Security Narratives	71
2.5.1 The Events of September 11, 2001	72
2.5.2 Construction of Political and Moral Identities	72
2.5.3 Expansion of Threat and the 'Age of Terror'	74
2.5.4 The 'Good War' and Just War Rhetoric	74
2.6 Response to 9/11 Attacks and Major Policy Measures	76
2.6.1 The USA Patriot Act	77
2.6.2 Homeland Security	79
2.6.3 The NSA Surveillance Program	80
2.7 Domestic Human Rights Transformation in the United States	82
2.7.1 Civil and Political Liberties under Counter-Terrorism	82
2.7.2 Discrimination and Racialized Security Practices	83
2.7.3 Migration Governance and Security Practices in the United States	85
2.7.4 The Justice System	89
2.7.5 Surveillance Expansion and Privacy Erosion	92
2.7.6 Police Brutality	94
2.7.7 Arbitrary Detention	96
2.8 Military Actions in Afghanistan, Pakistan, and Iraq	101
2.8.1 Afghanistan War: <i>Operation Enduring Freedom</i>	102
2.8.2 Pakistan: <i>Strategic Partnership and Internal Consequences</i>	103
2.8.3 Iraq War: <i>Operation Iraqi Freedom</i>	104
2.9 Conclusion	106

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

3.1 Introduction	110
3.2 Human Rights Violations and the Undermining of International Legal Legitimacy	111
3.2.1 Indiscriminate Attacks	111
3.2.2 Arbitrary Detention and Violations of Due Process Rights: <i>Access to Information and Fair Trial Guarantees</i>	115
3.2.3 Torture and Enhanced Interrogation Techniques	121
3.2.2.1 Guantanamo Bay detention camp Detention	121
3.2.3.2 Abu Ghraib Prison	124
3.2.3.3 CIA's Secret Prisons	128
3.2.4 Extraordinary Rendition	133
3.3 The Impact of George W. Bush's War on Terror	140
3.3.1 Afghanistan	141
3.3.2 Pakistan	146
3.3.3 Iraq	154

3.4 Public and Global Reaction	155
3.5 Conclusion	158
Chapter Four: Barack Obama's War on Terror: <i>Human Rights, Counter-terrorism and Foreign Policy</i>	
4.1 Introduction	160
4.2 Transition from George W. Bush to Barack Obama: <i>Major Policies, Legislative Changes, and Civil Liberties</i>	161
4.2.1 Barack Obama: <i>Political Background and Rise to Power</i>	162
4.2.2 Transition Policies and Civil Liberties	164
4.2.3 Reforming Detention Practices and the Persistence of Coercive Counter-terrorism Measures under the Obama Administration	168
4.2.4 Enhanced Interrogation Methods: <i>Formal Prohibition and the Persistence of Impunity</i>	170
4.3 Obama Doctrine and Humanitarian Intervention	174
4.3.1 Military Actions in Afghanistan, Pakistan, and Yemen	177
4.3.2 Drone Warfare, Targeted Killing, and the Expansion of Executive Counter-terrorism Power under the Obama Administration	181
4.3.3 Humanitarian Intervention, Responsibility to Protect, and the Limits of Liberal Internationalism under the Obama Administration	188
4.3.3.1 Egypt	192
4.3.3.2 Libya	194
4.3.3.3 Syria	198
4.3.3.4 A Peace Prize Without Peace: Obama's Unfulfilled Promise in Palestine	203
4.4 Conclusion	206
Chapter Five: The Cost and Consequences of Barack Obama's War on Terror	
5.1 Introduction	209
5.2 Human Rights Violations	210
5.2.1 Indiscriminate Attacks	211
5.2.1.1 Double-Tap Strike	215
5.2.1.2 Technical Factors and Faulty Intelligence Leading to Civilian Victims	217
5.2.2 The U.S. Kill-or-Capture Missions in Afghanistan (Night Raid)	222
5.2.2.1 Hostile Acts	224
5.2.3 Violation of the Right of Access to a Defense Lawyer	228
5.2.4 Domestic Surveillance	229
5.3 The Impact of Barack Obama's War on Terror	231
5.4 Public and Global Reaction	250
5.5 Obama's War on Terror: <i>A Continuation Rather than a Change</i>	254
5.5.1 Drone Attacks	257
5.5 Conclusion	260
Chapter Six: Findings and Data Interpretation: <i>A Comparative Discussion</i>	
6.1 Introduction	263
6.2 The Bush and Obama Doctrine: <i>A Comparative Analysis</i>	264
6.2.1 Unilateralism vs Multilateralism	264
6.2.2 Soft Power and Strategic Legitimacy	266
6.2.3 Bush Doctrine Critique	269
6.2.4 International Coalitions	271
6.3 Continuities in Counter-Terrorism Policy	273
6.4 Military Actions	275

6.5 Rights Violations	278
6.5.1 Bush's Indiscriminate Attacks	278
6.5.2 Obama's Indiscriminate Attacks	280
6.5.3 Bush and Obama's Indiscriminate Attacks	284
6.5.4 Bush's Arbitrary Detention	287
6.5.5 Obama's Kill-or-Capture Missions	290
6.5.6 Bush and Obama's Detention	292
6.5.7 Bush's Torture and Enhanced Interrogation Techniques	295
6.5.8 Bush's Extraordinary Rendition: <i>A Hidden Form of Torture</i>	299
6.5.9 Obama's Enhanced Interrogation Methods	302
6.5.10 Bush and Obama's Torture	304
6.6 Consequences and Criticism	307
6.7 The Continuity of the U.S. War on Terror	310
6.8 Conclusion	311
General Conclusion	315
References	326
Glossary	361
Summary	365
ملخص	365
Résumé	365

General Introduction

General Introduction

Human rights constitute a fundamental component of contemporary international law and political thought. They are generally understood as universal rights and freedoms inherent to all individuals regardless of nationality, religion, ethnicity, or political affiliation. These rights include civil, political, economic, social, and cultural dimensions, with particular emphasis on the protection of life, human dignity, equality, and physical integrity. Within the international system, human rights frameworks aim to establish legal and moral standards intended to regulate state conduct during both peace and conflict.

The relationship between terrorism, counter-terrorism, and human rights has become one of the central debates in international relations and security studies, particularly following the attacks of 11 September 2001. In response to these attacks, the United States adopted extensive counter-terrorism measures under the framework of the 'War on Terror.' These policies generated significant international debate regarding the balance between national security imperatives and the protection of civil liberties and human rights. Scholars, legal institutions, and human rights organizations have raised concerns regarding issues such as military intervention, surveillance practices, detention policies, interrogation methods, and the scope of executive authority adopted during this period.

The administration of President George W. Bush introduced a broad counter-terrorism strategy centered on pre-emptive warfare, military intervention, enhanced security legislation, and expanded executive power. These measures were justified as necessary responses to emerging security threats after 11 September 2001. However, many of these policies also generated debate concerning their compatibility with international human rights law and international humanitarian law. The subsequent administration of President Barack Obama sought to distance itself rhetorically from certain controversial practices associated with the Bush era, particularly through an emphasis on legality, multilateralism, and institutional reform. Nevertheless, scholarly discussions continue regarding the extent to which Obama's counter-

General Introduction

terrorism policies represented substantive change or continuity within the broader post-9/11 security framework.

The rationale behind this research is to examine the evolution of the United States counter-terrorism policy and its implications for human rights during the administrations of Bush and Obama. While numerous studies have explored the Bush administration's response to terrorism, comparatively less attention has been given to evaluating the continuities and transformations that characterized the Obama administration's approach within the same analytical framework. This study, therefore, seeks to contribute to existing scholarship by providing a comparative analysis of both administrations and assessing how counter-terrorism strategies interacted with international legal standards, democratic governance, and civil liberties.

The present study aims to analyze the relationship between counter-terrorism and human rights by examining the principles, legal frameworks, and political discourses that shaped United States policy after 11 September 2001. It investigates the ideological foundations and strategic objectives of the Bush administration's War on Terror, as well as the legal and human rights debates generated by practices such as detention, surveillance, military intervention, interrogation techniques, and targeted operations. In addition, the study explores the transition to the Obama administration by identifying areas of policy reform, continuity, and adaptation in counter-terrorism strategy. Through this comparative analysis, the research seeks to evaluate broader questions about the relationship among security, legality, executive power, and human rights in contemporary international politics.

Accordingly, the study is guided by the following central research question: To what extent did the counter-terrorism policies implemented under the Bush and Obama administrations correspond with international human rights principles and legal standards? In relation to this central question, the study addresses the following research questions. How did the administrations of President George W. Bush and President Barack Obama justify counter-

General Introduction

terrorism measures through political discourse? To what extent did post-9/11 security policies affect civil liberties and legal protections? Did the Obama administration introduce significant changes to the operational and legal structures established after 11 September 2001, or did it maintain substantial continuity with the Bush administration's counter-terrorism framework? Based on these questions, the study advances the following hypotheses. First, the Bush and Obama administrations employed national security discourse to justify expanded counter-terrorism powers and exceptional security measures. Second, the implementation of certain counter-terrorism policies may have generated tensions between security objectives and international human rights obligations, particularly in areas related to detention, surveillance, interrogation, and targeted military operations. Third, despite differences in rhetoric and diplomatic orientation, significant institutional and strategic continuities persisted between the two administrations in the broader conduct of the War on Terror.

The study adopts a qualitative comparative historical and doctrinal legal research design to examine the evolution of United States counter-terrorism policies under Presidents George W. Bush and Barack Obama in the post-9/11 period. The study aims to assess how these policies developed over time and to evaluate their compliance with international human rights law and international humanitarian law. It is grounded in a comparative historical approach, which enables the systematic examination of policy continuity and change across two presidencies. This approach is particularly suited to tracing how early post-9/11 counter-terrorism measures established under the Bush administration influenced, persisted within, and were reconfigured by the Obama administration. It allows for an analysis of counter-terrorism as a historically evolving process rather than a series of isolated policy decisions.

In addition, the research employs a doctrinal legal analysis, focusing on the interpretation of key international legal instruments, including the International Covenant on Civil and Political Rights, the European Convention on Human Rights, the Universal Declaration of

General Introduction

Human Rights, the Geneva Conventions, the Convention Against Torture, and relevant customary international law principles. These legal frameworks constitute the normative benchmark against which U.S. counter-terrorism practices are assessed. It also relies on qualitative content analysis of a wide range of documentary sources, including official government documents, policy statements, court decisions, reports from international organizations, and investigations by human rights institutions. Academic literature is also used to support the contextual and analytical dimensions of the research. These sources are systematically analyzed to identify patterns in policy formulation, justification, and implementation. The analytical strategy is organized around key thematic areas of counter-terrorism practice, including military intervention, targeted killings and drone warfare, arbitrary detention, interrogation and torture practices, extraordinary rendition, domestic surveillance, and broader domestic human rights implications. Each theme is examined comparatively across both administrations and assessed in relation to international legal standards.

The research is interpretivist in orientation, focusing on the interpretation of legal, political, and institutional discourse rather than quantitative measurement. It seeks to understand how counter-terrorism policies were constructed, legitimized, and operationalized, and how these practices align or conflict with established human rights obligations. In short, this combined comparative historical-legal framework enables a structured evaluation of both continuity and change in U.S. counter-terrorism strategies, while critically assessing their implications for the protection of human rights in the post-9/11 era.

This work is structured into six chapters designed to address the central research questions and examine the relationship between counter-terrorism and human rights in the post-9/11 United States context. The first chapter provides the theoretical and conceptual foundation of the study through a review of the relevant literature on human rights, terrorism, and counter-terrorism. It examines the principal dimensions of human rights, with particular attention to the

General Introduction

legal principles and international standards governing state conduct in the context of counter-terrorism. The chapter also explores major debates concerning the tension between security imperatives, civil liberties, and the rule of law, while identifying the principal human rights challenges associated with contemporary counter-terrorism practices.

The second chapter examines the political and ideological context surrounding the attacks of 11 September 2001 and analyzes the development of the Bush administration's War on Terror doctrine. It investigates the administration's counter-terrorism discourse, strategic objectives, and representations of security threats, as well as the policy measures adopted in response to terrorism. Particular attention is given to military intervention in Afghanistan and Iraq, pre-emptive warfare, and the broader transformation of United States foreign and security policy after 9/11.

The third chapter analyzes the human rights implications and broader consequences of counter-terrorism policies implemented under the administration of President George W. Bush. The chapter examines issues relating to detention practices, torture, extraordinary rendition, surveillance, and restrictions on civil liberties, evaluating these policies in relation to international human rights and humanitarian law. It further explores the domestic and international criticism generated by these measures, as well as their implications for legal accountability and global perceptions of the United States.

The fourth chapter examines the transition from the Bush administration to the administration of President Barack Obama, focusing on policy reform, legislative change, and the rearticulation of counter-terrorism strategy. It analyzes the development of the Obama administration's approach to counter-terrorism, including military operations, drone warfare, and security cooperation in Afghanistan, Pakistan, and Yemen. The chapter also investigates the relationship between humanitarian intervention, strategic interests, and international law in relation to the United States involvement in Libya, Syria, Egypt, and Palestine.

General Introduction

The fifth chapter evaluates the consequences and human rights debates associated with the Obama administration's counter-terrorism policies. It examines the expansion of drone strikes, targeted killing operations, surveillance practices, and detention policies, assessing their domestic and international implications. The chapter also explores the legal, political, and ethical criticisms directed at the administration's security policies and their impact on debates concerning executive authority and human rights protection.

The final chapter presents a comparative analysis of counter-terrorism policy under the administrations of Bush and Obama. It examines the principal areas of continuity and change between the two presidencies in relation to military intervention, surveillance, detention practices, executive power, and human rights discourse. Through this comparison, the chapter evaluates whether the Obama administration represented a substantive departure from the Bush-era War on Terror framework or whether it largely reproduced and institutionalized its foundational structures under revised legal and political forms.

Chapter One:

Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

1.1 Introduction

This chapter establishes the theoretical, legal, and conceptual foundations for analysing the relationship between counter-terrorism practices and human rights in the post-9/11 context. It is situated within an interdisciplinary framework that integrates human rights theory, security studies, International Relations, and Just War Theory to examine how states define, justify, and operationalize exceptional security measures in response to terrorism. Central to this inquiry is the persistent tension between security imperatives and the protection of fundamental rights, particularly when governments invoke emergency conditions to expand executive authority and reshape legal constraints.

The analysis is premised on the understanding that counter-terrorism operates within a dense normative and legal architecture composed of universal, regional, and domestic instruments. These include core human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR), and the Universal Declaration of Human Rights (UDHR), as well as interpretative jurisprudence developed by international and regional monitoring bodies. These frameworks establish binding standards concerning the right to life, liberty, fair trial guarantees, prohibition of torture, non-discrimination, privacy, asylum, and non-refoulement. At the same time, U.S. post-9/11 counter-terrorism policies have frequently generated friction with these obligations, particularly through practices such as preventive detention, expanded surveillance, coercive interrogation, and restrictive migration controls.

Methodologically, this chapter adopts a qualitative, doctrinal, and interpretive design to systematically analyze legal texts, treaty jurisprudence, and scholarly discourse. This method precisely tracks how human rights standards are applied, strained, or bypassed in counter-terrorism contexts. For analytical consistency, key terms are operationalized: Terrorism as a contested legal and political category shaping state responses; security through both state-

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

centric and human-centered lenses; and violations as breaches of binding treaty or jus cogens norms. All practices are evaluated against four criteria ; legality, necessity, proportionality, and accountability.

1.2 Theoretical Framework and Key Concepts

This section sets out the analytical perspective provided by the theoretical framework and clarifies the key concepts underpinning the analysis. Establishing clear definitions is essential, particularly given the contested and evolving nature of these terms in international law and political discourse. Human rights are fundamental moral and legal entitlements inherent to all individuals and are recognized and protected by international and constitutional instruments. Terrorism, by contrast, remains a contested concept and is generally understood in legal and scholarly literature as the use or threat of violence against civilians or non-combatants for political, ideological, or religious purposes. Counter-terrorism refers to the range of policies, legal frameworks, and security measures adopted by states to prevent, combat, and suppress terrorist activities. By clarifying these concepts, this section establishes the conceptual foundation necessary for analysing the relationship between security imperatives and human rights protections in the post-9/11 context.

1.2.1 Human Rights Theory

Human rights theory provides the conceptual apparatus for interrogating the origins, justification, and limits of rights, particularly in contexts marked by the expansion of state power under claims of necessity. It engages fundamental questions concerning the basis of rights, their universality, and the permissible scope of state interference (Freeman, 2004). These issues acquire heightened significance in periods of perceived emergency, when exceptional measures test the boundaries of legality and legitimacy.

Within the natural rights tradition, most prominently associated with John Locke (1689/1988), rights are understood as inherent attributes of human beings that exist

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

independently of political authority. The state's legitimacy derives from its capacity to secure these pre-political rights (life, liberty, and property) rather than to confer them. This position establishes stringent moral limits on governmental action, rendering practices such as indefinite detention or coercive interrogation deeply problematic insofar as they undermine the intrinsic dignity and autonomy of individuals.

Legal positivist approaches, exemplified by H. L. A. Hart (1961), locate the authority of rights within institutionalized legal systems. Rights are articulated and enforced through constitutions, statutes, and international agreements, and their protection depends on the efficacy of legal mechanisms. In the domain of counter-terrorism, this perspective directs attention to questions of legality, including conformity with due process guarantees and the absolute prohibition of torture under international law.

Universalist theories, advanced by scholars such as Donnelly (2013), maintain that human rights apply equally to all individuals irrespective of cultural or political context, rejecting claims that exceptional circumstances justify derogation from fundamental protections. In contrast, cultural relativism emphasizes contextual interpretation but remains contentious due to its potential to legitimize practices that contravene internationally recognized standards.

Critical approaches, drawing on the work of Karl Marx (1844/1978), interrogate the relationship between human rights discourse and structures of power, suggesting that rights may reflect and reproduce political and economic interests. This perspective is particularly instructive in examining how counter-terrorism policies may privilege security imperatives or geopolitical objectives at the expense of individual protections. Complementing this, the capabilities approach developed by Amartya Sen (1999) shifts analytical focus toward the substantive freedoms individuals are able to exercise, thereby assessing rights in terms of lived experience rather than formal recognition.

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

These theoretical orientations illuminate the multifaceted nature of human rights as moral, legal, and political constructs. They provide a robust framework for evaluating the legitimacy of counter-terrorism practices, particularly those implemented under the administrations of George W. Bush and Barack Obama, where tensions between security and individual freedoms became especially pronounced.

1.2.2 Human Rights

Human rights have been conceptualized within moral philosophy, political theory, and international law as norms that combine ethical universality with legal enforceability. Despite variation in justification, there is broad convergence on their status as foundational constraints on the exercise of power. From a universalist perspective, Jack Donnelly (2013) understands human rights as inherent entitlements derived from human dignity, characterized by universality and inalienability. Maurice Cranston (1973) similarly frames them as basic moral rights applicable to all individuals irrespective of context. Moving beyond purely philosophical accounts, James Nickel (2019) conceptualizes human rights as protective standards aimed at shielding individuals from severe political and social abuse, thereby functioning as limits on state authority. In a comparable vein, Henry Shue (1996) advances the idea of ‘basic rights,’ particularly security and subsistence, as foundational conditions without which other rights cannot be meaningfully exercised.

From a legal standpoint, Louis Henkin (1990) defines human rights as claims of individuals against the state that, while rooted in moral reasoning, are progressively embedded within international legal structures. Andrew Clapham (2007) further specifies this juridical dimension by articulating the obligations of states to respect, protect, and fulfill rights through binding legal commitments. Taken together, these perspectives position human rights at the intersection of moral obligation and legal duty, establishing a framework for evaluating state behaviour.

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

This interpretive framework becomes particularly relevant in assessing the United States counter-terrorism policy following the attacks of 11 September 2001. Measures such as expanded executive authority, indefinite detention practices, and coercive interrogation techniques raised serious concerns regarding compliance with core rights, including the prohibition of torture, the right to liberty, and due process guarantees. Accordingly, the theoretical approaches outlined above function as analytical benchmarks for examining the extent to which such policies align with established human rights norms.

Within the United States, these normative expectations are partially institutionalized through the United States Constitution and the Bill of Rights, which entrench civil and political liberties such as protection against arbitrary detention and guarantees of judicial fairness (Roberts, 1972). These constitutional protections give legal form to concerns identified in human rights theory regarding the limitation of state power and the safeguarding of individual security, providing a domestic standard against which post-9/11 practices can be assessed.

At the international level, the post-Second World War legal order further consolidates these principles through the establishment of the United Nations and the adoption of the UDHR, which articulates a universal framework grounded in human dignity and equality (Moyn, 2014). This framework was later strengthened through binding instruments such as the ICCPR, which codifies essential protections including the right to life, the prohibition of torture, and liberty guarantees (McNeilly, 2022). These instruments formalize the obligations identified by Clapham, requiring states to ensure not only non-violation but also active protection of rights.

The interaction between domestic constitutional law and international human rights law produces a coherent evaluative structure for examining state conduct. In relation to U.S. counter-terrorism strategies after 2001, this structure is particularly significant, as practices including indefinite detention, enhanced interrogation, and expanded surveillance powers must be assessed against both constitutional guarantees and international legal obligations. In this

regard, the legal institutionalization of human rights provides the normative criteria through which the policies implemented under George W. Bush and Barack Obama can be critically examined for their conformity with established human rights standards.

1.2.3 Human Rights Violations

Human rights violations encompass acts or omissions attributable to states or other actors that contravene internationally recognized standards, resulting in harm to individual dignity, liberty, or well-being. Such violations arise when states fail to discharge their obligations to respect, protect, or fulfill rights as codified in international legal instruments, including the Universal Declaration of Human. From a legal standpoint, violations are understood as breaches of treaty-based and customary obligations. Clapham (2007) conceptualizes these obligations as comprising duties of non-interference, protection against third-party abuses, and the adoption of measures ensuring effective realization of rights. Henkin (1990) similarly emphasizes the claim-right structure of human rights, whereby individuals possess enforceable entitlements against the state.

Violations manifest across several domains. Civil and political infringements include arbitrary detention, restrictions on expression, and denial of due process. More severe forms involve physical integrity, such as torture, inhuman or degrading treatment, and extrajudicial killing, all of which are categorically prohibited. Procedural deficiencies, including the absence of fair trial guarantees or judicial oversight, further erode the rule of law and facilitate systemic abuse. These concerns assume particular urgency in counter-terrorism contexts. Measures adopted by the United States after September 11 (such as detention practices at Guantanamo Bay, the designation of ‘enemy combatants,’ and the authorization of enhanced interrogation techniques) provoked sustained debate regarding their compatibility with international human rights obligations. Subsequent reforms under Barack Obama sought partial realignment with

legal norms, yet controversies persisted, notably in relation to targeted killings and ongoing detention policies.

The study of violations thus exposes the disjunction between normative commitments and state practice, underscoring the role of political will and institutional accountability in determining compliance. It provides an essential lens through which counter-terrorism strategies can be assessed in light of established legal and ethical standards.

1.2.4 Terrorism

Terrorism is defined as the deliberate use or threat of violence, primarily directed against civilians or non-combatants, to instill fear and coerce governments, societies, or specific groups in pursuit of political, ideological, or religious objectives. Bruce Hoffman (2006) emphasizes the strategic production of fear as a defining feature, while Walter Laqueur (2001) points out its systematic character in advancing political aims.

International legal frameworks have largely adopted a sectoral approach, criminalizing specific acts such as hijacking and hostage-taking rather than articulating a comprehensive definition, a reflection of persistent political disagreements among states. The classification of actors as ‘terrorists’ carries significant legal consequences, particularly in relation to their status under international humanitarian law and the applicability of protections under the Geneva Conventions (Saul, 2005).

The attacks of September 11 marked a decisive shift in the global salience of terrorism, prompting the United States to initiate the ‘War on Terror,’ characterized by military interventions, expanded surveillance regimes, and novel forms of detention. These developments reconfigured legal and institutional responses to non-state violence while generating sustained debate over their compatibility with human rights norms (Sinai, 2008).

The conceptualization of terrorism is, therefore, not merely descriptive but constitutive, shaping policy responses and legitimizing particular forms of state action. This conceptual

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

ambiguity surrounding terrorism illustrates that it is not only a matter of definition but also of interpretation and political framing, which directly leads to the question of how such phenomena are constructed as security threats within broader state and international frameworks of security governance.

1.2.5 Security

The concept of security has evolved from a narrow focus on military defense to encompass broader political, economic, and human dimensions. Traditional state-centric approaches prioritize sovereignty and territorial integrity, framing counter-terrorism as a necessary response to external threats, an orientation that became particularly prominent in the post-9/11 environment (Brooks, 2010). Critical perspectives, particularly securitization theory, argue that security is socially constructed through political discourse, enabling certain issues to be framed as existential threats that justify extraordinary measures. The elevation of terrorism to a central security concern illustrates this process, legitimizing practices such as surveillance, pre-emption, and preventive detention (Brooks, 2010).

The human security paradigm further reorients analysis toward the protection of individuals, emphasizing the interdependence between security and human rights. This approach challenges policies that prioritize state security at the expense of individual freedoms, insisting instead on the primacy of human dignity within security governance (Sperling & Kirchner 1995). The evolving and contested nature of security, encompassing both state-centric and human-centered dimensions, thus necessitates a closer examination of the theoretical frameworks that seek to explain how security is defined, constructed, and operationalized in contemporary security studies.

1.2.6 Security Studies Frameworks

Security studies have expanded beyond traditional military-focused paradigms to incorporate critical and human-centered approaches. Realist frameworks continue to emphasize

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

state survival and the centrality of force, whereas the Copenhagen School introduces securitization theory to explain how political actors construct threats through discourse (Baele et al., 2018). Critical security studies, influenced by Foucauldian thought, interrogate the relationship between security, surveillance, and power, while the Paris School emphasizes the role of bureaucratic practices and institutions in producing security regimes (Cheng & Brettle, 2019).

The human security paradigm introduces an ethical dimension, centering on individual well-being and aligning security analysis with human rights principles. Collectively, these perspectives demonstrate that security is both a material condition and a socially constructed process, shaped by competing interpretations of threat and protection (Szpyra, 2014). While security studies provide essential analytical tools for understanding the construction and management of threats, a broader theoretical perspective from International Relations is required to situate these dynamics within competing explanations of state behavior, global order, and international responses to terrorism.

1.2.7 International Relations Theory

International Relations theory offers competing frameworks for interpreting state behavior in response to terrorism. Realism conceptualizes the war on terror as a response to an existential threat, prioritizing survival, security, and the accumulation of power (Griffiths & Griffiths, 2007). Liberalism emphasizes the role of international institutions and legal norms in constraining state behavior, advocating adherence to human rights and multilateral cooperation (Steans et al., 2013). Constructivism, by contrast, focuses on the role of ideas, identities, and discourse in shaping perceptions of threat, including the social construction of terrorism itself (Steans et al., 2013).

These approaches collectively illuminate the strategic, institutional, and ideational dimensions of counter-terrorism policies, offering a multidimensional framework for

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

understanding continuity and change in state responses. Although International Relations theories clarify these dimensions, they do not fully address the moral legitimacy of the use of force, which requires engagement with normative frameworks such as Just War Theory.

1.2.8 Just War Theory

Just War Theory provides a normative framework for evaluating both the justification for the use of force (*jus ad bellum*) and its conduct (*jus in bello*). Michael Walzer (2006) identifies key criteria such as just cause, legitimate authority, proportionality, and last resort, which regulate the resort to armed force. Following the events of September 11, the United States invoked self-defense to justify military operations against non-state actors.

In relation to the conduct of hostilities, principles such as discrimination and proportionality require the protection of civilians and the limitation of unnecessary harm (Luban, 1980). These principles are reinforced by international humanitarian law, particularly the Geneva Conventions, which establish legal constraints on the conduct of armed conflict (Williams & Caldwell, 2006). However, practices associated with the war on terror, including detention regimes and enhanced interrogation techniques, have been widely scrutinized for their compatibility with these standards (Crawford, 2003). Despite providing a normative structure for evaluating the legitimacy of force, Just War Theory presumes the stability of legal and moral categories, whereas critical perspectives interrogate how these categories are transformed, suspended, or redefined in the context of the war on terror.

1.2.9 The War on Terror

Critical scholarship conceptualises the 'War on Terror' as a profound reconfiguration in the relationship between law, sovereignty, and security. Within this perspective, Michel Foucault's theory of biopolitics and governmentality (2003) explains how modern states govern through the regulation of populations, where security becomes a central rationality of power.

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

In this context, counter-terrorism practices such as surveillance, data collection, and risk profiling reflect the normalisation of disciplinary control within everyday governance.

Giorgio Agamben's notion of the 'state of exception' (2005) further develops this analysis by arguing that emergency conditions increasingly enable the suspension of legal norms, producing spaces where individuals exist outside ordinary legal protection. The situation of detainees at Guantanamo Bay illustrates this condition, where legal ambiguity and indefinite detention reflect the erosion of established procedural safeguards. Similarly, Carl Schmitt's conception of sovereignty as the authority to decide on the exception (2005) clarifies how executive power expands during perceived crises, redefining the boundaries of legality itself.

These theoretical perspectives demonstrate a convergence around the blurring of norm and exception, where counter-terrorism functions not only as a security strategy but also as a mechanism for extending state authority beyond conventional legal constraints (Dalton, 2005). This critical framework provides a foundation for assessing the compatibility of post-9/11 security practices with established human rights norms. Within this broader framework, the Global War on Terror (GWOT) refers to the U.S.-led international counter-terrorism campaign launched after the 11 September 2001 attacks. Its trajectory reflects both continuity and adaptation across administrations, while maintaining the central objective of countering transnational jihadist networks.

Under President George W. Bush (2001-2009), the GWOT was initially grounded in hard power strategies, including military intervention and regime change. Operation Enduring Freedom in Afghanistan (2001) targeted Al-Qaeda and the Taliban, followed by the 2003 invasion of Iraq, which significantly expanded the scope of the conflict (9/11 Commission Report, 2004). This period also saw major legal and institutional transformations, including the USA PATRIOT Act, which expanded surveillance powers, and the Military Commissions Act, which established an alternative judicial framework for terrorism suspects. The Bush Doctrine

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

further institutionalised pre-emptive action, alongside interrogation practices that generated sustained human rights controversies (Mazzetti, 2013).

Under President Barack Obama (2009-2017), the campaign was rhetorically reframed as ‘Overseas Contingency Operations,’ while retaining its structural core. This period was marked by an increased reliance on drone warfare, with significantly expanded strike operations in Pakistan and Yemen (Bergen & Rowland, 2013). The 2011 killing of Osama bin Laden symbolised a shift toward precision-based counter-terrorism and special operations. Although framed within a discourse of multilateralism and reduced large-scale intervention, these policies also generated controversy, particularly regarding civilian casualties and the wider diffusion of drone warfare practices (International Human Rights Clinic, 2012). The evolution of the GWOT illustrates both continuity in security objectives and transformation in operational methods, while raising persistent questions about the balance between counter-terrorism and human rights protection.

Building on the theoretical framework and key concepts, this section translates theoretical perspectives into concrete legal obligations. While states must protect citizens from terrorism, this duty remains strictly bound by international human rights law. The analysis examines how core rights (such as the right to life, liberty, freedom from torture, non-discrimination, privacy, and non-refoulement) are interpreted within post-9/11 regimes, thereby establishing a normative framework based on legality, necessity, proportionality, and accountability to evaluate state practices.

1.3 Protecting Human Rights while Countering Terrorism

The security of the individual is a fundamental human right, placing a primary duty on the state to protect all persons within its jurisdiction. This obligation extends beyond abstaining from violations to the adoption of effective measures aimed at preventing terrorist acts and ensuring accountability for those responsible. Counter-terrorism policies must, therefore,

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

remain aligned with human rights norms, so that the pursuit of security does not undermine the legal principles it seeks to defend. International bodies, including the United Nations and regional organizations, have consistently affirmed that such measures cannot justify arbitrary detention, torture, or the denial of fair trial guarantees, and must instead operate within frameworks of transparency, accountability, and legal oversight.

In practice, however, counter-terrorism strategies have frequently generated tension with human rights and the rule of law. States have, in certain instances, resorted to coercive interrogation, weakened safeguards against abuse, and transferred suspects to jurisdictions where they face a real risk of serious violations, in breach of the principle of non-refoulement. The use of exceptional courts to prosecute civilians has further compromised judicial independence and eroded confidence in ordinary legal institutions.

Beyond the judicial sphere, restrictive measures have curtailed the activities of human rights defenders, journalists, minorities, and civil society, thereby narrowing civic space and weakening democratic governance. At the same time, the prioritization of security objectives has often occurred at the expense of economic, social, and cultural rights. Against this background, this section examines the extent to which contemporary counter-terrorism practices conform to international human rights law, with particular attention to the persistent tension between security imperatives and the preservation of fundamental legal guarantees.

This analysis adopts a doctrinal and interpretive approach grounded in the systematic examination of legal texts, jurisprudence, and scholarly literature. It relies on primary sources, including international instruments such as the ICCPR, the ECHR, and the UDHR, alongside decisions issued by bodies such as the Human Rights Committee. Academic commentary is also incorporated to contextualize these legal developments within broader scholarly debates.

1.3.1 States' Obligation to Protect Everyone against Terrorism

States are under the obligation to take the measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist acts, especially the right to life. This positive obligation fully justifies States' fight against terrorism in accordance with the present guidelines (Art. 2, para. 1, ECHR). All measures taken by States to fight terrorism must respect human rights and the principle of the rule of law, while excluding any form of arbitrariness, as well as any discriminatory or racist treatment, and must be subject to appropriate supervision (Art. 11, para. 1, ECHR).

1.3.2 The Right to Life and Penalties Incurred

The right to life constitutes a foundational norm within international human rights law, anchored in the recognition that every human being possesses an inherent entitlement to life, liberty, and security of person, which must be protected by law and safeguarded against arbitrary deprivation (Art. 6, para. 1, ICCPR; Art. 3, para. 1, UDHR). Within the context of counter-terrorism, this protection is inseparable from the principle of legality governing criminal responsibility and punishment, whereby penalties imposed on individuals accused of terrorist activities must be strictly defined by law at the time of the offence, and no heavier penalty may be applied retroactively (Art. 7, para. 1, ECHR). The regulation of capital punishment further reflects this normative framework. Under European human rights law, the death penalty is categorically prohibited, and even where imposed, it must not be executed (Protocol No. 13 to the ECHR). By contrast, international law as articulated in the ICCPR permits a narrowly circumscribed retention of capital punishment in states that have not abolished it, limiting its application to the most serious crimes, in accordance with the law in force at the time of commission, and subject to consistency with obligations under the Convention on the Prevention and Punishment of the Crime of Genocide, with execution permissible only following a final judgment by a competent court (Art. 6, paras. 2-3, ICCPR).

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

Procedural guarantees remain integral to this regime, including the right of those sentenced to death to seek pardon or commutation, and the absolute prohibition of such sentences for individuals below eighteen years of age or their execution on pregnant women (Art. 6, paras. 4-5, ICCPR), alongside the affirmation that these provisions must not impede the progressive abolition of capital punishment (Art. 6, para. 6, ICCPR).

Although the right to life appears *prima facie* absolute, its legal articulation reveals a degree of conditionality. The prohibition concerns arbitrary deprivation rather than deprivation *per se*, thereby introducing interpretive complexity. While Article 6, paragraph 1 of the ICCPR prohibits arbitrariness, paragraph 2 permits limited recourse to the death penalty, and Article 4, paragraph 2 confirms that no derogation from Article 6 is permissible even in times of public emergency (Yusuf, 2012). Despite this formal non-derogability, states may attempt to justify lethal force by invoking emergency conditions and arguing that such deprivations are not arbitrary, thereby exposing a structural ambiguity within the provision (Yusuf, 2012).

This ambiguity creates space for expansive state discretion, particularly in counter-terrorism contexts where security imperatives are invoked to legitimize exceptional measures. A more precise formulation of Article 6 would reduce the risk of such interpretive manipulation by clarifying the limits of permissible state action, irrespective of declared or undeclared emergencies. The jurisprudence of the Human Rights Committee has sought to mitigate this vulnerability through a broad and substantive interpretation of the right to life, extending its scope to encompass state use of force and large-scale deprivations of liberty even in the absence of a formal state of emergency (Yusuf, 2012).

This interpretive approach is exemplified in *Suárez de Guerrero v. Colombia* (Views adopted on 31 March 1982), where the Human Rights Committee found an arbitrary deprivation of life arising from a police operation involving premeditated killings, absence of prior warning, denial of an opportunity for surrender, and the use of force that was unnecessary and

disproportionate to ordinary policing requirements. The victims' status as suspects illustrated the absence of justification for lethal force, satisfying both causation and evidentiary thresholds and reinforcing the principle that state actions must remain strictly constrained by necessity and proportionality (Yusuf, 2012). Such jurisprudence contributes to the consolidation of legal standards that resist the erosion of the right to life in counter-terrorism practices, ensuring that security measures remain subordinate to fundamental human rights obligations.

1.3.3 Discrimination

The prohibition of discrimination constitutes a central pillar of international human rights law, requiring that all persons are equal before the law and entitled, without distinction, to equal protection and effective remedies against discrimination on any ground, including race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status (Art. 26, para. 1, ICCPR). Within the context of counter-terrorism, this principle assumes particular significance, as measures adopted in the name of security have repeatedly generated patterns of exclusion and unequal treatment. In 2002, the Human Rights Committee, while acknowledging the security imperatives arising from the events of 11 September 2001, expressed concern regarding the adverse impact of counter-terrorism campaigns on human rights, especially for persons of foreign descent (Yusuf, 2012, p. 12). This position reflects a consistent normative stance within the United Nations system that counter-terrorism policies must not compromise the universal guarantee of non-discrimination.

Subsequent interventions by treaty bodies have reinforced this obligation. The Committee on the Elimination of Racial Discrimination reiterated that states must ensure that counter-terrorism measures neither discriminate in purpose nor in effect based on race, colour, descent, or national or ethnic origin (Yusuf, 2012). The post-9/11 environment has been marked by heightened vulnerability among specific groups, particularly Muslims and Arabs, who have often been subjected to discriminatory assumptions associating them with terrorism, extremism,

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

and intolerance (Yusuf, 2012). In response, the Human Rights Committee has urged states to adopt proactive measures, including public education initiatives through media channels, aimed at protecting individuals of foreign origin from prejudice and stigmatization (Yusuf, 2012).

The supervisory role of treaty-monitoring bodies extends beyond declaratory statements to concrete recommendations directed at ensuring accountability and prevention. The Committee on the Elimination of Racial Discrimination has called upon states to monitor discriminatory practices closely, take decisive action to protect victims, address violations effectively, and report on developments in periodic submissions (Yusuf, 2012). Such interventions demonstrate the institutional capacity of the United Nations framework to respond to evolving patterns of discrimination associated with security policies. Drawing on comparative experience across jurisdictions, these bodies provide context-sensitive guidance that seeks to reconcile the imperatives of national security with binding human rights obligations.

This is reflected in the Committee's insistence that the application of anti-terrorism legislation must not produce adverse consequences for ethnic and religious minorities, migrants, asylum seekers, and refugees, particularly through practices such as racial profiling (Yusuf, 2012). The situation of asylum seekers illustrates the fragility of these protections: although judicial intervention has curtailed the detention of asylum seekers in certain contexts, the persistence of appeals by administrative authorities indicates the potential for reintroduction of contested practices (Yusuf, 2012).

The prohibition of discrimination is further reinforced by complementary guarantees protecting cultural, religious, and linguistic diversity. Persons belonging to minorities must not be denied the right to enjoy their culture, practice their religion, or use their language in community with others (Art. 27, para. 1, ICCPR). This protection demonstrates the collective dimension of non-discrimination, extending beyond formal equality to the preservation of identity and participation. In addition, international human rights law defines discrimination

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

against women as any distinction, exclusion, or restriction based on sex that impairs or nullifies the recognition and exercise of human rights and fundamental freedoms on a basis of equality with men across all spheres of life (Art. 1, OHCHR). These provisions establish a comprehensive legal framework that constrains state action in counter-terrorism contexts, requiring that security measures operate within the bounds of equality, inclusivity, and respect for human dignity.

Non-discrimination is a non-derogable obligation (Art. 26, ICCPR) requiring equal protection irrespective of race, religion, or origin. Post-9/11 measures like the PATRIOT Act, and FBI profiling institutionalized ethnic and religious targeting. UN bodies consistently condemn equating Muslim or Arab identity with terrorism, demanding oversight to prevent algorithmic or procedural bias. Here, discrimination is assessed through disparate impact rather than formal statutory language, prioritizing substantive equality over mere legal neutrality.

1.3.4 The Right to Freedom from Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

The prohibition of torture and other cruel, inhuman or degrading treatment or punishment constitutes one of the most stringent norms in international human rights law, characterized by its absolute and non-derogable nature. Torture is defined as any act by which severe physical or mental pain or suffering is intentionally inflicted for purposes such as obtaining information or a confession, punishment, intimidation, coercion, or discrimination-based motives, when such suffering is inflicted or acquiesced in by a public official or person acting in an official capacity, excluding pain or suffering inherent in lawful sanctions (Art. 1, OHCHR). This prohibition is firmly established in universal and regional instruments, which provide that no individual shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, including in contexts of detention, interrogation, or criminal conviction (Art. 5, para. 1, UDHR; Art. 7, para. 1, ICCPR; Art. 3, para. 1, ECHR). It extends to all circumstances,

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

including counter-terrorism operations, where the use of such practices is categorically excluded, irrespective of the severity of the alleged conduct.

In practical terms, violations of this prohibition may take multiple forms, ranging from physical brutality such as mutilation, beatings, and the application of electric shocks to sensitive parts of the body, to psychological methods including deprivation of food, water, sleep, or exposure to prolonged sensory stress designed to erode mental stability and human dignity (Cassese, 1990). Such practices are understood not merely as instruments of coercion but as mechanisms that aim to humiliate and dismantle the inherent dignity of the person. The jurisprudential and doctrinal framework treats this right as entirely non-derogable, as confirmed in Article 7 of the ICCPR and reinforced by the Human Rights Committee in General Comment No. 20, which affirms that no restriction or limitation is permissible under any circumstances (Yusuf, 2012). Neither states of emergency nor instructions from superiors, regardless of rank, can be invoked as justification, thereby establishing individual criminal responsibility for state agents engaged in prohibited conduct (Yusuf, 2012). This interpretive position transforms the obligation from a purely negative duty into a broader protective framework requiring states to prevent, investigate, and suppress acts of torture within their jurisdiction.

The Human Rights Committee has further clarified that Article 7 operates in close interrelation with other fundamental rights, such that violations of this provision frequently generate breaches of additional protections. In its concluding observations, it acknowledged the security challenges faced by states engaged in counter-terrorism operations. Still, it reaffirmed that no exceptional circumstances may justify torture, while also expressing concern regarding restrictive measures that risk eroding human rights guarantees (CCPR/CO/76/EGY, para. 4, 2002). In this context, the Committee has maintained a strict stance regarding interrogation techniques, rejecting even ‘moderate physical pressure’ as incompatible with Article 7, notwithstanding arguments that such methods may facilitate the extraction of critical security

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

information (CCPR/CO/76/EGY, para. 4, 2002). This position reflects an uncompromising legal interpretation that prioritizes the integrity of the prohibition over utilitarian considerations of effectiveness in counter-terrorism, even though such rigidity has been subject to critique from perspectives emphasizing security imperatives in the post-9/11 legal environment.

The Committee has also expanded the scope of prohibited conduct to include forms of treatment that may not involve direct physical violence. The detention of individuals as bargaining instruments in negotiations has been found to violate both Article 7 and Article 6 of the ICCPR, since it undermines human dignity even in the absence of physical harm (CCPR/CO/76/EGY, para. 4, 2002). Similarly, prolonged solitary confinement has been recognized as potentially constituting inhuman or degrading treatment, particularly where isolation is extensive and sustained over time, thereby producing severe psychological harm (CCPR/CO/76/EGY, para. 4, 2002). These interpretations demonstrate an expansive understanding of ill-treatment that encompasses both physical and psychological dimensions of harm.

The absolute character of the prohibition has also been reaffirmed by the Committee Against Torture, which has emphasized that states cannot invoke exceptional circumstances as justification for conduct prohibited under Article 1 of the Convention Against Torture, as explicitly provided in Article 2 of the same instrument (CCPR/CO/76/EGY, para. 4, 2002). Beyond direct acts of torture, international concern extends to enforced disappearances, which remain prevalent in contexts of armed conflict and counter-terrorism. Such practices involve secret detention, denial of information regarding the fate or whereabouts of detainees, and in many cases, are accompanied by interrogation, torture, and extrajudicial execution, with bodies concealed in unmarked graves or disposed of in ways intended to obscure evidence (Cassese, 1990; United Nations, 2000). These acts generate prolonged psychological suffering for

families, who are left in a state of enduring uncertainty regarding the survival or death of their relatives.

Regional human rights systems further reinforce these standards. The European framework, as developed under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and interpreted by the European Committee for the Prevention of Torture, establishes not only prohibitions but also positive obligations on state authorities. Where there are reasonable grounds to suspect that such violations have occurred, authorities are required to conduct effective investigations capable of determining both the occurrence of abuse and the circumstances in which it took place (Venice Commission, 2010). This procedural obligation reflects an understanding that the prevention of torture is not limited to abstention but extends to active institutional accountability and enforcement mechanisms designed to ensure compliance with the absolute prohibition.

1.3.5 Detention and Treatment of Detainees

The right to liberty and security of person is enshrined as a foundational guarantee of international human rights law, providing that no individual shall be subjected to arbitrary arrest or detention and that deprivation of liberty must occur strictly on lawful grounds and in accordance with procedures established by law (Art. 9, para. 1, ICCPR; Art. 9, para. 1, UDHR). This normative framework is reinforced by procedural safeguards requiring that anyone arrested be informed at the time of arrest of the reasons for such action and be promptly notified of any charges brought against them (Art. 9, para. 2, ICCPR). Within the broader detention regime, these guarantees are closely linked to the obligation to ensure humane treatment of all persons deprived of liberty, particularly in contexts shaped by counter-terrorism policies.

Under the European human rights system, any individual within the jurisdiction of a State party must be treated with full respect for human dignity, irrespective of the circumstances of their arrest or the origin of their detention, including situations involving third states or foreign

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

agents (Venice Commission, 2010; Ilascu et al., 2004). This obligation operates in conjunction with Article 3 of the ECHR, which establishes an absolute prohibition of torture and of inhuman or degrading treatment or punishment. This prohibition, recognized as a norm of jus cogens, admits no derogation under any circumstances, thereby precluding states from engaging in, authorizing, or indirectly facilitating secret detention or incommunicado interrogation practices (Venice Commission, 2010). Even where states host international judicial or prosecutorial mechanisms under formal agreements, the treatment of detainees must remain fully consistent with binding international standards.

In practice, detention regimes applied to terrorism suspects often involve high-security facilities characterized by strict control measures intended to prevent escape and external communication. However, conditions involving prolonged isolation, restricted spatial confinement, and continuous surveillance have, in certain cases, exceeded legitimate security requirements and resulted in treatment amounting to inhuman or degrading conditions under Article 3 of the ECHR. Such measures may be employed not only for preventive security purposes but also as coercive techniques aimed at breaking detainee resistance and extracting confessions regarding alleged involvement or association (Venice Commission, 2010). This raises serious concerns regarding the boundary between lawful security administration and prohibited forms of coercion.

The legal framework governing detention for purposes of deportation or extradition further illustrates the tension between security objectives and individual rights. Article 5, paragraph 1(f) of the ECHR permits lawful detention of individuals subject to deportation or extradition proceedings; however, such detention may become prolonged where removal is impeded by a real risk of violations of Articles 2 or 3, or serious breaches of Articles 6 or 8 in the receiving state, as established in *Chahal v. United Kingdom* (1996). Despite such extensions, detainees

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

retain the right under Article 5, paragraph 4 to challenge the legality of their detention before a court, which must promptly determine its lawfulness and order release where appropriate.

The requirement of legality extends beyond arrest and detention to encompass extradition practices themselves. Covert or disguised extraditions conducted at the request of foreign states but in violation of domestic legal procedures constitute unlawful acts and breach Article 5 of the ECHR, as established in *Bozano v. France* (1986). This reinforces the principle that counter-terrorism cooperation between states must operate strictly within the bounds of established legal frameworks, without resort to extrajudicial or irregular transfer mechanisms.

Procedural guarantees under the ICCPR further consolidate this protective framework. Individuals must be promptly informed of the reasons for arrest and any charges against them (Art. 9, para. 2, ICCPR), brought without delay before a judge or other judicial authority, and entitled to trial within a reasonable time or release pending trial, subject to appropriate guarantees (Art. 9, para. 3, ICCPR). Judicial review of detention must be available without delay to assess legality and order release where detention is unlawful (Art. 9, para. 4, ICCPR), while victims of unlawful arrest or detention are entitled to enforceable compensation (Art. 9, para. 5, ICCPR). These safeguards collectively seek to prevent arbitrary deprivation of liberty while preserving judicial oversight as a structural safeguard against abuse.

Complementary protections are reflected in the presumption of innocence and the prohibition of retroactive criminal punishment, which require that no person be held guilty of a criminal offence without a fair public trial and that no heavier penalty be imposed than that applicable at the time of the offence (Art. 11, UDHR). Detention conditions themselves are governed by the principle that all persons deprived of liberty must be treated with humanity and respect for inherent dignity (Art. 10, para. 1, ICCPR). This includes the segregation of accused and convicted persons, except in exceptional circumstances, as well as the separation of juveniles from adults and their prompt adjudication (Art. 10, para. 2, ICCPR). The penitentiary

system is further oriented toward reformation and social rehabilitation, with particular safeguards for juvenile offenders based on age and legal status (Art. 10, para. 3, ICCPR). All in all, these provisions establish an integrated legal architecture designed to ensure that detention, even in the context of counter-terrorism, remains bounded by legality, judicial control, and the inherent dignity of the human person.

1.3.6 Legal Proceeding (Fair Trial)

The right to a fair trial constitutes a central pillar of international human rights law and retains full applicability in the context of counter-terrorism. Article 6, paragraph 1 of the ECHR guarantees that any person charged with a criminal offence is entitled to a hearing within a reasonable time before an independent and impartial tribunal established by law, a requirement that extends without distinction to terrorism-related prosecutions. The ECHR has consistently treated this right as inherent to a democratic society and indispensable to the rule of law. Within this framework, the presumption of innocence, enshrined in Article 6, paragraph 2, requires that every individual be considered innocent until proven guilty according to law, including those accused of terrorist activities.

This normative foundation is reinforced by Article 14, paragraph 1 of the ICCPR, which affirms equality before courts and tribunals and guarantees a fair and public hearing by a competent, independent, and impartial tribunal established by law. While limited restrictions on publicity may be justified on grounds such as public order, national security, or the protection of private life, such limitations must remain strictly necessary, and judicial decisions must ordinarily be made public. Article 14 further elaborates a comprehensive set of minimum guarantees, including the right to be informed promptly and in detail of charges in a language understood by the accused; adequate time and facilities for the preparation of a defence; trial without undue delay; presence at trial and access to legal assistance; examination of witnesses under equal conditions; access to an interpreter; and protection against self-incrimination (Art.

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

14 para.3, ICCPR). Additional safeguards include procedures adapted to juveniles (Art. 14 para.4, ICCPR), the right to appeal (Art. 14, para.5, ICCPR), compensation for miscarriages of justice (Art. 14, para.6, ICCPR), and protection against double jeopardy (Art. 14, para.7, ICCPR). These guarantees are complemented by Article 10, paragraph 1 of the UDH.

Within the interpretative practice of treaty bodies, derogations from fair trial guarantees are treated with strict caution. Although emergencies may permit limited derogations, such measures are confined by stringent thresholds designed to preserve legality and prevent abuse. These constraints function as safeguards against the erosion of fundamental rights, ensuring that even in exceptional circumstances the basic requirements of justice remain intact (Yusuf, 2012). The Human Rights Committee has clarified that essential elements of fair trial rights, also protected under international humanitarian law, cannot be suspended arbitrarily, emphasizing the continued relevance of legality and due process in all contexts¹. This position is reflected in General Comment No. 29, which affirms that only a court of law may convict a person and that the presumption of innocence must be maintained at all times².

Particular tensions arise in the use of military and special tribunals in terrorism-related cases, where the demands of national security intersect with fundamental guarantees of judicial independence and impartiality. States frequently resort to exceptional courts, appoint specialized judges, or extend the jurisdiction of military tribunals to address perceived security threats. Such practices raise serious concerns regarding compliance with Article 6 of the Convention and Article 14 of the Covenant, particularly where civilians are subjected to jurisdictions traditionally reserved for military personnel (Venice Commission, 2010). The principles of independence and impartiality are closely intertwined: a tribunal lacking structural independence from the executive cannot be expected to operate impartially, especially where the state is a party to the proceedings.

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

The ECHR has elaborated criteria for assessing judicial independence, including the method of appointment, the duration of judicial tenure, safeguards against external pressure, and the institutional autonomy of the tribunal (Campbell & Fell, 1984). Impartiality requires the absence of personal interest or prior involvement in the case, and it must be evaluated both subjectively and objectively, taking into account the perception of a reasonable observer (Piersack, 2003). Although the requirement that a tribunal be ‘established by law’ does not exclude the creation of special courts, such bodies must be grounded in legal norms and not constituted on an ad hoc basis. Military tribunals may satisfy Convention requirements only where they are structurally independent from the military hierarchy and operate with full guarantees of objectivity. Even in such cases, extending their jurisdiction to civilians remains highly problematic. In *Incal v. Turkey* (1998), the Court held that the trial of civilians before military courts violates the right to a fair trial due to the inherent risk of bias.

Concerns regarding military and special tribunals are compounded by structural deficiencies, including the absence of effective appellate review, limited judicial training in human rights matters, and insufficient mechanisms for reparation. Treaty bodies have repeatedly emphasized that such courts often exercise excessively broad jurisdiction and fail to provide guarantees equivalent to those of ordinary courts, leading to recommendations that jurisdiction over civilians and human rights violations be transferred to independent civilian courts (Yusuf, 2012). The Committee against Torture has similarly insisted on the necessity of appellate review in all terrorism-related convictions (Yusuf, 2012). Deficiencies in reparation mechanisms further undermine the legitimacy of these systems, as amnesties or administrative remedies cannot substitute for full judicial review.

Procedural integrity is further compromised in systems employing anonymous or ‘faceless’ judges, secret proceedings, and severe restrictions on communication between defendants and counsel. Such arrangements undermine transparency, equality of arms, and the effective

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

exercise of defence rights. The Human Rights Committee has emphasized that tribunals must not only be independent and impartial but must also be perceived as such³. In cases such as *Polay Campos v. Peru* and *Gutierrez v. Peru*, it found that anonymous judicial mechanisms, particularly those involving military personnel, fail to satisfy the guarantees of Article 14 and undermine the presumption of innocence. These developments illustrate the evolving role of treaty bodies in addressing new forms of exceptional justice while maintaining the coherence of fair trial standards⁴.

Closely connected to these issues are targeted sanctions regimes, often referred to as ‘blacklists,’ adopted by the United Nations Security Council and regional organizations. These measures typically include asset freezes, travel bans, and arms embargoes imposed on individuals or entities suspected of involvement in terrorism (Cameron, 2003). While such sanctions pursue legitimate security objectives, they raise significant concerns regarding procedural fairness. Individuals subject to listing frequently lack access to adequate information about the reasons for their inclusion, face difficulties in challenging decisions due to reliance on classified evidence, and encounter limited avenues for effective judicial review (Venice Commission, 2010). The risk of misidentification and the absence of meaningful remedies further exacerbate these concerns (Dick Marty, 2007).

Judicial scrutiny has played a crucial role in addressing these deficiencies. The Court of Justice of the European Union has affirmed that the implementation of United Nations sanctions within the European legal order must comply with fundamental rights guarantees, including the right to a fair hearing and effective judicial protection. In *Yusuf and Al Barakaat International Foundation v. Council and Commission* and *Kadi v. Council and Commission*, the Court ultimately required that sanctions regimes be subject to review consistent with human rights standards, rejecting mechanisms that fail to provide access to an independent and competent tribunal (Jabar Ahmed et al., 2010). Despite subsequent reforms, significant challenges remain

in ensuring effective remedies and procedural safeguards. The persistence of these issues suggests that if such measures are to be maintained, they must operate within clearly defined legal frameworks, incorporate robust procedural guarantees, and remain subject to meaningful judicial oversight in order to comply with fundamental principles of fairness and the rule of law (Jabar Ahmed et al., 2010).

1.3.7 Measures which Interfere with Privacy and Right to Property

Measures adopted in the context of counter-terrorism that interfere with the right to privacy, including body searches, home searches, electronic interception, telephone tapping, surveillance of correspondence, and the deployment of undercover agents, are subject to strict legal constraints under international human rights law. Such interferences must be established by law, and their legality must remain open to judicial review to ensure compliance with fundamental rights standards (Art. 5, para.1, ECHR). Within this framework, counter-terrorism operations must be organized and supervised in a manner that minimizes, to the greatest extent possible, recourse to lethal force, while any use of weapons by security forces must remain strictly proportionate to the objectives of protecting individuals from unlawful violence or executing lawful arrests (Art. 5, para. 2, ECHR). These requirements reflect the broader obligation that state action in the security domain must remain bound by legality, necessity, and proportionality.

A convergent normative standard is articulated in Article 17, paragraph 1 of the ICCPR, which prohibits arbitrary or unlawful interference with privacy, family life, home, and correspondence, as well as unlawful attacks on honour and reputation. Article 12, paragraph 1 of the UDHR similarly affirms that no one shall be subjected to such interference or attacks and recognizes the right to legal protection against them. These provisions establish privacy as a protected sphere even in contexts involving serious security threats, including terrorism.

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

In practice, most member states of the Council of Europe authorize forms of electronic surveillance in the investigation of serious crimes; however, surveillance conducted for national security purposes, particularly counter-terrorism, is frequently governed by less stringent legal safeguards and weaker oversight structures. Advances in technology have significantly expanded state capacities to collect and process personal data, with internet use revealing extensive information about both professional and private life, while mobile telephony enables detailed geolocation tracking. Increasingly, telecommunications providers are required to systematically collect and retain user data for commercial and security-related purposes. The Venice Commission has expressed concern regarding these developments and has proposed enhanced oversight mechanisms to ensure that surveillance technologies remain consistent with fundamental rights protections (Venice Commission, 2010).

The ECHR, particularly Article 8 as interpreted by the ECHR, establishes that the right to respect for private life imposes strict limits on secret surveillance practices. In *Klass and Others v. Germany*, the Court held that the powers of secret surveillance, characteristic of police states, are only permissible under the Convention to the extent that they are strictly necessary for safeguarding democratic institutions (Klass et al., 1978). It further required that national legislation authorizing interception measures be drafted with particular precision, specifying the conditions under which such measures may be used and ensuring that individuals can reasonably foresee when surveillance may occur. Such legislation must also incorporate robust safeguards against abuse (Klass et al., 1978).

The Court developed minimum statutory safeguards to regulate secret surveillance regimes in order to prevent arbitrary interference with rights. These include the precise definition of offenses that may justify surveillance, the identification of categories of persons subject to such measures, strict limitations on the duration of surveillance, clear procedures governing the handling, use, and storage of intercepted material, rules on the transmission of data to third

parties, and conditions for the destruction or deletion of recorded information (Klass et al., 1978). These requirements affirm that counter-terrorism or anti-espionage objectives do not justify unrestricted discretion in surveillance practices.

The Court has also emphasized that telephone interception represents a particularly serious interference with private life and must be justified by strong grounds, including reasonable suspicion of involvement in serious criminal conduct. This reasoning has been extended to other intrusive surveillance techniques such as eavesdropping (Kruslin, 1994). In a related constitutional development, the German Federal Constitutional Court, following an appeal involving 30,000 citizens, annulled national legislation implementing the European Union data retention directive on the basis that it constituted a serious violation of personal privacy and failed to comply with the requirements of proportionality, transparency, and legal certainty (Kruslin, 1994).

The use of intelligence-derived material in judicial proceedings introduces further tensions with fair trial guarantees, particularly regarding the admissibility, reliability, and transparency of evidence obtained through surveillance. Such practices raise significant concerns where procedural safeguards are insufficient to ensure equality of arms and effective defence rights, thereby illustrating the broader challenges posed by surveillance regimes to the integrity of judicial processes (Kruslin, 1994).

1.3.8 Asylum, Return ('Refoulement') and Expulsion

The legal regime governing asylum, return (refoulement), expulsion, and extradition reflects a complex interaction between state sovereignty in migration control and the protection of fundamental human rights, particularly in the context of counter-terrorism. The UDHR establishes that everyone has the right to seek and enjoy asylum from persecution in other countries, subject to the limitation that this right does not extend to individuals prosecuted for non-political crimes or acts contrary to the purposes and principles of the United Nations (Art.

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

14, paras. 1-2, UDHR). This foundational guarantee operates alongside the broader framework of freedom of movement under the ICCPR, which affirms the right of individuals lawfully within a state's territory to liberty of movement and freedom to choose their residence, as well as the right to leave any country, including their own (Art. 12, para. 1-2, ICCPR). Any restrictions on these rights must be provided by law, pursue legitimate aims such as national security or public order, and remain consistent with other protected rights (Art. 12, para.3, ICCPR), while no one may be arbitrarily deprived of the right to enter their own country (Art. 12, para.4, ICCPR).

The expulsion of non-nationals is similarly regulated by procedural guarantees. An alien lawfully present in a state may only be expelled pursuant to a decision taken in accordance with law and must, except where compelling national security considerations dictate otherwise, be allowed to challenge the expulsion and have their case reviewed by a competent authority (Art. 13, para.1, ICCPR). Within regional human rights law, these protections are reinforced by principles requiring that asylum claims be examined individually and that effective remedies be available against adverse decisions. Where there are serious grounds to believe that an applicant has participated in terrorist activities, refugee status may be denied; however, this does not extinguish the state's obligation to assess the risks associated with removal (Art. 4, para.1, ECHR).

A central constraint on state action in this domain is the principle of non-refoulement, which prohibits returning individuals to countries where they face a real risk of the death penalty, torture, or inhuman or degrading treatment or punishment. This obligation applies equally to asylum procedures, deportation, and expulsion measures (Art. 4, para.2, ECHR). It is complemented by the prohibition of collective expulsion (Art. 4, para.3, ECHR) and by the requirement that any removal be carried out with full respect for the individual's physical integrity and dignity, avoiding inhuman or degrading treatment (Art. 4, para.4, ECHR). These

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

guarantees have been reinforced through jurisprudence affirming that exposure to such risks engages not only the prohibition of ill-treatment but also the right to life.

Contemporary anti-terrorism policies have led many states to adopt more restrictive asylum and immigration regimes, including tighter access to asylum procedures, stricter eligibility criteria, enhanced border controls, and expanded powers to monitor or restrict the movement of non-nationals. Where such measures fall outside the scope of deprivation of liberty, they nonetheless engage a range of rights under the ECHR, including the right to respect for private and family life (Art. 8, ECHR), freedom of movement (Art. 2 of Protocol No. 4, ECHR), and procedural guarantees relating to expulsion (Art. 1 of Protocol No. 7, ECHR), as well as the rights to life and protection from torture or inhuman or degrading treatment (Arts. 2 and 3, ECHR; Venice Commission, 2010). While the Convention imposes only limited constraints on the sovereign prerogative of states to regulate admission, residence, and naturalization, such powers must be exercised in a manner consistent with Convention rights, particularly where individuals are targeted on national security grounds (Venice Commission, 2010).

In practice, states may refuse entry to non-nationals deemed to pose security risks, impose restrictions on movement such as geographic confinement or reporting obligations, and, in certain circumstances, limit access to specific areas even for citizens or lawful residents suspected of posing a threat. These measures are permissible only where they satisfy the requirement of necessity in a democratic society and are proportionate to legitimate aims such as national security or public safety. Although the Convention does not guarantee a right to a particular nationality or entry into a specific state, such matters may engage the right to respect for private and family life, thereby triggering access to judicial review under Article 6 or, at a minimum, the right to an effective remedy under Article 13 of the ECHR.

The use of diplomatic assurances in removal or extradition cases has generated significant legal controversy. While some states rely on such assurances to justify transfers to countries

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

with questionable human rights records, the Venice Commission has expressed reservations regarding their adequacy, particularly in safeguarding core procedural guarantees such as the right to be heard, judicial review, and protection of property rights in contexts involving security-related sanctions (Venice Commission, 2010). The ECHR has taken a similarly cautious approach, holding that diplomatic assurances cannot suffice where there is credible evidence of a consistent pattern of torture or ill-treatment in the receiving state (Saadi, 2008). In *Al-Saadoon and Mufdhi v. the United Kingdom*, the Court further clarified that the obligation of non-refoulement extends to situations involving a real risk of capital punishment, thereby reinforcing the absolute character of protection under Articles 2 and 3 of the Convention (Al-Saadoon & Mufdhi, 2010).

Within this legal framework, the determination of asylum claims must remain individualized, accompanied by effective remedies, and grounded in a rigorous evaluation of risk. The prohibition of refoulement operates as a non-derogable constraint on state power, ensuring that anti-terrorism measures do not override fundamental guarantees of human dignity and protection from irreparable harm.

1.3.9 Extradition

Extradition is an essential procedure for effective international co-operation in the fight against terrorism (Art. 8, para. 1, ECHR). The extradition of a person to a country where he/she risks being sentenced to the death penalty may not be granted. A requested State may, however, grant an extradition if it has obtained adequate guarantees that: (a) the person whose extradition has been requested will not be sentenced to death; or (b) in the event of such a sentence being imposed, it will not be carried out (Art. 8, para. 2, ECHR).

Extradition may not be granted when there is serious reason to believe that: (a) the person whose extradition has been requested will be subjected to torture or to inhuman or degrading treatment or punishment; (b) the extradition request has been made for the purpose of

prosecuting or punishing a person on account of his/her race, religion, nationality or political opinions, or that that person's position risks being prejudiced for any of these reasons (Art. 8, para. 3, ECHR).

When the person whose extradition has been requested makes out an arguable case that he/she has suffered or risks suffering a flagrant denial of justice in the requesting State, the requested State must consider the well-foundedness of that argument before deciding whether to grant extradition (Art. 8, para. 3, ECHR).

1.3.10 Derogation

Derogation constitutes a narrowly circumscribed mechanism within international human rights law that permits states, in situations of exceptional gravity, to suspend certain treaty obligations while remaining bound by fundamental normative constraints. Article 4, para. 1 of the ICCPR allows States Parties, in time of a publicly proclaimed emergency threatening the life of the nation, to adopt measures derogating from their obligations only to the extent strictly required by the exigencies of the situation, provided that such measures remain consistent with other rules of international law and do not involve discrimination on prohibited grounds such as race, colour, sex, language, religion, or social origin. This framework establishes derogation as an exceptional response governed by necessity, proportionality, and legality, rather than a discretionary suspension of rights.

The Covenant further delineates a core of non-derogable rights that remain inviolable even under conditions of emergency. Article 4, paragraph 2 prohibits derogation from, *inter alia*, the right to life, the prohibition of torture and cruel, inhuman or degrading treatment or punishment, the prohibition of slavery, the principle of legality in criminal law, recognition as a person before the law, and freedom of thought, conscience, and religion. Procedural safeguards reinforce this regime: any State invoking derogation must formally notify other States Parties, through the Secretary-General of the United Nations, of the provisions derogated from and the

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

reasons for such measures, and must likewise communicate the termination of derogation once normal conditions are restored (Art. 4, para.3, ICCPR).

A same structure is reflected in Article 15 of the ECHR, which permits temporary derogation in times of war or public emergency threatening the life of the nation, subject to strict necessity and conformity with international law. Even within this framework, certain guarantees remain absolute. No derogation is permitted from the right to life, the prohibition of torture or inhuman or degrading treatment or punishment, the principle of legality, or the prohibition of retroactive criminal law (Art. 15, para.2, ECHR). Moreover, derogation measures are inherently temporary and must be subject to continuous reassessment, with a view to their termination as soon as the circumstances justifying them cease to exist (Art. 15, para. 3, ECHR). States are also required to notify competent authorities of any derogation measures in accordance with applicable international procedures (Art. 15, para.1, ECHR).

In the context of counter-terrorism, the invocation of derogation raises persistent concerns regarding the potential normalization of exceptional measures. The increasing reliance on emergency powers risks, over time, undermining the stability and integrity of human rights standards. This dynamic has been described as posing a ‘risk of termination of standards,’ whereby temporary exceptions gradually erode the normative force of rights protections. Within this setting, treaty monitoring bodies assume a critical function in constraining the expansion of derogation by scrutinizing claims of necessity and rejecting attempts to justify violations through narrow or technical exceptions. Their interpretative practice contributes to preserving the coherence of the human rights system by reaffirming that even in periods of crisis, state action must remain anchored in fundamental legal principles.

Scholarly analysis argues that the legitimacy of derogation depends not merely on formal compliance with procedural requirements but on adherence to a deeper normative orientation grounded in the values of a democratic society. As argued by Gearty, the appropriate response

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

to emergencies lies not in the systematic relaxation of rights but in the maintenance of a value-based framework that reflects the strength and maturity of legal and political institutions, rather than a purely instrumental approach to governance (Gearty, 2006). Such an approach reinforces the resilience of international human rights law by ensuring that exceptional measures remain genuinely exceptional, thereby preventing the gradual erosion or trivialization of core protections.

Derogation allows temporary suspension of certain obligations during declared national emergencies, strictly conditioned on necessity, proportionality, and legality (Art. 4 ICCPR; Art. 15 ECHR). Core rights (life, freedom from torture, conscience) remain absolutely protected. Yet post-9/11 practices risk ‘normalizing the exception,’ embedding temporary measures into permanent governance. Critical scholarship notes this framework is applied asymmetrically: Often entrenched in the Global South while selectively invoked by Western states to legitimize security overreach. Effective human rights governance demands that derogation remain strictly temporary, narrowly tailored, and independently reviewed to prevent systemic rights erosion.

1.3.11 Terrorism and International Humanitarian Law

In the conduct of counter-terrorism operations, states remain bound by peremptory norms of international law and, where applicable, by international humanitarian law (IHL) (Art. 6, para. 1, ECHR). IHL comprises a comprehensive body of rules governing the protection of persons during armed conflict, codified in instruments such as the four Geneva Conventions and their Additional Protocols, alongside other treaties aimed at limiting human suffering. Many of these rules have attained the status of customary international law (UN Fact Sheet No. 32).

A central principle of IHL is the prohibition of indiscriminate attacks. Such attacks include those not directed at a specific military objective, those employing means or methods incapable of being directed at a military objective, or those whose effects cannot be limited in accordance

with IHL. This prohibition extends to disproportionate attacks, which are inherently likely to affect civilians and civilian objects without distinction (UN Fact Sheet No. 32). Within this framework, acts constituting terrorism are explicitly prohibited, particularly where they involve collective punishment or measures of intimidation and terror directed against civilian populations (UN Fact Sheet No. 32). Although lawful attacks on military objectives may incidentally generate fear among civilians, IHL draws a clear distinction by prohibiting attacks intended to spread terror, including systematic campaigns targeting civilians in urban environments (UN Fact Sheet No. 32).

Counter-terrorism increasingly overlaps with armed conflict, triggering concurrent application of human rights law and IHL. These regimes are complementary: Human rights set continuous baselines, while IHL governs conflict-specific force and detention. States must avoid jurisdictional arbitrage (exploiting legal gaps to bypass stricter protections) and ensure independent oversight. IHL explicitly prohibits terrorizing civilians and mandates distinction and proportionality. Humanitarian intervention debates must likewise prioritize civilian protection and accountability. Maintaining clear boundaries between policing, armed conflict, and rights enforcement is essential to prevent the normalization of exceptional security measures.

1.3.12 War Crimes and Patterns of Violence in Contemporary Conflicts

Violations of the laws and customs of war constitute war crimes, attributable to both military personnel and civilians (Paust et al., 2001). These include attacks against civilians, the use of weapons causing unnecessary suffering or long-term environmental damage, hostage-taking, targeting protected sites such as hospitals and schools, inhumane treatment of detainees, and the destruction or looting of property (Hubert & Weiss et al., 2001; Paust et al., 2001). Despite their categorical prohibition under international law, such acts continue unabated, often driven by evolving conflict dynamics that challenge traditional norms. As observed by

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

Kofi Annan, contemporary conflicts increasingly target civilian populations rather than opposing armed forces⁵.

Patterns of violence in modern conflicts reveal systematic forms of abuse, particularly against women and girls, who are frequently subjected to rape, sexual exploitation, and forced prostitution. For extended periods, the international community failed to adequately address such violations⁶. Sexual violence, including acts of mutilation, forced pregnancy, and humiliation, remains widespread and is often embedded in broader strategies of domination and control. Historical practices, such as the institutionalization of 'comfort women,' illustrate the normalization of such abuses in wartime (Maiese, 2003).

These acts are not merely incidental but may serve strategic purposes, including the destruction of social cohesion, the humiliation of communities, and the silencing of politically active individuals⁷. In certain contexts, mass sexual violence forms part of genocidal campaigns aimed at the destruction of specific groups, as evidenced in the conflicts in the former Yugoslavia (Maiese, 2003). Such dynamics demonstrate the evolving character of armed conflict, particularly the rise of intrastate violence marked by identity-based divisions and systemic human rights abuses (Kennedy, n.d.). The dehumanization of perceived 'outsiders' facilitates practices such as ethnic cleansing and institutionalized discrimination, rendering human rights violations both a cause and a consequence of conflict (Kennedy, n.d.).

International humanitarian law seeks to preserve human dignity even in conditions of armed conflict by limiting the use of force and maintaining the principle of common humanity. It establishes normative constraints designed to prevent total war and sustain the possibility of peace (Maiese, 2003). Enforcement mechanisms include international courts and tribunals tasked with prosecuting war crimes, although practical challenges persist as conflicts become increasingly transnational and complex (Kennedy, n.d.).

1.3.13 Humanitarian Intervention and the Limits of State Sovereignty

The question of humanitarian intervention reflects a fundamental tension between state sovereignty and the protection of human rights. Debates concerning the legitimacy and timing of intervention revolve around whether external actors may use force to address human rights violations within another state. One perspective prioritizes sovereignty and non-interference, emphasizing pluralism and the diversity of national conceptions of justice. From this standpoint, intervention risks undermining international stability and infringing upon self-determination (Cassese, 1990; Hubert & Weiss et al., 2001).

An opposing view maintains that the protection of fundamental rights transcends state boundaries, requiring international oversight to ensure compliance with universal norms. In cases involving grave violations such as genocide or crimes against humanity, intervention may be justified as means of safeguarding human dignity (Cassese, 1990). Where a state systematically violates the rights of its population, it may be considered to have forfeited aspects of its sovereignty, thereby opening the possibility for external intervention (Hubert & Weiss et al., 2001).

The justification of humanitarian intervention is also linked to considerations of international peace and security, as regimes that respect human rights are seen as contributing to global stability (Cassese, 1990). Nevertheless, practical and ethical challenges remain. The use of force, even for humanitarian purposes, may result in civilian casualties and unintended consequences. Any intervention must therefore be limited to what is strictly necessary, guided by genuine humanitarian objectives, and conducted in a manner that does not exacerbate the harm it seeks to prevent (Hubert & Weiss et al., 2001). States often remain reluctant to engage in such interventions, particularly where their strategic interests are not directly implicated.

1.3.14 Compensation for Victims of Terrorist Acts

The protection of victims constitutes an essential component of the legal response to terrorism. Where compensation cannot be fully secured through other means, particularly through the confiscation of assets belonging to perpetrators, organizers, or sponsors of terrorist acts, the state bears responsibility for contributing to compensation for harm suffered within its territory, especially in relation to personal injury and health (Art. 6, para. 1, ECHR). This obligation reflects the broader principle that the consequences of terrorism must not be borne solely by victims, but require collective mechanisms of redress grounded in justice and solidarity.

The broader challenge lies in ensuring that anti-terrorism measures remain consistent with human rights obligations. The protection of fundamental freedoms is not only a legal requirement but also a strategic necessity, as violations may contribute to radicalization and undermine the legitimacy of state institutions. Effective counter-terrorism, therefore, depends on adherence to legal standards, transparency, and accountability. Respect for human dignity and the rule of law fosters social trust, resilience, and long-term stability, while excessive or abusive measures risk eroding democratic values and exacerbating the very threats they seek to address.

In sum, the protection of human rights within the framework of counter-terrorism reveals a persistent structural tension between the imperatives of security and the preservation of fundamental legal guarantees. While states bear a positive obligation to protect individuals from terrorist threats, this duty is neither unlimited nor self-justifying; it must be exercised within the confines of international human rights law, which imposes substantive and procedural constraints on state power. The analysis demonstrates that core rights (including the right to life, the prohibition of torture, the principle of non-discrimination, fair trial guarantees, and the

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

prohibition of refoulement) constitute non-negotiable benchmarks against which anti-terrorism measures must be addressed.

At the same time, the expansion of exceptional measures, the increasing reliance on emergency powers, and the normalization of restrictive practices risk undermining the integrity of these protections. Jurisprudence and the interpretative practice of treaty bodies play a critical role in resisting such erosion by reaffirming the principles of legality, necessity, proportionality, and accountability. These mechanisms ensure that even in contexts of heightened insecurity, the rule of law remains operative and that state responses do not devolve into arbitrariness.

In the final analysis, effective counter-terrorism and the protection of human rights are not mutually exclusive but mutually reinforcing. Measures that disregard human rights not only violate legal obligations but may also prove counterproductive by fostering grievances, weakening institutional legitimacy, and exacerbating conditions conducive to radicalization. A sustainable and legitimate response to terrorism, therefore, requires a rights-based approach, grounded in respect for human dignity and supported by robust legal oversight, ensuring that the pursuit of security does not compromise the very values it seeks to defend.

This framework establishes the normative baseline for assessing state practice. The next section applies it to the post-9/11 era, tracing how legal ambiguities and security rationales shaped U.S. policy and global counter-terrorism architecture.

1.4 Post-9/11 War on Terror and Human Rights

The events of September 11, 2001, intensified longstanding difficulties surrounding the conceptualization of terrorism, a phenomenon shaped by political contestation and normative ambiguity. Efforts within the United Nations to articulate a universally accepted definition have repeatedly faltered, reflecting deep disagreements over the legitimacy of violence in contexts framed as resistance or liberation. Despite this lack of consensus, most scholarly accounts converge on the characterization of terrorism as the deliberate or threatened use of violence for

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

political or ideological ends (Desroches, 2013). The interpretive divide between ‘terrorist’ and ‘freedom fighter’ illustrates the extent to which classification is conditioned by perspective, thereby complicating the construction of a stable legal category.

The attacks on the United States revealed the strategic capacity of transnational networks such as Al-Qaeda to target open societies whose institutional commitments to civil liberties render them structurally exposed. In response, counter-terrorism was rapidly elevated to a central organizing principle of state policy, producing a reconfiguration of governance marked by the expansion of executive authority, intensified surveillance, and the consolidation of security institutions. Jablonsky (2002) situates this transformation within a broader historical trajectory, drawing parallels with the Cold War period in which perceived existential threats prompted similar recalibrations of state power. His analysis suggests that the endurance of democratic systems depends less on coercive escalation than on institutional resilience and adherence to constitutional norms.

A central concern in the post-9/11 environment has been the extent to which anti-terrorism policies generate effects that extend beyond their stated objectives. Analysts have emphasized that terrorism operates not only through physical violence but also through the production of fear and the destabilization of social and political trust. In this context, disproportionate or indiscriminate responses risk amplifying the strategic aims of non-state actors. Berman and Flint (2003), alongside Hoffman (2002), argue that legislative and administrative measures introduced in the aftermath of the attacks frequently imposed significant constraints on civil liberties without demonstrable gains in security effectiveness. The framing of public debate in terms of an inevitable trade-off between liberty and safety has thus been widely contested.

Legal and institutional responses to terrorism have exposed structural tensions within the international human rights regime. While the normative content of human rights law has remained formally intact, its operational environment has been significantly altered. Preston

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

(2002) notes that the emergence of spaces characterized by diminished legal accountability reflects a departure from established standards, while Fitzpatrick (2003) points to a broader erosion of constraints governing the use of force and the treatment of individuals. These developments have placed human rights institutions under considerable strain, limiting their capacity to influence state behavior in contexts framed as exceptional.

The role of the United States has been particularly consequential in shaping this trajectory. Its resistance to certain international legal mechanisms, most notably the International Criminal Court, has reinforced perceptions of selective adherence to global norms. Fitzpatrick (2003) argues that this posture has contributed to a permissive environment in which other states feel emboldened to adopt similarly expansive interpretations of their authority. At the same time, multilateral initiatives have continued to evolve, including the revitalization of existing anti-terrorism treaties and the adoption of United Nations Security Council Resolution 1373, which established a Counter-Terrorism Committee tasked with monitoring national implementation (Zelman, 2001). Although grounded in established legal frameworks, the accelerated deployment of these measures has generated concerns regarding their compatibility with fundamental rights.

The response to terrorism has also revealed limitations inherent in the human rights system itself. While it provides a sophisticated set of constraints on state conduct, it offers comparatively limited tools for directly addressing the activities of non-state actors operating across borders. The International Council for Human Rights Policy (2000) observes that this asymmetry creates a gap between the normative scope of human rights law and the practical challenges posed by transnational violence. Proposals to integrate human rights more fully into anti-terrorism strategies have yet to secure sustained political support, leaving unresolved the question of how to reconcile security imperatives with normative commitments.

Military intervention in Afghanistan in October 2001 marked a significant shift in the operationalization of counter-terrorism, extending the use of force beyond traditional interstate conflict. This development raised complex issues concerning attribution, particularly in relation to state responsibility for non-state actors operating within their territory. More fundamentally, the articulation of an open-ended 'war on terrorism' introduced a temporal and conceptual indeterminacy that distinguishes it from conventional armed conflicts (Fitzpatrick, 2003). Mégret (2002) argues that this indeterminacy has facilitated the selective invocation of legal frameworks, enabling policymakers to navigate between, or circumvent, existing regimes governing the use of force and the protection of individuals.

At the same time, human rights actors have maintained a consistent normative position, insisting that the preservation of fundamental protections is indispensable even under conditions of acute threat. Their interventions reflect a historical awareness of the long-term consequences associated with the suspension of legal safeguards. The absence of a sustained dialogue between security-oriented and rights-based approaches has, however, limited the development of more integrated legal responses capable of addressing the evolving nature of transnational violence.

1.4.1 Pre-emptive Self-Defence and Use of Force

The articulation of pre-emptive self-defence within U.S. strategy represents a significant departure from the traditional framework governing the lawful use of force. Glennon (2002) contends that this doctrine weakens the constraints embedded in the United Nations Charter by permitting military action in the absence of an armed attack or explicit Security Council authorization. Gross (2001) similarly observes that the reliance on anticipated threats expands the temporal horizon of self-defence, allowing force to be justified based on projected risk rather than demonstrable necessity.

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

This shift from reactive to anticipatory action carries substantial implications for the protection of individual rights. Preventive measures, including detention without trial, extraordinary rendition, and targeted killing, displace established legal procedures that rely on evidence and judicial oversight (Gross, 2000). Fitzpatrick (2003) notes that the invocation of catastrophic scenarios further complicates the application of proportionality and necessity, as the scale of potential harm is used to justify expansive interventions. The resulting practices raise persistent concerns regarding accountability, particularly when conducted beyond the territorial jurisdiction of the state.

The institutionalization of military commissions and administrative detention, exemplified by practices at Guantanamo Bay, illustrates the extent to which conventional legal safeguards have been reconfigured. Indefinite detention without charge challenges the foundational principles of due process and fair trial, generating a precedent for executive discretion that extends beyond the immediate context of counter-terrorism. Judicial interventions, such as *Rasul v. United States* (2002), have sought to reassert legal oversight, yet the broader framework remains contested.

1.4.2 The War Without Rules

The notion of a ‘war without rules’ captures the absence of a coherent legal paradigm governing the global campaign against terrorism. Competing interpretations (ranging from an armed conflict to a transnational confrontation with non-state actors) produce uncertainty regarding the applicable legal regime (Mégret, 2002). This ambiguity permits selective reliance on elements of international humanitarian law while avoiding the constraints associated with its full application.

Fitzpatrick (2003) characterizes this condition as one of ‘permanent emergency,’ in which exceptional measures lose their temporary character and become embedded within ordinary governance. The reliance on military tribunals, the persistence of indefinite detention, and the

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

use of coercive interrogation techniques illustrate the normalization of practices that depart from established standards. The absence of temporal limits undermines the logic of derogation, transforming mechanisms intended for short-term crises into enduring features of state policy (Human Rights Watch, 2002).

Questions concerning the extraterritorial reach of human rights obligations further complicate this landscape. Jurisprudence from regional and international bodies demonstrates that states may be held accountable for actions beyond their borders, yet policies such as extraordinary rendition and offshore detention seek to circumvent these precedents (Lyons & Rottman, 2002). The legal status of facilities such as Guantanamo Bay exemplifies attempts to exploit jurisdictional ambiguities, raising fundamental issues regarding the scope of accountability.

Proposals advanced by Fitzpatrick (2003) emphasize the need for greater doctrinal clarity, strengthened oversight, and the restoration of procedural guarantees. These measures aim to re-establish coherence within the legal framework governing counter-terrorism while preserving its capacity to address evolving security challenges.

1.4.3 Non-Discrimination and Immigration Enforcement

The implementation of counter-terrorism measures has had significant implications for the principle of non-discrimination, particularly in relation to non-citizens. Although international law permits certain distinctions based on nationality, such distinctions must satisfy the criteria of legitimacy, objectivity, and proportionality. Post-9/11 policies have frequently failed to meet these standards, as enforcement practices have disproportionately targeted individuals based on ethnicity or religion rather than demonstrable involvement in criminal activity (Faist, 2002; Gibney, 2002).

The convergence of counter-terrorism and migration control has intensified patterns of exclusion. Measures such as arbitrary detention, expedited deportation, and selective

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

prosecution have raised concerns regarding the erosion of procedural safeguards. The Durban Declaration (2001) situates these developments within a broader context of racial and religious discrimination, while international monitoring bodies have reiterated the obligation of states to protect vulnerable groups from both direct and indirect forms of bias (Fitzpatrick, 2003).

Legal frameworks governing the treatment of non-citizens reflect a differentiated structure of rights. Certain protections apply universally, while others permit limited restrictions in pursuit of legitimate objectives. However, the selective denial of fair trial guarantees or the use of administrative detention instead of criminal prosecution undermines the coherence of this framework. The securitization of asylum policy has further restricted access to protection, with expansive interpretations of exclusion clauses and limitations on non-refoulement weakening established safeguards (Zard, 2002; Human Rights Watch, 2002).

1.4.4 Institutional and Legal Challenges

The post-9/11 environment has exposed significant limitations within international legal and institutional mechanisms. Glennon (2002) observes that rather than prompting comprehensive reform, the period has revealed structural deficiencies in the capacity of existing institutions to regulate state conduct effectively. The Counter-Terrorism Committee, for instance, operates without a fully integrated human rights mandate, constraining its ability to assess the broader implications of national policies (UN Security Council Press Releases, 2002).

Efforts to develop coordinated multilateral responses have encountered persistent obstacles. Proposals for international adjudication mechanisms have not materialized, reflecting the reluctance of states to subject counter-terrorism practices to external scrutiny. The position adopted by the United States, particularly in relation to the International Criminal Court, has reinforced this dynamic, while divergences between transatlantic approaches illustrate the absence of a unified normative framework (Human Rights Watch, 2002).

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

Institutional fragmentation has been compounded by political pressures within human rights bodies themselves. Shifts in leadership and the influence of states with restrictive domestic practices have weakened oversight functions and limited the effectiveness of monitoring mechanisms (Amnesty International, 2001). Alliances formed in pursuit of security objectives have, in some instances, further undermined the credibility of human rights advocacy. These developments indicate that the challenges associated with counter-terrorism extend beyond specific policies to encompass the broader architecture of international governance. The persistence of legal ambiguity, uneven enforcement, and limited accountability continues to shape the relationship between security practices and the protection of fundamental rights.

1.5 Conclusion

This chapter has examined how counter-terrorism practices operate within the constraints of international human rights law, showing that while states have a legitimate security mandate, it remains legally limited by binding obligations that apply even in emergency contexts. The analysis indicates that post-9/11 measures have increasingly stretched established legal standards, particularly in surveillance, detention, interrogation, and migration control, contributing to the gradual normalisation of exceptional practices within ordinary governance.

Judicial and institutional oversight emerges as essential for maintaining compliance with principles such as legality, necessity, proportionality, and non-discrimination, although its effectiveness depends on state cooperation and political commitment. The findings suggest that human rights are not obstacles to security but foundational to lawful and sustainable counter-terrorism, ensuring accountability and limiting the expansion of unchecked executive power.

In the U.S. context, the War on Terror has played a central role in reshaping global practices, with policies such as indefinite detention, enhanced interrogation, and extraordinary

Chapter One: Human Rights and Counter-Terrorism: *Conceptual and Analytical Framework*

rendition influencing both domestic and international standards. The next chapter builds on this analysis by examining these developments in greater detail.

Chapter Notes

¹Fals Borda v Columbia,1979] 46, Views adopted on 27 July 1982 (para.1,2,3)

²General Comment No.29, CCPR/C/21/Rev.1/Add.11 2001

³Polay Campos v Peru Case [1994] 577, Views adopted on 6 November 1997 (para.8.8)

⁴Polay Campos v Peru Case [1994] 577, Views adopted on 6 November 1997 (para.8.8)

⁵<http://www.un.org/ecosocdev/geninfo/afrec/sgreport/pressrel.htm>; Internet

⁶ <http://www.un.org/womenwatch/daw/public/cover.htm>; Internet

⁷ <http://www.un.org/womenwatch/daw/public/cover.htm>; Internet

Chapter Two:

George W. Bush's War on Terror and Anti- Terrorism Measures

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

2.1 Introduction

The attacks of 11 September 2001 marked a critical juncture in United States political development, fundamentally reshaping the relationship between national security, executive authority, and human rights. In their aftermath, the Bush administration redefined terrorism from a criminal and law-enforcement concern into an existential threat requiring sustained military, legal, and institutional responses. This shift underpinned the emergence of the Global War on Terror, which reoriented both domestic governance and international engagement through doctrines of preventive action, expanded surveillance, and unilateral intervention.

The chapter examines the ideological foundations and policy architecture of the Bush administration's counter-terrorism strategy, with particular focus on its implications for civil liberties, democratic accountability, and international legal norms. It analyses key developments such as the USA PATRIOT Act, the Authorization for Use of Military Force, the restructuring of intelligence and homeland security institutions, and the expansion of executive authority through practices including enhanced surveillance, militarised security operations, and restrictive immigration enforcement. It further explores how security narratives and political rhetoric were mobilised to legitimise exceptional measures domestically and abroad, particularly in the context of military interventions in Afghanistan and Iraq.

Methodologically, this chapter adopts a qualitative, interpretive approach aimed at analysing the transformation of U.S. foreign and domestic policy under President George W. Bush in the post-9/11 period. It relies primarily on secondary sources, including academic literature, policy analyses, legal scholarship, government reports, speeches, and publications from international and human-rights organizations. Key primary materials include the USA PATRIOT Act, the Authorization for Use of Military Force, presidential addresses, United Nations resolutions, and reports by bodies such as Human Rights Watch and the 9/11 Commission.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

Moreover, the chapter combines discourse analysis with comparative analysis. Discourse analysis is employed to examine how terrorism and security were constructed in official narratives to justify expanded executive power and exceptional policy measures. Comparative analysis is applied to trace the shift from pre-9/11 legal-security frameworks to the post-9/11 paradigm, characterized by preventive war, unilateral action, and intensified surveillance. Through this approach, the chapter critically evaluates the extent to which the Bush administration's counter-terrorism strategy transformed domestic governance, redefined U.S. foreign policy, and reshaped the global human rights landscape in the post-9/11 era. To understand this transformation, it is necessary to begin with the events of 11 September 2001 and their immediate political and strategic consequences.

2.2 Background and 9/11 Attacks

On the morning of 11 September 2001, at 8:46 a.m., American Airlines Flight 11, en route from Boston to Los Angeles, struck the North Tower of the World Trade Center in New York City, initially perceived as an isolated aviation accident before rapidly unfolding into a coordinated attack against the United States (National Commission on Terrorist Attacks Upon the USA, 2004). Within minutes, it became evident that the country was facing a deliberate assault on its political, economic, and military symbols. The attacks were executed by nineteen hijackers affiliated with Al-Qaeda, resulting in the deaths of 2,973 individuals (National Commission on Terrorist Attacks Upon the USA, 2004). Al-Qaeda, led by Osama bin Laden, framed its actions within a transnational ideological agenda that positioned the United States as an adversary of the Muslim world. In 1998, bin Laden issued a fatwa declaring it a religious obligation to target American interests, thereby embedding the organisation's violence within a declared ideological and religious justification (Lewis, 1998).

Although the operational capacity of Al-Qaeda became fully visible in 2001, its development had been underway since the 1980s during the Soviet-Afghan war, where it

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

evolved from a loosely structured network into a transnational militant organisation. Emerging in Afghanistan and later consolidating under Taliban governance, Al-Qaeda expanded its recruitment and financing networks across multiple regions, while U.S. strategic attention remained largely oriented toward the Persian Gulf and broader geopolitical rivalries rather than Afghanistan's internal security dynamics (National Commission on Terrorist Attacks Upon the USA, 2004; Wawro, 2010).

The 9/11 Commission Report later indicated that while U.S. intelligence and law enforcement agencies were aware of terrorist threats, their operational frameworks were not designed to counter a decentralised global network of this scale and complexity (National Commission on Terrorist Attacks Upon the USA, 2004). This structural mismatch between threat perception and institutional preparedness contributed to the inability to anticipate and prevent the attacks.

In the immediate aftermath of the attacks, President George W. Bush characterised the events as an act of war rather than a criminal incident, formally announcing the launch of a Global War on Terror on the evening of 11 September 2001. This declaration marked a significant shift in U.S. security framing, as it introduced a policy logic in which terrorist organisations and the states associated with them were treated within a unified adversarial category (National Commission on Terrorist Attacks Upon the USA, 2004). From this point onward, counter-terrorism became the central organising principle of U.S. foreign and domestic security policy, providing the foundation for subsequent legal, military, and institutional transformations examined in the following sections. The significance of these attacks is best understood in relation to the political and ideological orientation of the Bush presidency that responded to them.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

2.2.1 George W. Bush: *Political Background and Leadership*

George W. Bush's presidency must be situated within a broader political and ideological context shaped by executive-centered governance, neoconservative security thinking, and an established commitment to sustaining American global primacy. Before assuming office, Bush's political trajectory was influenced by his position as Governor of Texas (1995-2000), where he developed a governance style characterised by pragmatism, delegation to security institutions, and a preference for decisive executive action (McClellan, 2008). This administrative orientation later translated into a presidential decision-making approach that favoured rapid response mechanisms, particularly in matters framed as national security concerns.

Bush's political identity was also shaped by his alignment with a broader Republican shift toward neoconservative foreign policy perspectives in the late 1990s and early 2000s. This intellectual current emphasised the strategic use of American military power, the promotion of democratic governance abroad, and the maintenance of U.S. dominance within a unipolar international system (Krauthammer, 2002; Halper & Clarke, 2004). Within this framework, security threats were increasingly interpreted through a preventive lens, allowing potential risks to be addressed before they fully materialised rather than through reactive containment.

Religiously and culturally, Bush's public discourse drew on evangelical Christian references and moral binaries that framed political issues in ethical terms. This worldview became particularly significant after 9/11, as it contributed to a narrative structure in which terrorism was constructed as both a security threat and a moral-civilisational challenge (Domke, 2004). Such framing reinforced a simplified distinction between order and disorder, allies and enemies, which later became central to the articulation of the Bush Doctrine.

Institutionally, Bush entered office with a strong emphasis on executive authority, reinforced by advisors who favoured centralised decision-making within the presidency. This

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

configuration became particularly consequential after 11 September 2001, when emergency conditions enabled a rapid expansion of presidential powers in areas related to surveillance, military intervention, and detention policy (Posner & Vermeule, 2007). The convergence of ideological predispositions and institutional support structures facilitated the transition from conventional counter-terrorism strategies to a broader doctrine of preventive war and global military engagement.

In comparative terms, Bush's leadership style reflects a stronger concentration of executive-driven security governance than that observed in earlier post-Cold War administrations, where multilateralism and institutional constraint played a more prominent role in foreign policy formulation (Ikenberry, 2005). This shift in leadership orientation provides essential context for understanding the development of the Global War on Terror and the policy architecture that followed the 9/11 attacks. This leadership context helped shape the doctrine that followed, particularly the strategic and ideological framework of the Global War on Terror.

2.3 The Global War on Terror and the Bush Doctrine

The attacks of 11 September 2001 constituted a decisive turning point in the United States foreign and security policy, prompting the launch of the Global War on Terror (GWOT). The Bush administration framed terrorism as an existential and transnational threat requiring an expansive counter-terrorism strategy that extended beyond Al-Qaeda to encompass a wide range of non-state actors and states accused of supporting or harbouring them. In his address to Congress on 20 September 2001, President George W. Bush defined this campaign as a global struggle in which the United States assumed leadership against terrorism, a framing that positioned numerous Muslim-majority states, particularly in the Middle East, within the principal theatre of intervention.

Closely connected to this agenda, the Bush Doctrine emerged as the strategic articulation of post-9/11 U.S. foreign policy. It rested on three interrelated principles: the authorization of

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

preventive and pre-emptive military action, the willingness to act unilaterally in the absence of international consensus, and the promotion of democratic governance as a long-term response to insecurity and extremism (Carothers, 2007). One of the most consequential features of this doctrine was its endorsement of preventive war and unilateral military action.

2.3.1 Preventive War and Unilateral Security Action

The doctrine's most contentious dimension was the endorsement of preventive war, which expanded the justification for the use of force beyond imminent threats to include potential future dangers. This interpretation marked a departure from established principles of international law, particularly the UN Charter framework that restricts the use of force to self-defence or Security Council authorization (Carothers, 2007). The 2003 invasion of Iraq illustrates this shift. Despite the absence of direct involvement in the 9/11 attacks, the Bush administration argued that Saddam Hussein possessed weapons of mass destruction and might transfer them to terrorist organizations such as Al-Qaeda. This anticipatory logic was presented as sufficient grounds for regime change. The subsequent failure to locate such weapons weakened the rationale for the intervention and generated sustained international criticism, while also undermining confidence in preventive war as a legitimate strategic doctrine (Carothers, 2007).

This approach was reinforced by the principle of American strategic autonomy, often described as 'freedom of action,' according to which the United States retained the authority to bypass multilateral constraints when vital security interests were perceived to be at risk (Carothers, 2007). While proponents viewed this as necessary for rapid decision-making in a volatile security environment, critics argued that it weakened collective security mechanisms, eroded the authority of the United Nations, and introduced precedents for unilateral military action by other states (Kay, 2004). This logic also extended to the classification of specific states as enemies within a new moral and geopolitical hierarchy.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

2.3.2 Rogue States and the 'Axis of Evil '

The Bush Doctrine also incorporated a reconfiguration of the adversarial landscape by classifying certain regimes as 'rogue states.' In the 2002 State of the Union Address, Iraq, Iran, and North Korea were designated as an 'Axis of Evil,' because they were pursuing weapons of mass destruction and supporting terrorism (Glass, 2019). This framing merged distinct geopolitical contexts into a unified moral and security category, reinforcing a binary interpretation of international politics. The accompanying political discourse, particularly the assertion that states were either aligned with the United States or associated with terrorism, constrained diplomatic neutrality and narrowed space for intermediary positions. This classification shaped containment strategies, sanctions regimes, and military planning directed at limiting proliferation risks (Kay, 2004).

While the framing consolidated domestic political support and reinforced congressional backing, it contributed to diplomatic strain with several states and reduced avenues for engagement with Iran and North Korea. It also encouraged targeted regimes to resist external pressure and, in some cases, pursue strategic deterrence capabilities, including nuclear development, as observed in North Korea (Kay, 2004). Beyond identifying hostile regimes, the Bush Doctrine also advanced a wider project of democracy promotion as a security strategy.

2.3.3 Democracy Promotion and the Freedom Agenda

A further component of the Bush Doctrine was the belief that authoritarian governance structures constituted a structural driver of extremism. In this view, democratic expansion functioned as both a normative objective and a strategic instrument for reducing terrorism. The resulting 'Freedom Agenda' promoted political transformation, institutional reform, and regime change as mechanisms for long-term stability (Carothers, 2007). This approach informed the interventions in Afghanistan (2001) and Iraq (2003), which were framed not only in security terms but also as opportunities for democratic reconstruction. However, the outcomes diverged

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

significantly from the projected trajectory. In Iraq, post-invasion conditions were marked by sectarian fragmentation, insurgency, and institutional fragility (Kay, 2004). In Afghanistan, political structures remained dependent on external support and ultimately collapsed following the withdrawal of U.S. forces. As Brands (2018) notes, the attempt to advance democratic governance through military intervention often weakened the perceived legitimacy of such projects. Rather than producing stable democratic systems, these interventions contributed to protracted instability and intensified scepticism regarding externally driven state-building.

To sum up, the Global War on Terror and the Bush Doctrine reoriented United States foreign policy by embedding preventive warfare, unilateral intervention, adversarial state categorisation, and democracy promotion within a unified security framework. In comparative terms, this represented a departure from the more constrained, multilateral post-Cold War approach, shifting decision-making authority toward the executive and expanding the temporal horizon of military action from response to anticipation.

When set against earlier norms of international security governance, particularly those anchored in the UN Charter system, this shift produced a structural tension between legality and strategic necessity. Whereas the post-1945 order privileged collective authorisation and territorial sovereignty, the post-9/11 doctrine normalised exceptions to these principles through the language of imminent threat and transnational terrorism. This recalibration altered not only U.S. conduct but also influenced how other states justified security interventions, contributing to a broader loosening of normative restraints on the use of force.

The empirical outcomes of these policies reveal uneven results when military effectiveness is weighed against political and legal consequences. Although rapid battlefield success was achieved in Afghanistan and Iraq in their initial phases, both interventions produced prolonged insurgency dynamics, state fragility, and large-scale civilian harm. In Afghanistan, the removal of the Taliban regime did not translate into durable institutional stability, while in Iraq, the

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

dismantling of existing state structures generated a governance vacuum that facilitated sectarian conflict and the emergence of extremist networks. In comparative operational terms, short-term military superiority contrasted sharply with long-term political instability.

At the level of international perception and legitimacy, these interventions generated divergent regional responses, with U.S. authority increasingly contested in the Middle East and parts of the Global South. The gap between stated objectives (counter-terrorism and democratisation) and observed outcomes (protracted instability and humanitarian disruption) contributed to declining confidence in U.S.-led interventionist frameworks. These dynamics illustrate a broader transformation in global security governance in which the boundaries between war, law enforcement, and intelligence operations have become increasingly blurred. The legacy of this period continues to inform contemporary debates on sovereignty, proportionality, and the limits of unilateral action, particularly in relation to how states balance security imperatives with adherence to international legal constraints. These developments reshaped not only foreign policy doctrine but also the domestic architecture of U.S. national security.

2.4 The Transformation of U.S. National Security after 9/11

The attacks of September 11, 2001, marked a decisive turning point in the orientation of United States national security policy. In the aftermath of the attacks, the Bush administration adopted a security-centered framework that redefined the relationship between state power, individual liberties, and perceived threats. National security rapidly became the organizing principle of domestic and foreign policy, legitimizing extraordinary legal, military, and intelligence measures aimed at preventing future terrorist attacks. This transformation extended beyond immediate security responses and contributed to a broader restructuring of governmental authority, surveillance practices, and emergency governance (Bacevich, 2002; Agamben, 2005).

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

The new security paradigm was grounded in the belief that conventional legal and institutional mechanisms were insufficient to confront transnational terrorism. Consequently, the administration advanced policies that expanded executive authority, enhanced intelligence operations, and normalized exceptional measures in democratic governance. Scholars argue that this shift significantly altered the balance between liberty and security in the United States and reshaped international approaches to counter-terrorism (Cole & Dempsey, 2006). At the institutional level, this transformation was most visible in the expansion of executive authority.

2.4.1 Expansion of Executive Power

Following the September 11 attacks, the executive branch acquired unprecedented authority in matters related to national security and counter-terrorism. President George W. Bush asserted broad constitutional powers as Commander-in-Chief, particularly through the Authorization for Use of Military Force (AUMF) enacted by Congress in September 2001. The AUMF granted the president extensive discretion to use force against individuals, organizations, and states suspected of involvement in terrorism, thereby expanding executive influence over military and security affairs (Fisher, 2005).

The Bush administration further strengthened presidential authority through the adoption of unilateral measures, including warrantless surveillance programs, military commissions, and indefinite detention policies. Critics contended that these practices weakened traditional checks and balances by concentrating substantial powers within the executive branch and limiting judicial oversight (Greenberg & Dratel, 2005). The expansion of executive power became one of the defining characteristics of post-9/11 governance and generated significant constitutional and political debate regarding the limits of presidential authority during periods of national emergency. The consolidation of presidential power also raised immediate concerns about its implications for civil liberties and constitutional protections.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

2.4.2 Security versus Civil Liberties

The post-9/11 security environment intensified tensions between collective security and the protection of civil liberties. In pursuit of enhanced national security, the Bush administration introduced measures that expanded surveillance capacities, broadened detention powers, and increased governmental monitoring of individuals suspected of terrorist activities. The USA PATRIOT Act, enacted in October 2001, became one of the most significant legal instruments of this transformation, granting federal authorities expanded access to personal data, communication records, and intelligence-sharing mechanisms (Etzioni, 2004).

While supporters argued that such measures were necessary to prevent future attacks, critics maintained that they undermined constitutional protections, particularly the rights to privacy, due process, and freedom from arbitrary detention. Civil liberties organizations warned that counter-terrorism policies risked normalizing intrusive state practices and disproportionately targeting Muslim and Arab communities within the United States (Cole, 2003). The debate over security and liberty, therefore, emerged as a central issue in the broader discourse surrounding the War on Terror and democratic governance. These tensions can be understood more fully through the concept of emergency politics and the state of exception.

2.4.3 The State of Exception and Emergency Politics

The transformation of U.S. national security after 9/11 has frequently been analyzed through the concept of the 'state of exception,' which refers to situations in which governments suspend ordinary legal norms in response to perceived emergencies. Drawing on the work of Giorgio Agamben (2005), scholars argue that the War on Terror institutionalized exceptional practices that blurred the distinction between temporary emergency measures and permanent governance structures.

Within this framework, extraordinary policies such as indefinite detention at Guantanamo Bay, extraordinary rendition, and enhanced interrogation techniques were justified as necessary

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

responses to unprecedented threats. The administration presented terrorism as a permanent and borderless danger requiring continuous emergency powers and preemptive action (Agamben, 2005). Critics contended that this normalization of emergency politics weakened legal safeguards and challenged fundamental principles of constitutional democracy and international human rights law. The post-9/11 state of exception thus reflected a broader transformation in the logic of governance, whereby security imperatives increasingly superseded legal constraints and civil liberties. This shift not only redefined U.S. counter-terrorism policy but also influenced global approaches to security and emergency governance in the twenty-first century.

In conclusion, the transformation of U.S. national security after the September 11 attacks marked a profound shift in the balance between security, state authority, and individual liberties. Under the Bush administration, counter-terrorism became the central organizing principle of both domestic and foreign policy, leading to the expansion of executive power, the strengthening of surveillance and intelligence mechanisms, and the normalization of exceptional security measures. These developments reflected a broader redefinition of governance in which emergency powers and preventive action were increasingly justified as necessary responses to transnational terrorism.

At the same time, the post-9/11 security framework generated significant legal, political, and ethical debates concerning the protection of civil liberties and adherence to constitutional and international human rights standards. Measures adopted in the name of national security raised concerns regarding due process, privacy rights, judicial oversight, and the concentration of power within the executive branch. Consequently, the transformation of U.S. national security not only reshaped American counter-terrorism policy but also contributed to wider global debates about the relationship between security, democracy, and human rights in the

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

context of the War on Terror. Alongside these institutional changes, official rhetoric played a crucial role in legitimising the new security order.

2.5 Counter-Terrorism Rhetoric and Security Narratives

The events of 11 September 2001 generated a decisive shift in United States political discourse, in which terrorism was rapidly reframed as an existential and civilizational threat requiring a sustained global response. In his nationally televised address on the evening of the attacks, President George W. Bush articulated a counter-terrorism narrative that became foundational to subsequent domestic and foreign policy orientations. The 'War on Terror' was constructed as a moral and strategic confrontation, in which the United States assumed the role of principal actor in a struggle defined through binary oppositions of good and evil. As Bush stated: "We will make no distinction between the terrorists who committed these acts and those who harbor them" (Bush, 2001,p.5). This formulation enabled an expansive policy framework encompassing pre-emptive military action, regime change, intensified surveillance, and indefinite detention under the rubric of self-defence.

Bush's rhetorical construction of post-9/11 reality operated through interdependent discursive mechanisms. The attacks were assigned specific political meaning through official narratives that displaced contextual and historical explanations in favour of a unified interpretive frame. Within this framework, collective identities were reconstituted: Americans were represented as innocent victims, moral agents, and heroic actors, whereas terrorists were constructed as inherently evil, barbaric, and outside the bounds of human civility. Terrorism itself was elevated from a criminal phenomenon to an existential crisis threatening democracy, civilisation, and the American way of life, frequently analogised with historical global adversaries such as Nazism and Communism. Within this logic, military intervention was positioned as both inevitable and morally justified, articulated as a form of 'just war' rather

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

than a discretionary policy choice. The discursive framing of terrorism began with the interpretive struggle over the meaning of the attacks themselves.

2.5.1 The Events of September 11, 2001

The destruction of the World Trade Center on 11 September 2001 generated not only material devastation but also a crisis of interpretive stability, in which language struggled to capture the magnitude of the event. In a media-saturated environment characterised by immediacy and live global broadcasting, the attacks acquired a hyperreal quality, simultaneously cinematic and historically disorienting (Jackson, 2005). The event was rapidly transformed into a national trauma, symbolically condensed into '9/11,' detached from temporal specificity, and reconstituted as a foundational marker of collective suffering.

A significant discursive transformation occurred in the reclassification of the attacks from criminal acts of terrorism to an 'act of war.' This shift facilitated the invocation of military logic and exceptional state powers, displacing legal and judicial frameworks associated with criminal accountability (Jackson, 2005). It also reinforced a moral separation between 'civilised' societies and 'barbaric' actors, where perpetrators were rendered outside the moral community through dehumanising representations that contrasted Western values such as mercy and humanity (Ashcroft, 2001). Through this process, 9/11 became not only a geopolitical rupture but also a reconfiguration of national identity and global self-perception. Once the attacks were reclassified as an act of war, they also became the basis for new political and moral identities.

2.5.2 Construction of Political and Moral Identities

A central feature of post-9/11 discourse lies in the systematic production of antagonistic identities structured around a moral binary. The repeated invocation of 'good versus evil' drew on entrenched theological and cultural traditions within American political rhetoric. On the day of the attacks, Bush declared: "Today, our nation saw evil, the very worst of human nature" (Bush, 2001, p. 7), a formulation that was subsequently reinforced through references to

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

terrorists as 'evil-doers' and 'bad guys' (Jackson, 2005). Such terminology abstracted acts of violence from political or historical causality, situating them instead within essentialised moral categories.

This discursive strategy extended through a series of metaphors that dehumanised terrorists as biological or pathological entities. Descriptions of terrorism as a 'cancer,' 'scourge,' or 'curse' (Ashcroft, 2001) repositioned it as an invasive force requiring eradication rather than negotiation. Within this framework, terrorists were constructed as internal and external contaminants, reviving Cold War imaginaries of hidden subversion (Baker, 2001). Once situated outside the moral and legal order, such actors became subject to exceptional forms of state violence, including covert operations and practices that circumvented established legal protections (Jackson, 2005).

American identity was articulated through idealised moral attributes of bravery, generosity, and unity. Official commemorations, including the Day of Prayer and Remembrance, reinforced this representation, while public figures such as Donald Rumsfeld described victims and military personnel as 'heroes every day' (Rumsfeld, 2001). This reciprocal construction between virtuous self and immoral other enabled the normalisation of counter-violence as ethically justified action. The internal coherence of this identity formation depended on the sustained exclusion of complexity from representations of the adversary. Terrorists were rendered politically unintelligible, stripped of historical causality, and reduced to abstract embodiments of violence (Murphy, 2001). As a result, coercive practices such as torture, indefinite detention, and extraordinary rendition were rendered politically defensible within a moralised framework of existential defence. This binary construction was reinforced by a broader discourse that expanded the sense of threat and urgency.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

2.5.3 Expansion of Threat and the 'Age of Terror'

Post-9/11 discourse further intensified through the construction of terrorism as an expansive, omnipresent, and evolving threat. Political leaders described the emergence of a new historical epoch, an 'age of terrorism,' characterised by perpetual insecurity and global vulnerability (Jackson, 2005). This narrative was reinforced through hyperbolic representations of catastrophic scenarios involving nuclear, biological, and chemical weapons (Cheney, 2003; Powell, 2001; Wolfowitz, 2001). The enemy was simultaneously portrayed as highly sophisticated, globally networked, and capable of mass destruction, thereby amplifying perceptions of urgency and existential risk.

The spatial dimension of threat was also reconfigured. Terrorism was no longer external but embedded within domestic society, with officials such as John Ashcroft describing operatives as residing within national borders and exploiting the openness of liberal society (Ashcroft, 2001). This internalisation of danger extended earlier patterns of security discourse, producing a framework in which surveillance expansion, border securitisation, and domestic policing were justified as necessary preventative measures.

The construction of rogue states and the 'Axis of Evil' further extended this logic by linking non-state terrorism to state-based adversaries capable of transferring weapons of mass destruction to terrorist networks (Bush, 2002). This association enabled a shift from intelligence-led counter-terrorism to overt militarised intervention, particularly in Afghanistan and Iraq, while simultaneously expanding the geopolitical scope of U.S. military engagement (Jackson, 2005). The same logic of expansion also enabled the administration to cast military action as a morally justified and legally defensible war.

2.5.4 The 'Good War' and Just War Rhetoric

The Bush administration also framed the War on Terror within the normative language of just war theory, positioning military action as morally legitimate, legally grounded, and divinely

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

sanctioned. The conflict was represented as a struggle to bring justice to victims of 9/11, with Bush asserting: "Whether we bring our enemies to justice, or bring justice to our enemies, justice will be done" (Bush, 2001, p. 15). This moral framing extended into theological registers, where divine approval was implicitly invoked in the alignment of American action with justice and freedom.

Military operations were further legitimised through claims of proportionality and precision, particularly the use of advanced weaponry designed to minimise civilian casualties (Grossman, 2001). The discourse also maintained that war constituted a last resort, with officials asserting the absence of viable alternatives to military intervention (Jackson, 2005). Simultaneously, the conflict was presented as winnable, despite its anticipated duration, reinforcing public confidence in eventual success (Bush, 2001).

However, the practical application of this framework diverged from classical just war principles. The categorisation of adversaries as 'unlawful combatants' excluded them from Geneva Convention protections, facilitating practices such as indefinite detention, extraordinary rendition, and enhanced interrogation techniques (Jackson, 2005). This divergence prompted a rearticulation of the conflict as a 'new kind of war,' in which established legal and moral constraints were repositioned as inadequate to address asymmetric threats.

To sum up, Bush's counter-terrorism rhetoric operated as a form of discursive statecraft through which the post-9/11 political order was reconfigured by redefining terrorism from a criminal-security concern into an existential and civilisational threat. In comparative terms, this represented a shift from earlier liberal-security framings, where threats were primarily managed through policing and multilateral coordination, toward a securitised paradigm in which survival discourse justified extraordinary executive discretion and anticipatory military action. This reframing facilitated the consolidation of presidential authority relative to legislative and judicial constraints, particularly when contrasted with pre-9/11 norms of oversight and

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

proportionality in the use of force. It also enabled the normalisation of exceptional legal instruments, including expanded surveillance regimes and preventive detention practices, which were increasingly justified through reference to urgency rather than procedural safeguards embedded in domestic constitutional and international legal frameworks.

While this narrative achieved a degree of domestic cohesion and sustained political legitimacy for interventionist policies, its broader effects reveal a tension between security mobilisation and rights protection. In comparative perspective, the post-9/11 securitisation of political language contributed to a measurable contraction of civil liberties, particularly in relation to privacy, due process, and freedom from arbitrary detention, when measured against earlier rights-based standards in U.S. constitutional practice.

At the societal level, the construction of terrorism as culturally and religiously coded reinforced patterns of exclusion, contributing to the intensification of Islamophobic discourse and the differential treatment of Muslim communities in security and immigration contexts. This demonstrates how securitising narratives do not merely justify policy shifts but also restructure social perceptions of risk and belonging. All in all, these dynamics illustrate how discursive strategies functioned not only as justificatory tools but as mechanisms of institutional reconfiguration, reshaping the balance between security imperatives and legal restraint in ways that continued to influence governance practices beyond the immediate post-9/11 period. These rhetorical strategies were translated into concrete policy measures in the months and years that followed.

2.6 Response to 9/11 Attacks and Major Policy Measures

The period between 2001 and 2004 under the presidency of George W. Bush is characterised by an extensive restructuring of U.S. legal, security, and foreign policy frameworks in response to the 11 September 2001 attacks. The Global War on Terror (GWOT) functioned as the central organising principle of this transformation, integrating military

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

intervention abroad with sweeping domestic security reforms. Within this context, a persistent tension emerged between the administration's discourse of liberty and freedom and the expansion of executive authority that often curtailed constitutional safeguards and international legal norms. This period can therefore be situated within a broader configuration described as 'rights-free territory and rights-free people,' in which security imperatives facilitated the suspension or dilution of established rights protections (Restad, 2012). The first major legislative response was the USA Patriot Act, which reconfigured domestic security governance.

2.6.1 The USA Patriot Act

In the immediate aftermath of 9/11, the USA Patriot Act emerged as the principal legislative instrument through which the United States reconfigured its domestic security architecture. Enacted on 26 October 2001, only weeks after the attacks, it was passed under conditions of political urgency that significantly compressed legislative deliberation and limited public scrutiny, raising enduring concerns regarding democratic oversight and constitutional balance (Kashan, 2010). The political environment surrounding its adoption was shaped by executive-driven narratives of imminent and continuing threat, reinforced by senior officials such as Attorney General John Ashcroft. These narratives reduced space for legislative resistance and enabled the rapid consolidation of expansive security powers within the executive branch. While the Act was justified as a necessary mechanism for addressing institutional fragmentation exposed by the attacks, particularly the lack of coordination between intelligence and law enforcement agencies, it simultaneously redefined the scope of permissible state surveillance and intervention.

At the institutional level, the Patriot Act expanded intelligence-sharing capacities across federal, state, and local agencies and strengthened financial monitoring systems aimed at disrupting suspected terrorist networks. However, its legal architecture significantly broadened

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

surveillance authority by permitting access to personal communications, digital records, and financial data with reduced judicial oversight. This recalibration of procedural safeguards altered the threshold between suspicion and intervention, enabling preventive forms of state monitoring that were no longer strictly contingent on established evidentiary standards (Daalder et al., 2003).

These changes must be situated within a wider transformation of executive authority in the post-9/11 security order. The Act facilitated increased discretionary power in detention and surveillance practices, exemplified by cases such as Jose Padilla, whose prolonged detention without formal charges reflected the expansion of executive classification powers under the rubric of national security. Such developments illustrate the emergence of legal categories that operate outside conventional criminal justice frameworks, particularly those designated as 'enemy combatants,' which removed individuals from standard constitutional protections (Daalder et al., 2003).

The expansion of surveillance practices extended beyond detention regimes into everyday domains of privacy. Provisions allowing access to library records, electronic communications, and financial transactions contributed to a systemic widening of state visibility over private life. Mechanisms such as National Security Letters further reinforced this shift by enabling intelligence agencies to obtain sensitive data without prior judicial authorisation or immediate notification to affected individuals. These practices reduced transparency and constrained avenues for legal contestation, thereby consolidating executive discretion in intelligence operations (Kashan, 2010).

Institutionally, these developments intensified existing tensions within the U.S. intelligence community. Although the Patriot Act aimed to address pre-9/11 fragmentation between agencies such as the FBI, CIA, and NSA, structural divisions persisted due to differing institutional mandates and operational cultures. The FBI's dual identity as an investigative and

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

counter-terrorism agency continued to privilege prosecutorial logic over anticipatory intelligence functions, limiting the effectiveness of preventive security governance (Daalder et al., 2003).

The implications of the Act were also socially uneven. Muslim communities and immigrant populations were disproportionately subjected to surveillance and investigative scrutiny, reflecting how security practices intersected with identity-based categorisations. This contributed to broader concerns regarding the racialisation and politicisation of counter-terrorism measures within domestic governance frameworks (Kashan, 2010).

Legal and civil rights organisations, including the American Civil Liberties Union, along with several legislators, contested the Act on constitutional grounds, particularly in relation to the Fourth Amendment and due process guarantees. These critiques emphasised the risks associated with normalising emergency powers within a constitutional system predicated on rights protection. The resulting legal and political debates reflected an enduring tension between security imperatives and liberal-democratic norms.

Although the Patriot Act enhanced operational capacities within counter-terrorism institutions, its broader effect lay in the institutionalisation of expanded executive discretion and the gradual normalisation of surveillance as a routine governance instrument. This transformation repositioned privacy from a presumptive right to a conditional entitlement mediated through security logic, thereby altering the legal and normative foundations of state-citizen relations in the post-9/11 context. Legislative change was soon accompanied by a broader restructuring of the federal security apparatus.

2.6.2 Homeland Security Measures Post-9/11

In 2002, the establishment of the Department of Homeland Security (DHS) represented the most extensive reorganisation of the federal government in over half a century. Consolidating twenty-two federal agencies into a single institutional framework, the DHS was designed to

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

enhance coordination across counter-terrorism, border security, intelligence analysis, and emergency response functions (Daalder et al., 2003).

This restructuring was accompanied by wide-ranging security measures across multiple sectors, including aviation security, maritime control, infrastructure protection, and bioterrorism preparedness. Intelligence-sharing mechanisms were expanded, border screening procedures intensified, and critical infrastructure systems placed under heightened surveillance. Economic stabilisation measures, including terrorism insurance schemes, were also introduced to mitigate systemic financial risks associated with potential attacks (Daalder et al., 2003).

Despite these initiatives, the security strategy remained largely reactive, structured around the anticipation of replication of previous attack patterns rather than adaptive threat anticipation. Bureaucratic fragmentation and coordination difficulties further constrained the effectiveness of the DHS in its early formation stage. The internal structure of the DHS was divided into four principal directorates: Border and Transportation Security, Information Analysis and Infrastructure Protection, Emergency Preparedness and Response, and Science and Technology (Daalder et al., 2003). Each was assigned distinct operational responsibilities, ranging from intelligence analysis to disaster response and technological innovation. However, the integration of pre-existing agencies with divergent institutional cultures generated persistent coordination challenges, particularly regarding intelligence synthesis and inter-agency communication (Daalder et al., 2003). This institutional restructuring was matched by an unprecedented expansion of surveillance capabilities.

2.6.3 The NSA Surveillance Program

In addition to legislative and institutional restructuring, the post-9/11 period witnessed a significant expansion of intelligence surveillance capabilities, most notably through the National Security Agency's warrantless wiretapping programme. Operating under executive authorisation linked to the 2001 Authorization for Use of Military Force (AUMF), the

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

programme enabled interception of international communications without prior approval from the Foreign Intelligence Surveillance Court (Greenwald, 2017)

The programme was justified based on operational necessity in a context of perceived imminent threat, where judicial warrant procedures were framed as impediments to timely intelligence acquisition. However, its secret implementation and circumvention of established legal oversight mechanisms generated sustained constitutional and legal controversy (Lacayo, 2006). Following its public exposure in 2005, the programme became the subject of extensive legal and political scrutiny. Critics argued that it violated Fourth Amendment protections against unreasonable searches and contravened statutory requirements under the Foreign Intelligence Surveillance Act of 1978, which mandates judicial authorisation for surveillance involving U.S. persons (Lichtblau & Shane, 2006). Civil liberties organisations and legal scholars interpreted the programme as part of a broader expansion of executive authority that weakened procedural safeguards in intelligence governance.

Subsequent legislative responses, particularly the FISA Amendments Act of 2008, partially retroactively legitimised aspects of the surveillance architecture and granted legal immunity to telecommunications companies cooperating with intelligence agencies. These reforms institutionalised elements of expanded surveillance within statutory frameworks (Greenwald, 2017). Further disclosures in 2013 by Edward Snowden revealed the continuation and expansion of mass surveillance programmes, intensifying global debates on privacy, transparency, and digital rights. These developments contributed to reform initiatives such as the USA Freedom Act of 2015, which introduced limited restrictions on bulk data collection practices (Greenwald, 2017).

In short, the Patriot Act, the establishment of the Department of Homeland Security, and the NSA surveillance programme constitute interconnected components of a broader post-9/11 security paradigm defined by the expansion of executive authority and the reconfiguration of

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

civil liberties. While these measures strengthened institutional capacity for counter-terrorism and intelligence coordination, they simultaneously produced enduring legal and normative tensions concerning privacy, due process, and democratic accountability. Across these developments, security imperatives facilitated the gradual redefinition of legal boundaries and the normalisation of exceptional measures within routine governance. The resulting security architecture reflects a structural transformation of U.S. policy in which counter-terrorism priorities reshaped institutional design, legislative processes, and constitutional interpretation, leaving a lasting imprint on contemporary debates surrounding rights, surveillance, and executive power. These developments had profound consequences for domestic rights protection and the human rights environment.

2.7 Domestic Human Rights Transformation in the United States

The post-9/11 period marked a significant reconfiguration of domestic governance in the United States, where counter-terrorism priorities increasingly shaped legal frameworks, security practices, and institutional behavior. Under the Bush administration, emergency-oriented policies expanded executive authority and altered the balance between security imperatives and established constitutional protections. This shift affected multiple domains of domestic life, including civil liberties, racialized security practices, surveillance systems, policing structures, and detention regimes. The result was a restructured human rights environment in which traditional safeguards were frequently recalibrated in response to perceived security threats. The domestic human rights impact of the post-9/11 order is most clearly seen in its effects on civil and political liberties.

2.7.1 Civil and Political Liberties under Counter-Terrorism

In its effort to combat terrorism, the U.S. government imposed significant restrictions on civil and political liberties, particularly affecting immigrants, Muslims, Arabs, and individuals suspected of terrorism-related activity. Immigrants confronted increasingly severe measures

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

that curtailed due process protections, while many Muslims and Arabs experienced detention without charge, selective enforcement of legislation, and extensive state surveillance despite lacking any connection to criminal conduct. Suspected terrorists were subjected to secret detention, denied access to courts, exposed to torture and coercive interrogations, and transferred to countries where they risked further abuse (Desroches, 2013).

The expansion of anti-terrorism legislation also affected the broader population. New surveillance measures reduced transparency surrounding government searches and complicated judicial challenges to state monitoring practices. Certain forms of surveillance proceeded without meaningful judicial oversight, thereby expanding executive authority at the expense of constitutional protections (Desroches, 2013). These restrictions were not applied evenly, but were shaped by racialised and identity-based patterns of suspicion.

2.7.2 Discrimination and Racialized Security Practices

Racial discrimination has historically shaped the social and political development of the United States, where race has long influenced access to economic opportunity, political participation, and social mobility. The ideology of white supremacy contributed to the marginalization of ethnic minorities across multiple spheres of public life. Despite its multicultural character, the United States continues to reflect structural hierarchies historically associated with white Anglo-Saxon Protestant dominance, while racial, ethnic, religious, and cultural minorities remain exposed to varying forms of discrimination (Szyliowicz, 2004).

Racial and ethnic minorities, women, and persons with disabilities frequently work longer hours to attain living standards comparable to those enjoyed by white men. African Americans, in particular, remain disproportionately affected by poverty, under-representation in higher education and business ownership, and over-representation within the prison system. Social divisions based on race, gender, and age continue to shape unequal access to public

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

accommodations, education, and family rights, often without sufficient federal protection (Desroches, 2013).

Government policies and institutional practices have also contributed to the continued marginalization of minority communities. Racial stereotyping exposes people of color to police violence, discriminatory housing and lending practices, harsher school disciplinary measures, and unequal educational opportunities (Szyliowicz, 2004). Although the United States ratified the International Convention on the Elimination of All Forms of Racial Discrimination, implementation of the treaty's obligations has remained incomplete. Consequently, structural racism persists across the criminal justice system, housing, education, and other sectors of public life (Szyliowicz, 2004).

Police shootings and the mistreatment of African Americans by law enforcement authorities remain persistent concerns. The United Nations Special Rapporteur on contemporary forms of racism and racial discrimination observed that African Americans continue to experience disproportionate levels of police violence and incarceration. African American adults are imprisoned at rates estimated to be five to nine times higher than those of white adults. According to the Rapporteur, these disparities reflect enduring legacies of slavery and racial segregation (Harris, 2002).

On the anniversary of the September 11 attacks, President George W. Bush reaffirmed that the campaign against Al-Qaeda was grounded in the defense of freedom, human dignity, and the rule of law. Yet, many of the administration's counter-terrorism measures stood in direct tension with these principles. During this period, the United States witnessed a gradual erosion of the right to liberty, as the executive branch sought to circumvent constitutional guarantees, international human rights standards, and Geneva Convention protections. The administration also attempted to restrict public scrutiny, limit judicial oversight, and weaken institutional

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

safeguards protecting both citizens and non-citizens from arbitrary detention (Malti-Douglas, 2002).

Human Rights Watch documented numerous abuses against non-citizens detained after 9/11, including interrogations conducted without legal representation, prolonged detention without formal charges, disregard for judicial orders authorizing release on bond, and confinement under unnecessarily harsh conditions such as solitary confinement. In several cases, detainees were subjected to verbal and physical abuse linked to their ethnicity or religion (Harris, 2002).

Law enforcement and intelligence agencies concentrated heavily on Middle Eastern, South Asian, and Muslim communities. By charging many individuals with immigration-related violations, such as overstaying visas, the Justice Department detained suspects while pursuing extended investigations. This approach enabled authorities to bypass procedural safeguards ordinarily guaranteed under criminal law, including probable cause requirements, access to counsel, and prompt judicial review. Operating under a presumption of suspicion, the government detained 'special interest' individuals until officials concluded that they lacked ties to terrorism. Most were eventually deported (Szyliowicz, 2004). Such racialised security practices were especially visible in immigration and migration governance.

2.7.3 Migration Governance and Security Practices in the United States

Following the September 11 attacks, U.S. authorities detained three principal categories of individuals. The first consisted of approximately 1,200 non-citizens arrested during terrorism investigations, most of whom originated from the Middle East or South Asia, including lawful permanent residents. Among these detainees, at least 752 faced immigration-related charges, while others were held as material witnesses or prosecuted for criminal offenses. Only four individuals were formally charged with terrorism-related crimes. The second category comprised nearly 600 foreign detainees held at the U.S. military facility in Guantanamo Bay,

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

Cuba. The third involved two American citizens designated as 'enemy combatants' and detained by the military (Salyer, 2002).

Historically, immigration proceedings in the United States were open to public scrutiny. After 9/11, however, the Department of Justice imposed extensive secrecy over cases involving so-called 'special interest' detainees. Authorities refused to disclose detainees' identities, locations, or legal status, arguing that transparency could jeopardize national security and interfere with ongoing investigations. Deportation hearings were conducted behind closed doors, and by June 2002, more than 600 secret proceedings had taken place, excluding families, journalists, and the public (Welch, 2004). Concerns regarding these practices extended beyond domestic institutions. On September 28, 2002, the Inter-American Commission on Human Rights issued precautionary measures urging the United States to protect the rights of detainees who had either been ordered deported or granted voluntary departure but continued to be held beyond lawful detention periods (Kaneya, 2003).

Federal immigration enforcement policies, particularly those implemented through Customs and Border Protection (CBP), contributed to increased racial profiling, border violence, and procedural abuses. Migrant workers frequently encountered exploitation, social stigmatization, and racial stereotyping. Each year, U.S. authorities detain hundreds of thousands of individuals in administrative immigration custody, including asylum seekers, long-term residents, children, and persons with disabilities. Many remained detained for months or years while awaiting immigration proceedings and appeals. Mandatory detention policies deprived detainees of bail hearings and other elementary due process guarantees, resulting in prolonged incarceration even when detainees posed neither a danger to public safety nor a flight risk (Desroches, 2013).

Despite sustained advocacy efforts and some improvements in oversight, immigration detention facilities continued to exhibit inhumane conditions, including excessive reliance on

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

solitary confinement and documented incidents of sexual abuse. Adults and children held in CBP facilities along the southern border reported harassment, abuse, and degrading treatment (Desroches, 2013). Accounts from detained migrant children further exposed these conditions. One teenager who fled Guatemala to escape family abuse and forced labor spent nearly two years in federal custody at the Yolo County Juvenile Detention Facility in California, which he described as operating more like a prison than a shelter for children. At the Shenandoah Valley Juvenile Center, detainees reported physical abuse, including being stabbed with pens, handcuffed, mocked by staff, and deprived of bedding and clothing (Kaneya, 2003).

At the southern border with Mexico, restrictive immigration measures intensified the vulnerability of asylum seekers, including children. Expanded immigration detention, family separation policies, and limitations on asylum rights exposed migrants fleeing violence to further persecution (Welch, 2004). Asylum seekers traveling north frequently encountered violence from criminal organizations and cartels, often compounded by state inaction or complicity in transit countries. Women regularly reported threats of sexual violence and rape, while many migrants experienced beatings, shootings, kidnappings, and extortion (Welch, 2004). The 'Migrant Protection Protocols' further exacerbated these dangers by requiring asylum seekers to remain in Mexico while awaiting immigration proceedings in the United States. Rather than providing protection, the policy exposed migrants and families to kidnapping, assault, and sexual violence, particularly at the hands of organized criminal groups (Salyer, 2002).

Migrants who succeeded in entering the United States also faced severe risks. Among the most controversial measures was the separation of thousands of children from their parents at the border. The United States remains the only country that has not ratified the Convention on the Rights of the Child, and family separation practices contravened international human rights

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

principles by detaining children apart from their families and pressuring parents to accept deportation in exchange for reunification (Salzer, 2002).

Available data indicate that nearly 8,000 families were separated at the border, including individuals who had lawfully presented themselves at official ports of entry seeking asylum. Although the formal family separation policy was later suspended, the government continued adopting restrictive measures targeting asylum seekers at the southern border. Seeking asylum constitutes a recognized right under international law rather than a criminal offense (Desroches, 2013). Many families affected by separation policies were deported without a meaningful opportunity to pursue asylum claims, often under severe coercive pressure arising from child detention and family fragmentation. Simultaneously, the government defended the criminal prosecution of unauthorized border crossings despite obligations under the Refugee Convention and Protocol prohibiting penalties against refugees who present themselves to authorities and explain the circumstances of their entry (Desroches, 2013).

Border monitors also documented cases in which U.S. officials falsely informed asylum seekers that they were ineligible to apply for asylum at ports of entry. Others were turned away and instructed to return later under the 'metering' policy, which restricted access to asylum procedures and exposed vulnerable individuals to further danger (Salzer, 2002). Such practices violated the principle of non-refoulement, which prohibits returning individuals to territories where they may face persecution or serious human rights violations (Desroches, 2013).

Individuals who successfully presented credible asylum claims frequently remained in prolonged immigration detention and were often separated from family members. Many were denied parole or release pending delayed hearings, resulting in indefinite detention practices that may constitute cruel, inhuman, or degrading treatment under international law. Although federal courts rejected several of these measures, the government repeatedly sought alternative mechanisms to pursue restrictive immigration objectives, including proposals for the indefinite

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

detention of migrant children and families (Salzer, 2002). The consequences of these immigration policies were neither isolated nor accidental. Rather, they reflected deliberate deterrence strategies intended to discourage asylum seekers from pursuing protection in the United States (Salzer, 2002).

Despite formal commitments under domestic and international law, the United States frequently failed to guarantee migrants' fundamental rights. Migrants encountered discrimination and intimidation in workplaces and communities, unequal access to healthcare, housing, and education, arbitrary infringements upon civil liberties, and denial of due process protections (Salzer, 2002). Immigration enforcement measures involving local police participation in immigration raids weakened trust between immigrant communities and law enforcement agencies, fostering fear and social alienation. Conditions in detention facilities often included housing immigrants alongside convicted criminals, excessive use of restraints, inadequate healthcare and mental health services, and insufficient access to exercise and recreation (Kaneya, 2003). International human rights instruments consistently affirm that no individual can be rendered 'unlawful' or excluded from legal protection solely based on immigration status. Nevertheless, despite these established principles, U.S. immigration policies continued to produce discriminatory and abusive practices directed at migrants. The same logic of exception also extended into the justice system, where due process protections were further weakened.

2.7.4 The Justice System

On November 13, 2001, President George W. Bush issued an executive order authorizing the U.S. military to detain and try non-citizens suspected of terrorism before military commissions. Under this order, any foreign national designated by the president as a terrorist or supporter of terrorism could be imprisoned, prosecuted, convicted, and sentenced, including to death, without a public trial, meaningful legal representation, the presumption of innocence,

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

or proof beyond a reasonable doubt (Salyer, 2002). Defendants were likewise denied the right to appeal. Human Rights Watch and numerous legal scholars criticized these commissions, arguing that they failed to satisfy international fair trial standards (Salyer, 2002).

In March 2002, the Department of Defense issued procedural guidelines for the commissions. Although the rules incorporated certain due process guarantees, such as open hearings, evidentiary standards requiring proof beyond a reasonable doubt, access to legal defense, and opportunities to examine evidence and cross-examine witnesses, significant deficiencies remained. Appeals were restricted to a military review panel appointed under the authority of the Secretary of Defense, thereby denying defendants access to an independent civilian appellate court (Berman & Flint, 2003). The rules also preserved the broad presidential authority established under Bush's original executive order. Consequently, the president retained unilateral discretion to assign any foreign national, including civilians detained within the United States and accused of ordinary criminal conduct, to military rather than civilian jurisdiction. Human Rights Watch argued that subjecting civilians to military tribunals violated the right to be tried before a competent, independent, and impartial court (Berman & Flint, 2003).

The administration insisted that the regulations be implemented immediately, bypassing public consultation on the grounds of urgency in the fight against terrorism. Yet, by September 2002, no detainees had been prosecuted before the commissions (Salyer, 2002). Judicial challenges soon emerged against the government's secrecy policies. On August 2, 2002, a federal district court ruled that secret arrests were incompatible with democratic governance and ordered the disclosure of detainees' identities. The Justice Department appealed the decision. On August 26, 2002, a federal appeals court reaffirmed that deportation hearings should generally remain public, declaring that 'democracy dies behind closed doors' and recognizing the public's constitutional interest in ensuring lawful governmental conduct.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

Another district court similarly concluded that blanket secrecy violated non-citizens' due process rights absent individualized justification. However, on October 8, 2002, a separate appeals court upheld the government's position, accepting generalized secrecy claims in the name of national security (Salyer, 2002).

The broader U.S. criminal justice system also raises substantial constitutional and human rights concerns. Persistent issues include racial disparities in arrests, sentencing, and incarceration; disproportionately severe punishments for nonviolent offenses; and the impact of mass incarceration upon vulnerable populations, including children and individuals with mental illnesses (Desroches, 2013). Although the United States accounts for approximately five percent of the global population, it holds nearly twenty-five percent of the world's prisoners, making it the largest incarcerating state in the world. The contemporary justice system deprives more individuals of liberty than any other nation and continues to conflict with international human rights standards (Desroches, 2013).

The government also struggles to ensure equal access to justice and to protect prisoners' rights. Racial profiling by law enforcement contributes to the disproportionate incarceration of minorities. Although the Constitution guarantees legal representation in criminal proceedings, many public defender offices remain severely underfunded and understaffed, resulting in inadequate defense for poor defendants, including in cases involving lengthy prison terms or capital punishment. Punitive anti-crime policies further erode prisoners' rights by fostering overcrowded prisons, inadequate protections for incarcerated women, the confinement of juveniles alongside adults, and the continued imposition of life sentences without parole on juvenile offenders (Desroches, 2013). Beyond detention and prosecution, the post-9/11 security state also transformed everyday relations through the expansion of surveillance.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

2.7.5 Surveillance Expansion and Privacy Erosion

The right to privacy has historically occupied a central place within American constitutional and political traditions. In the aftermath of the September 11 attacks, however, the U.S. government substantially expanded its surveillance authority, frequently at the expense of constitutional protections afforded to individuals residing within the United States. Mass surveillance programs enabled federal agencies to collect extensive amounts of communications data, including metadata and content, often without judicial warrants, under authorities such as Section 702. This information has been retained within expansive governmental databases and intelligence facilities. At the same time, federal institutions increasingly relied on private technology corporations for access to personal information while deploying sophisticated monitoring technologies, including facial recognition systems, social media mapping, and geolocation tracking. Such developments contributed to a gradual erosion of privacy protections and civil liberties, entrenching a broad surveillance apparatus characterized by limited transparency and insufficient accountability (Katzenstein, 2023).

Debates surrounding executive power emerged almost immediately after the attacks. During congressional deliberations over the Authorization for Use of Military Force (AUMF) in September 2001, the Bush administration reportedly attempted to insert language extending wartime authority into the domestic sphere. Senator Tom Daschle later recalled: “The administration sought to add the words, ‘in the United States and’... this would have given the President broad authority to exercise war powers not just overseas... but right here in the United States, potentially against American citizens.” (Conyers, 2009, p. 27). This episode illustrates the administration's expansive interpretation of executive authority within the framework of the war on terror.

Public controversy intensified on December 16, 2005, when *The New York Times* disclosed that the National Security Agency (NSA), acting under presidential authorization, had

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

conducted warrantless domestic surveillance operations. For approximately four years, the NSA intercepted international telephone calls and electronic communications involving persons located inside the United States without obtaining judicial warrants (Matheson, 2009). The administration defended the legality of the program by arguing that the AUMF implicitly authorized such measures. John Yoo, one of the principal legal architects of the administration's counter-terrorism policies, worked closely with the Office of the Vice President in developing these justifications. Vice President Dick Cheney maintained: "We are talking about international communications, one end of which we have reason to believe is related to Al-Qaeda. This is a wartime measure, limited in scope to surveillance associated with terrorists, and conducted in a way that safeguards the civil liberties of our people." (Conyers, 2009, p. 27).

When situated alongside the administration's positions on torture, indefinite detention, and extraordinary rendition, the surveillance program reflected a broader pattern of executive expansion beyond conventional legal constraints. The administration increasingly presented national security as a domain requiring exceptional powers with limited judicial or legislative interference. Public fear generated by terrorism concerns contributed to the political environment in which these practices developed (Federici, 2010).

Concurrently, policing practices within the United States underwent substantial militarization after 9/11. Although militarized policing predates the war on terror, particularly in relation to the policing of Black communities, post-9/11 security policies accelerated this transformation. The wars in Afghanistan and Iraq intensified intelligence-sharing practices, encouraged the recruitment of military veterans into domestic law enforcement, and facilitated the transfer of military equipment to local police departments. These developments disproportionately affected marginalized communities, particularly Black, Latinx, Indigenous, and economically disadvantaged populations. Military-style SWAT teams increasingly carried

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

out raids targeting communities of color, including the 2010 Detroit operation that resulted in the death of seven-year-old Aiyana Stanley-Jones. Similarly, military tactics and equipment became commonplace in the suppression of public demonstrations and political dissent (Katzenstein, 2023).

The convergence of expanded surveillance and militarized policing contributed to the intensified criminalization of racialized and politically marginalized communities, including Muslims, Arabs, Black activists, and Indigenous movements. Surveillance technologies were increasingly deployed to monitor and suppress protest movements such as Black Lives Matter and opposition campaigns against the Dakota Access Pipeline. These mechanisms also facilitated the detention and deportation of thousands of migrants, many of whom had committed no offense beyond unauthorized border entry (Katzenstein, 2023). The expansion of surveillance also shaped law-enforcement practices, contributing to more coercive forms of policing.

2.7.6 Police Brutality

In 2002, thousands of allegations involving police misconduct were reported across the United States, including excessive force, unjustified shootings, physical assaults, chokeholds, and other forms of abusive treatment. Despite the frequency of these allegations, significant barriers to accountability persisted, enabling many officers implicated in human rights violations to avoid criminal or disciplinary consequences (Human Rights Watch, 2002). Victims of police abuse frequently encountered intimidation, institutional resistance, and prosecutorial reluctance when seeking legal remedies. In numerous jurisdictions, public authorities failed to acknowledge the structural nature of police misconduct or to implement meaningful reforms until major scandals attracted widespread media attention and public outrage (Desroches, 2013).

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

During the fiscal year ending September 30, 2001, more than 12,000 civil rights complaints were filed with the U.S. Department of Justice, most of them involving allegations against law enforcement personnel. Nevertheless, only 56 officers were convicted or pleaded guilty under federal civil rights statutes. As in previous years, prosecutions remained limited due to inadequate resources, weaknesses in investigative and review procedures, and the demanding legal requirement of proving that officers acted with a 'specific intent' to violate constitutional rights. Federal prosecutors also confronted obstacles commonly associated with local prosecutions, including skepticism toward victims perceived as lacking credibility and strong societal deference toward police testimony (Desroches, 2013).

Publicly circulated video recordings continued to expose incidents of police violence. In July 2002, a police officer in Inglewood, California, was filmed violently assaulting an unarmed sixteen-year-old Black teenager. The footage showed the officer slamming the teenager's head against a patrol vehicle and repeatedly striking him. The officer was later dismissed from the force and indicted on assault charges, while the Department of Justice initiated an investigation into the incident. Reports also indicated that the same officer had used a chokehold and beaten another individual with a baton only weeks earlier, resulting in hospitalization (Winton & Zamichow, 2002). In August of the same year, another bystander recording captured a New York City police officer striking a handcuffed detainee in the face with a police radio while another officer used pepper spray against him. The officers failed to report the incident internally, but the video footage was delivered to the police commissioner, resulting in suspension measures and criminal assault charges against one of the officers (Desroches, 2013).

Since 1994, Congress has authorized the Department of Justice to investigate police departments accused of systematic civil rights abuses. When investigations revealed entrenched misconduct, the Department could negotiate institutional reforms or pursue litigation to compel compliance. By September 2002, eight formal agreements or consent decrees had been

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

concluded to reform police departments, including five negotiated during the Bush administration (Desroches, 2013).

In June 2002, the Department of Justice launched an investigation into the Miami Police Department after two Miami-Dade officers pleaded guilty and approximately a dozen others faced federal charges connected to incidents during the 1990s in which officers planted weapons on unarmed individuals they had shot. A *Miami Herald* investigation revealed that the fourteen officers involved had collectively accumulated 293 misconduct complaints yet routinely escaped serious disciplinary action (Winton & Zamichow, 2002). The Department also initiated an inquiry into the Prince George's County Police Department in Maryland following years of allegations involving unjustified shootings, deaths associated with restraint techniques, and the use of police dogs against suspects who had already surrendered.

In 2002, the Department finalized reform agreements with police departments in Cincinnati, Ohio, and Buffalo, New York. The Cincinnati investigation followed the 2001 police killing of Timothy Thomas, an unarmed Black man whose death provoked widespread protests and civil unrest. The resulting agreement mandated reforms concerning complaint procedures, officer training, use-of-force policies, and oversight mechanisms. Similarly, the Buffalo agreement required modifications in the deployment of pepper spray, officer training standards, complaint review systems, and reporting procedures governing the use of force (Desroches, 2013). Alongside aggressive policing, the post-9/11 security state also expanded detention practices that often bypassed due process.

2.7.7 Arbitrary Detention

The United States maintained the highest incarceration rate in the world during the early 2000s, with approximately 2.1 million individuals incarcerated by the end of 2001 and a rate of 686 prisoners per 100,000 inhabitants. At that time, roughly one in every 146 adults was imprisoned (Tomkins, 2002). The prison system was marked by pronounced racial disparities,

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

as African Americans (representing around 13 percent of the population) constituted more than 43 percent of sentenced prisoners, while one in ten Black men aged 25 to 29 was incarcerated nationally (Tomkins, 2002).

Despite declining crime rates, incarceration continued to expand due to punitive sentencing frameworks, including mandatory minimum penalties, restrictive parole systems, and the expansion of the 'war on drugs'. More than half of state prisoners were incarcerated for nonviolent offences such as drug-related crimes, property offences, and public order violations (Desroches, 2013). Drug enforcement policies were particularly significant: Approximately one-quarter of state prisoners and 57 percent of federal inmates were serving sentences for drug offences, while 58 percent of these individuals had no documented history of violence or involvement in large-scale trafficking networks. The U.S. Sentencing Commission further noted that many federal drug convictions targeted low-level participants such as couriers and street dealers (Desroches, 2013).

These punitive frameworks were reinforced by racially disproportionate enforcement patterns. Among those sentenced for drug offences at the state level, 56 percent were Black and 23 percent were Hispanic. Federal sentencing laws imposed especially severe penalties for crack cocaine offences, with average sentences for street-level distribution reaching 103.5 months (Beresford, 2004). Repeat offender legislation further intensified sentencing severity. In April 2002, the U.S. Supreme Court agreed to review California's 'three strikes' law, which mandated life imprisonment for repeat offenders even when the triggering offence was relatively minor. In *Ewing v. California*, Gary Ewing received a life sentence for stealing golf clubs due to prior convictions, while Leandro Andrade was sentenced to fifty years to life for stealing videotapes worth \$153 based on earlier burglary offences (Desroches, 2013).

The Bush administration's War on Terror introduced an expanded framework of preventive and indefinite detention. President George W. Bush asserted executive authority to detain

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

individuals designated as 'enemy combatants' without formal charges, legal counsel, or external communication. Yaser Esam Hamdi, captured in Afghanistan, was transferred into military detention in the United States, while Jose Padilla was arrested in Chicago and subsequently moved from civilian custody to military detention following his designation as an enemy combatant, with allegations of involvement in a radiological attack plot linked to Al-Qaeda (Tomkins, 2002).

In litigation concerning Hamdi, the government argued that judicial review should be limited to internal executive memoranda and that detainees could be held indefinitely without access to counsel or the opportunity to contest allegations. Federal courts rejected this position, warning that such deference would reduce the judiciary to a 'rubber stamp' of executive detention authority. In Padilla's case, habeas corpus proceedings remained unresolved as the administration insisted that courts should defer to executive determinations in matters of national security and military necessity (Beresford, 2004). Human Rights Watch challenged this framework, arguing that the laws of war did not apply to individuals arrested outside active combat zones and that the 'enemy combatant' designation functioned to bypass constitutional safeguards embedded in the criminal justice system (Tomkins, 2002).

The same period witnessed growing diplomatic tension over the continued use of capital punishment in terrorism-related cases. The European Union and the Council of Europe opposed extradition arrangements where defendants risked the death penalty, requiring assurances of non-application under the European Convention on Human Rights (Albany Law Review, 2002). This position directly affected transatlantic cooperation in cases involving Zacarias Moussaoui and Ramzi Binalshibh, where European states conditioned extradition on the exclusion of capital sentencing. As a result, the death penalty became a contested issue within Bush-era counter-terrorism cooperation, complicating intelligence-sharing and extradition procedures with key European partners.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

Beyond detention policy and sentencing frameworks, the U.S. prison system was characterised by structural and material deficiencies. Chronic underfunding, overcrowding, and limited political support constrained correctional institutions, reducing their capacity to provide rehabilitation, education, and mental health services. Staffing shortages further weakened institutional functioning and contributed to increased levels of intra-prison violence, including sexual assault and abuse by correctional officers (ACLU, 2003).

Material conditions in several prisons revealed severe infrastructural neglect. In Mississippi, death row inmates reported extreme isolation combined with unsanitary conditions, including foul odours, inadequate plumbing, infestations, excessive heat due to poor ventilation, and limited access to healthcare, alongside exposure to psychological distress caused by mentally ill inmates housed nearby (Prison Legal News, 2004). The increasing incarceration of individuals with serious mental illnesses further exacerbated systemic strain. In Georgia, litigation documented physical abuse, forced medication, and fatal outcomes linked to inadequate supervision, while in New York, a class action involving approximately 16,000 inmates illustrated insufficient mental health resources and punitive responses to psychiatric conditions, with placement in restrictive environments further worsening mental deterioration (Disability Rights Advocates, 2024).

Accountability mechanisms for custodial violence remained limited, with prosecutions rare and convictions even rarer. In Florida, the case of Frank Valdez illustrated these constraints, as prison guards accused of causing his death were acquitted despite evidence of severe injuries, while other charges were dismissed due to evidentiary difficulties and challenges in securing an impartial jury in a prison-dense jurisdiction (Tampa Bay Times, 2002).

Conditions in supermax facilities further illustrated intensified punitive isolation. In Wisconsin's Boscobel supermax prison, inmates were confined for up to 24 hours a day in sealed cells under constant artificial lighting, with minimal exercise and severely restricted

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

access to communication, possessions, or programming, including for mentally ill inmates (Prison Legal News, 2002). Federal courts intervened, ordering the removal of mentally ill inmates and requiring mental health screening, finding that prolonged isolation and sensory deprivation caused severe psychological harm without correctional justification (ACLU, 2002). Subsequent settlements introduced limited reforms, including improved environmental conditions, increased out-of-cell time, access to reading materials and audiovisual resources, and outdoor recreation space (ACLU, 2002).

Comparable litigation in Ohio produced partial institutional reform. The state agreed to remove mentally ill inmates from supermax placement, expand medical services, and allow independent health evaluations, while maintaining administrative discretion over classification decisions. A federal ruling further established that supermax confinement implicates liberty interests, requiring procedural safeguards such as notice, hearings, and appeal mechanisms, and limiting placement based solely on gang affiliation or minor drug-related conduct, although the state continued to challenge aspects of the ruling (Prison Legal News, 2003). In California's Corcoran Secure Housing Unit, where double-celling was used, multiple inmate deaths resulting from cellmate violence further demonstrated risks associated with high-security confinement models (Prison Legal News, 2003).

Broader institutional failures were also identified in federal oversight. A U.S. Department of Justice investigation into the Baltimore City Detention Center found violations of inmates' civil rights, including unsafe conditions, inadequate medical and mental healthcare, and insufficient protection for adult and juvenile detainees (United States Department of Justice, 2002). These findings echoed earlier documentation by Human Rights Watch, which had identified similar patterns of abuse and neglect, contributing to continued federal scrutiny (Human Rights Watch, 1999). Beyond domestic repression, counter-terrorism logic was also projected outward through military intervention abroad.

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

2.8 Military Actions in Afghanistan, Pakistan, and Iraq

The attacks of 11 September 2001 constituted a decisive rupture in United States security and foreign policy, prompting a fundamental reconfiguration of its military posture toward the Middle East and broader international system. In response, President George W. Bush reframed terrorism as an act of war rather than a criminal offence, thereby enabling the adoption of a doctrine of pre-emptive and global military engagement. This reorientation was legally consolidated through the Authorization for Use of Military Force (AUMF), enacted on 18 September 2001, which granted the executive branch extensive authority to use force against states, organisations, and individuals deemed responsible for the attacks or associated with terrorist activity (Congress, 2001; Congressional Record, 2001). The GWOT subsequently emerged as the overarching framework guiding U.S. military and foreign policy, integrating interventions across Afghanistan, Iraq, and the broader transnational counter-terrorism landscape (Lee, 2022).

Within this strategic configuration, the Bush Doctrine articulated a vision of security premised on pre-emptive action, regime change in states perceived as threats, and the global promotion of democratic governance. Terrorist networks and the regimes allegedly supporting them were treated as inseparable threats to international stability, thereby legitimising expansive military operations beyond conventional self-defence parameters (George W. Bush White House, 2002; Kobek & Rodriguez, 2013). The operationalisation of this doctrine generated two principal theatres of war (Afghanistan in 2001 and Iraq in 2003) alongside a complex regional architecture of cooperation and coercion involving Pakistan, which became a pivotal logistical and intelligence partner despite not being a direct target of invasion.

Pakistan's position in this framework was shaped by its geographical proximity to Afghanistan, its historical ties with Taliban networks, and its strategic relevance for cross-border military operations. Under intense diplomatic pressure, the administration of President

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

Pervez Musharraf aligned Pakistan with the U.S.-led coalition, providing airspace access, intelligence cooperation, and logistical support. This realignment was formalised through a series of non-negotiable demands communicated by U.S. officials, which required Pakistan to sever support for the Taliban, facilitate military operations, and participate in intelligence sharing (Woodward, 2002; Sattar, 2007). Although this cooperation enabled operational effectiveness in Afghanistan, it simultaneously generated profound internal instability within Pakistan, including militant retaliation, political fragmentation, and widespread public opposition to perceived violations of sovereignty (Hilali, 2005; Lunn et al., 2007). The first and most direct manifestation of this interventionist strategy was the war in Afghanistan.

2.8.1 Afghanistan War: *Operation Enduring Freedom*

The military intervention in Afghanistan, initiated on 7 October 2001 under Operation Enduring Freedom, represented the first and most immediate application of the GWOT. The campaign was designed to dismantle Al-Qaeda's operational infrastructure and remove the Taliban regime, which had provided it with sanctuary. Initial diplomatic engagement with the Taliban failed following their refusal to surrender Osama bin Laden and senior Al-Qaeda figures, prompting the transition to military action (National Commission on Terrorist Attacks Upon the USA, 2004).

The operational strategy combined aerial bombardment, special forces deployment, and coordination with the Northern Alliance, followed by the introduction of conventional ground forces. Between late September and early October 2001, the war plan was structured into sequential phases encompassing deployment, targeted strikes, ground offensives, and stabilisation efforts (Wawro, 2010). The campaign received broad international backing, with numerous states contributing military, logistical, and humanitarian support under NATO and allied frameworks (Gerleman, Stevens & Hildreth, 2001).

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

By November 2001, key urban centres including Mazar-e-Sharif, Herat, Kabul, and Kandahar had fallen, marking the rapid collapse of Taliban territorial control (Council on Foreign Relations, 2011). The United Nations Security Council subsequently endorsed a transitional governance framework through Resolution 1378, reinforcing the international dimension of post-conflict reconstruction (United Nations Security Council, 2001). Despite these early military successes, core strategic objectives remained unfulfilled, particularly the capture of Osama bin Laden, who retreated into the Tora Bora region near the Pakistan border.

Operational limitations became evident in the final weeks of 2001, particularly the insufficient deployment of ground forces in critical mountainous regions, which allowed senior Al-Qaeda and Taliban figures to evade capture (Senate Committee on Foreign Relations, 2009). Although large-scale combat operations formally diminished by December 2001, the persistence of insurgent networks and the absence of a comprehensive stabilisation strategy indicated the transition from conventional warfare to protracted asymmetrical conflict (Rogers, 2004; Katzman, 2012). The Afghan campaign quickly extended into Pakistan, where strategic cooperation with the United States produced major internal consequences.

2.8.2 Pakistan: *Strategic Partnership and Internal Consequences*

Pakistan occupied a structurally indispensable position within the U.S. military campaign due to its geographic continuity with Afghanistan and its historical entanglements with the Taliban. Prior to 9/11, relations between Washington and Islamabad were characterised by sanctions and diplomatic tension, particularly over nuclear proliferation concerns and governance issues. However, the post-9/11 environment produced a rapid realignment driven by coercive diplomacy and strategic incentives (Sattar, 2007).

The U.S. administration issued explicit demands requiring Pakistan to terminate support for the Taliban, provide intelligence access, and facilitate military operations, effectively compelling its integration into the coalition framework (Woodward, 2002). This alignment

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

enabled critical operational advantages for the Afghanistan campaign, including logistical corridors and intelligence cooperation. Nevertheless, the partnership was marked by enduring mistrust, particularly regarding Pakistan's commitment to counter-terrorism objectives and its historical ties with militant networks (Hilali, 2005). The consequences of this alignment were internally destabilising. Military operations in Pakistan's tribal regions, particularly the Federally Administered Tribal Areas (FATA), generated sustained insurgent retaliation, including suicide bombings and targeted attacks against state institutions. U.S. drone strikes conducted within Pakistani territory further intensified domestic opposition and fuelled narratives of sovereignty violation and external aggression (Wadhams et al., 2008; Hathaway, 2008). These dynamics contributed to a cycle of radicalisation, institutional strain, and political fragmentation, complicating Pakistan's domestic security environment and undermining long-term counter-terrorism stability (Kronstadt, 2008; Lunn et al., 2007). A further expansion of the War on Terror occurred in Iraq, where preventive war doctrine shaped the invasion and its aftermath.

2.8.3 Iraq War: *Operation Iraqi Freedom*

The invasion of Iraq in March 2003 under Operation Iraqi Freedom constituted a distinct but ideologically linked extension of the GWOT. Unlike Afghanistan, the intervention in Iraq lacked direct linkage to the 9/11 attacks, requiring the Bush administration to construct alternative legal and political justifications. International law permitted the use of force only under conditions of self-defence, humanitarian intervention, or explicit United Nations Security Council authorisation, none of which were conclusively established in the case of Iraq (Rycroft, 2005). Efforts to legitimise the intervention centred on claims that Iraq possessed weapons of mass destruction (WMDs) and maintained connections with terrorist organisations. In February 2003, Secretary of State Colin Powell presented intelligence to the United Nations suggesting the existence of such weapons; however, subsequent inspections failed to confirm these

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

assertions (Jacobson, 2008). Despite the absence of verifiable evidence and the lack of Security Council approval, the United States proceeded with military action in March 2003, supported by a coalition of allied states.

The initial invasion phase, characterised by rapid military advancement and the 'Shock and Awe' air campaign, led to the swift collapse of Saddam Hussein's regime, with major cities falling within weeks (Wawro, 2010). By May 2003, President Bush declared an end to major combat operations aboard the USS Abraham Lincoln, framing the intervention as a success in dismantling a regime allegedly linked to terrorism (Kobek & Rodriguez, 2013). However, this declaration did not account for the absence of a structured post-conflict governance plan.

The subsequent occupation phase revealed profound strategic miscalculations. The implementation of de-Ba'athification policies and the dissolution of the Iraqi military created a governance vacuum that facilitated the emergence of insurgent groups, including Al-Qaeda in Iraq, later associated with the formation of ISIS. Sectarian divisions between Sunni and Shia populations intensified, contributing to widespread instability and escalating violence by 2006 (Kay, 2004). Efforts at reconstruction were further undermined by corruption, insecurity, and institutional fragmentation, resulting in prolonged state fragility. By mid-decade, Iraq had descended into sustained insurgency and sectarian conflict, undermining the initial objectives of democratisation and regional stabilisation. The absence of WMDs, combined with the failure to establish durable governance structures, generated sustained criticism regarding the legal and strategic foundations of the war. The intervention reshaped regional dynamics, contributing to long-term instability and the proliferation of extremist networks, while significantly affecting perceptions of U.S. foreign policy legitimacy (Borger, 2004).

To conclude, the military interventions in Afghanistan, Pakistan, and Iraq constitute interrelated expressions of the post-9/11 security paradigm shaped by the Global War on Terror and the Bush Doctrine. Across these theatres, military force operated as a central instrument

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

through which counter-terrorism objectives were pursued, extending the scope of executive authority and reshaping traditional boundaries of international engagement.

Rather than producing uniform strategic outcomes, these interventions generated divergent but structurally connected consequences that exposed the limitations of pre-emptive warfare as a stabilising doctrine. In Afghanistan, rapid military success in dismantling the Taliban's territorial control did not translate into durable political consolidation, as insurgent networks adapted and persisted beyond the initial campaign phase. Pakistan's incorporation into the counter-terrorism architecture illustrates how alliance-based cooperation under coercive diplomatic conditions can simultaneously enable operational effectiveness and intensify internal security fragmentation, particularly through sovereignty tensions and domestic radicalisation. In Iraq, the absence of a clear legal foundation combined with flawed intelligence assumptions produced a prolonged conflict environment characterised by institutional collapse, sectarian fragmentation, and the emergence of transnational extremist formations.

These cases indicate that post-9/11 military strategy was not solely directed at eliminating immediate security threats but also involved a broader reconfiguration of regional political orders under conditions of legal ambiguity and expanded executive discretion. The cumulative trajectory of these interventions reflects a pattern in which short-term tactical successes were accompanied by long-term structural instability, raising persistent questions regarding the effectiveness of military-centric approaches to counter-terrorism and their compatibility with international legal and normative frameworks.

2.9 Conclusion

The presidency of George W. Bush constituted a pivotal moment in the reconfiguration of the United States foreign and domestic policy following the 11 September 2001 attacks. Through the framework of the Global War on Terror, terrorism was redefined as an existential and transnational threat, legitimising an expanded security paradigm centred on pre-emptive

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

warfare, enhanced executive authority, and exceptional legal measures. This shift fundamentally altered the architecture of U.S. security governance and recalibrated the balance between national security imperatives and civil liberties.

The chapter has shown that the Bush Doctrine marked a significant rupture with earlier post-Cold War approaches to international relations by normalising unilateral intervention, regime change, and preventive military action as core instruments of statecraft. While military operations in Afghanistan and Iraq achieved immediate strategic objectives, they also generated prolonged instability, insurgency, and significant civilian harm, exposing the limits of force-centric counter-terrorism strategies and their unintended systemic consequences.

Domestically, the post-9/11 environment facilitated an extensive expansion of state power through legal and institutional reforms, most notably the USA PATRIOT Act and the restructuring of national security institutions. These developments contributed to the normalisation of exceptional practices, including expanded surveillance, preventive detention, and reduced procedural safeguards. Their application also revealed uneven social impacts, particularly affecting Muslim, Arab, and immigrant communities, thereby linking counter-terrorism governance to broader patterns of racialised security practices.

The chapter further demonstrates that political discourse played a constitutive role in legitimising these transformations. By framing terrorism as a moral and existential threat, the Bush administration embedded securitisation within both policy and public consciousness, narrowing the space for dissent while expanding the scope of executive discretion. In this sense, counter-terrorism functioned not only as a strategic response but also as a broader redefinition of governance, legality, and security authority.

The Bush-era counter-terrorism framework produced a durable transformation in both domestic governance and international security relations. While justified in the language of protection and stability, it generated enduring tensions with constitutional principles,

Chapter Two : George W. Bush's War on Terror and Anti-Terrorism Measures

international legal standards, and human rights norms. These dynamics continue to shape contemporary debates on the scope and limits of state power in democratic societies. Building on this conclusion, the next chapter turns to the costs and consequences of the Bush War on Terror, with particular attention to its political, legal, human, and geopolitical implications.

Chapter Three:

The Cost and Consequences of

George W. Bush's War on

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

3.1 Introduction

This chapter explores the structural, political, and humanitarian consequences of the Bush administration's War on Terror, with particular attention to how counter-terrorism strategies reshaped governance, security architectures, and human rights conditions across multiple theatres of intervention. Moving beyond a state-centric narrative, it situates the post-9/11 security agenda within its transnational trajectory, especially its extension into Afghanistan, Pakistan, and Iraq, where interconnected patterns of militarisation, institutional fragility, and sustained civilian harm became increasingly visible.

The analysis considers the international and regional consequences of U.S.-led interventions, tracing how military operations and strategic partnerships contributed to prolonged instability, shifting patterns of violence, and altered regional power configurations. These developments are assessed in relation to broader debates on sovereignty, the normalisation of exception, and the recalibration of security priorities in the post-9/11 order.

The chapter employs a qualitative, historical-interpretive approach based primarily on secondary sources, including academic literature, policy documents, and reports from international organizations such as the United Nations and Human Rights Watch. Quantitative indicators (notably casualty figures, detention data, and military assistance flows) are used selectively to complement the qualitative analysis and strengthen empirical grounding through triangulation. Data presentation within the chapter combines narrative analysis with descriptive statistical interpretation. Figures illustrate trends in civilian casualties, military losses, suicide attacks, and financial aid distributions, allowing for a contextual reading of quantitative patterns alongside qualitative policy analysis.

The research design prioritizes an interdisciplinary approach, integrating legal analysis, political interpretation, and empirical conflict data to provide a comprehensive understanding of the multifaceted impacts of the War on Terror. The chapter thus evaluates the War on Terror

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

as both a military campaign and a broader reconfiguration of the political order, establishing the foundation for the subsequent chapter, which turns to a detailed examination of its costs and consequences in terms of human rights, civilian harm, and long-term regional instability.

3.2 Human Rights Violations and the Undermining of International Legal Legitimacy

This section examines the evolution and implications of United States counter-terrorism practices in the aftermath of the 9/11 attacks, with particular attention to their legal and human rights dimensions. In responding to terrorism, the United States progressively adopted exceptional security measures that departed from the parameters of ordinary criminal justice. This shift contributed to an expansion of executive authority and the normalisation of practices that strained established legal constraints. While justified on the grounds of national security, these measures extended beyond targeted counter-terrorism operations and produced wider effects on civilian populations through the contraction of civil liberties.

The practical manifestation of this approach was especially visible in Afghanistan and Iraq, where counter-terrorism operations became closely associated with serious violations of international human rights standards, including arbitrary detention, weakened procedural guarantees, and restrictions on fundamental freedoms. More broadly, the post-9/11 policy framework under the George W. Bush administration signalled a reconfiguration of the United States' relationship with international law. Among the most significant manifestations of these legal and ethical violations were the methods employed in military operations, particularly the use of drone warfare and attacks that failed to adequately distinguish between combatants and civilians.

3.2.1 Indiscriminate Attacks

According to Article 1, paragraph 1 of the ECHR, states are prohibited from violating peremptory norms of international law, including in the context of counter-terrorism operations. In addition, United Nations Fact Sheet No. 32 affirms that international humanitarian law

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

categorically prohibits indiscriminate attacks. These encompass attacks that fail to distinguish between civilians and military objectives, either because they are not directed at a specific military target, rely on methods incapable of precise targeting, or employ means whose effects cannot be adequately limited. Such operations inevitably affect civilians and combatants alike and are therefore unlawful. International humanitarian law likewise prohibits disproportionate attacks, namely those expected to inflict civilian harm excessive in relation to the anticipated military advantage.

International humanitarian law also prohibits terrorism-related acts and practices intended to spread fear among civilian populations while reaffirming the principle of individual criminal responsibility and rejecting collective punishment and intimidation (UN Fact Sheet No. 32, pp. 11-12). A central issue within this framework concerns the criteria employed to identify drone strike targets. One of the principal causes of erroneous targeting stems from the expanding interpretation of legitimate military objectives. Although international humanitarian law establishes relatively precise standards governing lawful targets in conflicts involving states and non-state armed groups, successive U.S. administrations adopted broader and more flexible criteria. As Badalich (2019) explains, these expanded definitions frequently encompassed individuals who would ordinarily retain civilian status under international humanitarian law, thereby obscuring the distinction between combatants and civilians and generating serious legal and ethical concerns regarding compliance with established norms.

The principle of distinction constitutes one of the foundational principles of international humanitarian law and obliges parties to armed conflict to distinguish at all times between combatants and civilians. Only legitimate military objectives may lawfully be targeted (Badalich, 2019). Within armed conflicts involving states and non-state armed groups, international humanitarian law permits the targeting of two categories of persons: permanent members of

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

non-state armed groups engaged continuously in hostilities and civilians directly participating in hostilities temporarily (Heller, 2013).

Permanent members of non-state armed groups, namely individuals continuously involved in the planning and execution of military operations, may lawfully be targeted throughout the duration of the conflict (Melzer, 2009). Civilians who participate directly in hostilities, by contrast, lose protection only for the duration of their active participation. These rules derive from the broader principle that lawful targeting is strictly limited to the period and extent of an individual's participation in hostilities, whether continuous or intermittent (Badalich, 2019). Equally significant is the distinction between direct participation in hostilities and forms of indirect support. Individuals who provide food, shelter, financial assistance, political advocacy, or other non-combat support to non-state armed groups do not thereby become lawful military targets under international humanitarian law (Alston, 2010). This distinction preserves the civilian-combatant divide that underpins humanitarian protections during armed conflict.

In practice, however, U.S. drone warfare frequently departed from these established standards. One notable example occurred on October 30, 2006, when a U.S. drone strike targeted a school in Chennajai, located in Pakistan's Bajaur tribal region (Gal & Khan, 2006). The school, operated by Maulana Liaquatullah Hussain, who was associated with Tehreek-e-Nafaz Sharia Muhammadi, was believed to be sheltering members of Al-Qaeda, including Ayman al-Zawahiri (Gal & Khan, 2006). Al-Zawahiri was not present during the attack. Instead, the strike killed approximately eighty-three individuals, most of whom were students, some reportedly as young as nine years old, with no demonstrated connection to terrorist activities (Gal & Khan, 2006). The incident illustrates the consequences of relying upon unreliable intelligence and expansive targeting criteria inconsistent with international humanitarian law. It further demonstrates the severe civilian harm that may result when the obligation to protect non-combatants is subordinated to operational objectives.

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

One of the most controversial practices associated with U.S. drone warfare involved the use of 'double-tap' strikes, whereby a second strike targeted the same location shortly after the initial attack. This tactic frequently resulted in civilian casualties because the second strike often hit rescuers, relatives, or bystanders attempting to assist victims of the first explosion (Woods & Lamb, 2012). According to eyewitness Samiullah Dawar, the nature of the second strike depended largely on the casualties caused by the first attack. When militants were killed, Taliban fighters typically secured the area, resulting in further militant casualties. When civilians were killed, however, local villagers approached the scene to assist and were subsequently struck in the follow-up attack (Badalic, 2019). Dawar recounted witnessing an incident in which both civilians and militants were killed while attempting to rescue survivors.

The first documented double-tap strike targeting rescuers occurred on May 16, 2009, in Khaisor Ain, North Waziristan. The initial strike targeted a mosque where Taliban fighters had gathered before crossing into Afghanistan (Woods & Lamb, 2012). Villagers and surviving Taliban members subsequently attempted to recover bodies and assist the wounded. During these rescue efforts, a second drone strike struck the same area, killing more than twenty-nine individuals, including numerous civilians (Woods & Lamb, 2012). The use of double-tap strikes demonstrates a profound departure from the requirements of international humanitarian law, particularly the principle of distinction. Treating individuals engaged in rescue efforts as presumptive combatants effectively erases the distinction between civilian and military status. Such practices fail to satisfy the legal standards governing legitimate military objectives and contribute directly to unlawful civilian deaths (Badalic, 2019). Beyond the battlefield, counter-terrorism practices also reshaped detention policies, giving rise to widespread concerns regarding arbitrary imprisonment, procedural injustice, and the denial of fundamental legal safeguards.

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

3.2.2 Arbitrary Detention and Violations of Due Process Rights: *Access to Information and Fair Trial Guarantees*

Following the U.S. invasion of Afghanistan in late 2001, many detainees were initially held at Kandahar Air Base. Shortly thereafter, the United States established what became its largest detention operation during the conflict (Badalich, 2019). The principal detention facility was located at Bagram Air Force Base north of Kabul, which functioned as the central hub for U.S. detention operations throughout the war (Amnesty International, 2009).

In addition to military detention centers such as Bagram, the CIA operated a parallel network of secret detention facilities commonly known as 'black sites.' Under the Bush administration, at least four such facilities were established for the extrajudicial detention and interrogation of terrorism suspects. One of these facilities, codenamed 'Cobalt,' operated in an abandoned factory outside Kabul, while the locations of the remaining sites, identified as 'Gray,' 'Orange,' and 'Brown,' were never publicly disclosed (Badalich, 2019). Owing to the secrecy surrounding the CIA detention program and wider U.S. operations in Afghanistan, the precise number of individuals detained between 2001 and 2014 remains unknown (Badalich, 2019).

Throughout the conflict in Afghanistan, numerous arrests were carried out based on minimal or highly questionable evidence, raising substantial concerns regarding compliance with international human rights and humanitarian law. One of the most problematic practices emerged during so-called 'clearance operations,' in which U.S. forces raided entire villages based on generalized suspicions. Frequently lacking precise intelligence, American forces targeted villages suspected of harboring insurgents and detained individuals primarily according to age, sex, and geographic location (Human Rights Watch, 2004).

During these operations, military personnel surrounded villages, sealed entry and exit points, and conducted systematic house searches. Men of military age were provisionally detained and interrogated concerning possible insurgent affiliations, while some were

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

transferred to military facilities for additional questioning (Badalic, 2019). Such operations, which often continued for hours or days, resulted in the mass detention of civilians.

These practices violated core principles of international law. First, they contravened the prohibition of discrimination contained in international humanitarian and human rights law. Henckaerts and Doswald-Beck (2005) note that discriminatory detention practices based on sex, age, race, or political opinion are prohibited under Article 3 of the Geneva Conventions and Additional Protocol II (Pejic, 2005). Similarly, both the UDHR and the ICCPR protect the rights to liberty and security without discrimination (United Nations General Assembly, 1966). Second, the use of mass detention as a counterinsurgency measure conflicted with the prohibition against collective punishment. International law requires detention decisions to rest upon individualized determinations rather than generalized assumptions linked to geography or demographic characteristics (Pejic, 2005). The absence of individualized review transformed administrative detention into a form of collective punishment.

U.S. forces also relied upon arbitrary visual indicators in determining whom to detain. During a raid conducted in October 2010 in Utmanzey village, Kunduz Province, U.S. and Afghan forces detained between eighty and one hundred men. Following several hours of interrogation inside a mosque, a masked informant identified fifteen individuals for continued detention based on superficial indicators such as clothing and roughness of hands, characteristics interpreted as signs of militant involvement. All detainees were eventually released, demonstrating the insufficiency of the evidence used to justify their detention (OSF & TLO, 2011). In other instances, civilians were detained merely because they happened to be near insurgent attacks or weapons caches. Gul Ali, for example, was detained despite the absence of explosives in his possession; suspicious materials had merely been discovered in a neighboring compound. Although no direct evidence connected him to insurgent activities, he remained in custody (HRF, 2011).

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

Possession of firearms also frequently triggered detention, despite the widespread civilian ownership of weapons in rural Afghanistan for purposes of self-defense. American authorities often interpreted firearm possession as evidence of insurgent affiliation even where local customs rendered such assumptions unreliable (HRF, 2009; Graff, 2010; OSF & TLO, 2011). These problems were compounded by failures in identity verification. Because many Afghans used only a single name and no comprehensive national registry existed, cases of mistaken identity became common. Lt. Col. Steven Weir acknowledged that these deficiencies contributed to numerous wrongful arrests (HRF, 2009; Oppel, 2009). In some cases, local informants deliberately supplied false intelligence for personal or political reasons, leading to the detention of innocent civilians (HRF, 2009).

International human rights law requires that individuals detained during non-international armed conflicts be granted the right to challenge the legality of their detention before a court. Article 9, paragraph 4 of the ICCPR provides that any individual deprived of liberty has the right to bring proceedings before a court so that the lawfulness of detention may be decided without delay and release ordered where detention is unlawful (United Nations General Assembly, 1966). Although the ICCPR does not classify the right to liberty as non-derogable, international jurisprudence has treated judicial review of detention as a safeguard that must remain operative even during emergencies (Pejic, 2005; Henckaerts & Doswald-Beck, 2005).

Despite the classification of the Afghan conflict as a non-international armed conflict, the Bush administration declined to transfer most detainees to Afghan courts for prosecution. By April 2008, only approximately 160 detainees had been transferred for trial before Afghan judicial authorities (HRF, 2008). Instead, the U.S. government created military review boards, including Detainee Review Boards and Enemy Unlawful Combatant Review Boards, to examine detention decisions. These bodies did not provide detainees with a meaningful

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

opportunity to contest the legality of their detention before an impartial and independent judicial authority (HRF, 2011).

Consequently, detainees were effectively denied any legal avenue through which to challenge their imprisonment. In response, some families sought assistance from Afghan authorities. In 2008, Muhammad Gul of Paktika Province described his efforts to secure the release of his brother Abdullah Khan, an Afghan police officer detained following a Taliban ambush. Although Abdullah himself had been injured during the attack, U.S. forces alleged that he had participated in organizing it and detained him rather than providing medical assistance (Badalic, 2019). Because no judicial mechanism existed through which Abdullah could challenge his detention, Gul submitted petitions to local authorities, Afghan intelligence agencies, ISAF, and the Afghan government. Despite statements from tribal elders and the Governor of Paktika Province affirming Abdullah's innocence, no formal response was provided. Gul later explained in a petition written in broken English that he had spent approximately 400,000 Afghanis, equivalent to roughly \$8,000, attempting to obtain his brother's release (Badalic, 2019).

This case illustrates the structural deficiencies embedded within the military review process. The review boards lacked judicial independence and possessed no authority to order the release of unlawfully detained individuals, despite the requirement under Article 9(4) of the ICCPR that such remedies remain available. As Pejic (2005) argues, effective judicial review requires an impartial body empowered to remedy unlawful detention. The failure to establish such safeguards placed the Bush administration in direct conflict with fundamental principles of international human rights law.

International human rights law obliges detaining authorities to inform detainees promptly of the reasons for their arrest so that they may challenge the legality of their detention. Article 9, paragraph 2 of the ICCPR provides that any arrested person must be informed, at the time of

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

arrest, of the reasons for the arrest and promptly notified of any charges brought against them (United Nations General Assembly, 1966). International legal standards further require that this information be communicated in sufficient detail and in a language understood by the detainee (Pejic, 2005; Henckaerts & Doswald-Beck, 2005).

The U.S. military detention system in Afghanistan failed to comply with these requirements throughout the Bush administration. From the arrival of detainees at Bagram in early 2002 until the end of Bush's second term in 2009, detainees were systematically denied information concerning the grounds for their detention. Although various review boards were established during this period, none disclosed the legal or factual basis for detention decisions (HRF, 2009). Detainees therefore remained imprisoned without official explanation or written notification, depriving them of any meaningful opportunity to challenge the legality of their confinement and violating protections guaranteed under international human rights law.

International human rights law, particularly the ICCPR, guarantees the right to a fair trial, including the right of accused persons to examine witnesses against them and to call witnesses in their defense under equal conditions (UN General Assembly, 1966). Although this right is not absolute, the United Nations Human Rights Committee has affirmed that denying defendants the opportunity to present defense witnesses may amount to a violation of fair trial guarantees. Under the Bush administration, detainees held in U.S. military custody in Afghanistan were systematically denied these protections. Detainees were neither granted access to the evidence used to justify their detention nor permitted to summon witnesses, including tribal elders or local residents, capable of contesting the allegations against them (HRF, 2009). More significantly, detainees were denied access to classified evidence introduced during closed proceedings, rendering meaningful defense impossible. Declassification occurred only rarely and depended entirely upon the discretion of the original classifying authority (HRF, 2011).

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

The secrecy surrounding U.S. detention operations also obscured the total number of civilians held in custody. Nevertheless, evidence from military sources and human rights organizations indicated that many detainees possessed little or no connection to insurgent groups and posed no genuine threat to U.S. or allied forces. Between 2002 and 2004, at least one thousand individuals were detained during U.S.-led military operations, with most released within days or weeks, suggesting the absence of sufficient evidence to justify detention (HRW, 2004). In 2009, Major General Doug Stone estimated that approximately two-thirds of the six hundred detainees at Bagram could be released because of their limited involvement in insurgent activities. Reports likewise indicated that nearly eighty percent of the 1,100 detainees transferred to the Parwan Detention Center were subsequently released, again demonstrating the weakness of the evidence used to justify their detention (Porter, 2011).

Although some detainees were released relatively quickly, others remained imprisoned for periods ranging from two to four years without due process. Ahmed Nader of the Afghan Independent Human Rights Commission noted in 2008 that many detainees received only a brief written statement confirming their innocence upon release and no form of compensation for their wrongful detention (Badalic, 2019). These practices violated the prohibition against arbitrary detention recognized under both international humanitarian law and international human rights law and applicable in both international and non-international armed conflicts (Henckaerts & Doswald-Beck, 2005). Although these legal regimes differ in structure and scope, both seek to prevent arbitrary deprivation of liberty by requiring detentions to rest upon legitimate security grounds and to remain subject to fair procedural safeguards (Henckaerts & Doswald-Beck, 2005; Paust, 2003).

Protection against arbitrary detention requires that detainees be informed of the reasons for their detention and brought promptly before a judicial authority capable of reviewing the legality of their confinement. The Bush administration failed to comply with these obligations.

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

Instead, it implemented detention policies that facilitated the incarceration of civilians not engaged in hostilities, frequently based on mistaken identity, unreliable intelligence, or insufficient evidence. Detainees were denied both information concerning the reasons for their detention and timely access to mechanisms capable of reviewing its legality (Badalich, 2019). Consequently, U.S. detention practices during the Bush administration constituted a serious violation of international legal standards designed to protect individuals from unlawful deprivation of liberty. The weakening of due process protections was closely accompanied by the institutionalization of coercive interrogation practices, which became central to the broader architecture of U.S. detention policy during the War on Terror.

3.2.3 Torture and Enhanced Interrogation Techniques

During the wars in Afghanistan and Iraq, the United States adopted a range of 'enhanced interrogation techniques' widely regarded by legal scholars, human rights organizations, and international bodies as forms of torture. These practices included waterboarding, prolonged isolation, sleep deprivation, stress positions, and exposure to extreme temperatures. Their use generated serious legal controversy because such methods conflicted with both domestic and international legal obligations, including U.S. federal anti-torture statutes and the Geneva Conventions, which prohibit torture and cruel, inhuman, or degrading treatment. The institutionalization of these interrogation practices became one of the most contentious dimensions of the United States' post-9/11 anti-terrorism strategy and raised profound questions regarding its adherence to international humanitarian and human rights law.

3.2.3.1 Guantanamo Bay Detention

Following the U.S. invasion of Afghanistan, the Bush administration confronted legal and operational questions concerning the detention of captured individuals. Under the traditional laws of war, enemy combatants may be detained for the duration of active hostilities. The administration, however, sought to circumvent existing legal frameworks by introducing the

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

category of 'enemy combatants' rather than recognizing detainees as soldiers protected under the laws of armed conflict (Brown, 2003). This reclassification provided the legal basis for several far-reaching measures adopted after September 11. The establishment of military commissions outside the framework of the Uniform Code of Military Justice, the transfer of detainees to Guantanamo Bay in an effort to place them beyond the jurisdiction of U.S. courts, and the refusal to extend Geneva Convention protections to those detained there (Conyers, 2009). These policies deprived detainees not only of prisoner-of-war protections but also of rights ordinarily guaranteed under criminal law and international human rights standards (Federici, 2010).

The legal rationale underpinning these measures emerged from a memorandum issued by the Department of Justice's Office of Legal Counsel on November 6, 2001. The memorandum asserted expansive executive authority, arguing that the President, acting as Commander in Chief, possessed unilateral power to establish military commissions without congressional authorization (Conyers, 2009). The memorandum further implied that legislative attempts to restrict presidential wartime authority could be disregarded by the executive branch. As this detention framework developed, detainees at Guantanamo Bay occupied an ambiguous legal position. They were denied the protections afforded to criminal defendants, including the presumption of innocence and access to ordinary judicial procedures, while simultaneously being excluded from the legal protections guaranteed to lawful combatants under the Geneva Conventions (Luban, 2002). Although the U.S. government initially maintained that Guantanamo detainees possessed no enforceable rights under international law, it later modified its position by claiming that detainees would be treated in accordance with prisoner-of-war standards without formally recognizing their entitlement to such protections. This formulation effectively placed detainees in a condition of legal indeterminacy, neither criminals nor prisoners of war, and therefore outside established legal categories. Secretary of Defense

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

Donald Rumsfeld reinforced this ambiguity by asserting that detainees could remain imprisoned even if acquitted before military tribunals (Luban, 2002).

On December 2, 2002, Rumsfeld approved a memorandum prepared by Department of Defense legal counsel Jim Haynes authorizing aggressive interrogation techniques at Guantanamo Bay, including stress positions, prolonged isolation, and sleep deprivation. Rumsfeld's handwritten remark questioning the four-hour limit on standing, noting that he himself stood for eight to ten hours daily, later became emblematic of the administration's dismissive approach toward detainee treatment standards. Alberto Mora, General Counsel to the Navy, challenged the legality of these interrogation methods, warning Haynes that they could constitute torture and expose U.S. personnel to criminal liability. Although Mora initially believed the practices had been suspended, he later discovered that they continued, leading him to conclude that the abuse reflected deliberate policy rather than isolated misconduct (Murphy & Purdum, 2009).

The Bush administration's detention regime encountered significant judicial resistance in 2004. On June 28 of that year, the U.S. Supreme Court ruled in *Hamdi v. Rumsfeld* that although Yaser Hamdi, a U.S. citizen captured in Afghanistan, could be detained as an enemy combatant, such detention remained subject to due process protections under the laws of war. On the same day, the Court ruled in *Rasul v. Bush* that federal courts possessed jurisdiction to hear habeas corpus petitions filed by Guantanamo detainees, thereby rejecting the administration's contention that Guantanamo existed beyond the reach of judicial oversight (Goldsmith, 2007). Despite these decisions, the administration preserved the core structure of its detention policies.

One institutional response to these rulings was the creation of the Combatant Status Review Tribunal on July 7, 2004. The tribunal was ostensibly designed to provide detainees with hearings concerning their designation as enemy combatants (Center for the Study of Human

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

Rights in the Americas). In practice, however, the tribunals provided limited procedural guarantees and failed to satisfy internationally recognized standards of due process.

Congress subsequently reinforced aspects of the administration's detention framework through the Detainee Treatment Act of 2005, which restricted federal court jurisdiction over new habeas corpus petitions filed by Guantanamo detainees and centralized appeals from military commissions within the D.C. Circuit Court. The legislation substantially narrowed avenues for judicial review. Nevertheless, mounting criticism concerning indefinite detention and abusive interrogation practices generated divisions within the administration itself. By 2006, senior officials, including Deputy Secretary of Defense Gordon England and John Bellinger, legal adviser to National Security Advisor Condoleezza Rice, advocated closure of the Guantanamo Bay detention facility (Wilkinson, 2009). While Guantanamo symbolized the legal ambiguities of the post-9/11 detention regime, the abuses revealed at Abu Ghraib exposed the practical consequences of these policies within military prisons operating in active conflict zones.

3.2.3.2 Abu Ghraib Prison

In January 2004, after photographs depicting the abuse of detainees at Abu Ghraib prison in Iraq emerged, Lieutenant General Ricardo Sanchez ordered Major General Antonio M. Taguba to conduct a confidential investigation into allegations of mistreatment and failures of accountability within the 800th Military Police Brigade (PBS, 2005). Completed in March 2004, the Taguba Report was initially classified but was later leaked to *The New Yorker*. Journalist Seymour Hersh subsequently published excerpts from the report alongside the photographs in April 2004. Shortly thereafter, CBS's *60 Minutes II* broadcast images documenting the humiliation and abuse of detainees, exposing practices dating back to October 2003. Abu Ghraib consequently became emblematic of a detention system in which military

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

regulations and Geneva Convention protections were subordinated to coercive intelligence-gathering practices (Hersh, 2004).

According to Lawrence Wilkerson, Secretary Rumsfeld bore substantial responsibility for the abuses because his directives communicated two simultaneous imperatives: Obtaining intelligence and removing restraints on interrogation methods. Wilkerson characterized this approach as creating conditions in which abusive conduct became institutionally normalized (Murphy & Purdum, 2009). Alberto Mora advanced an even more severe critique, arguing that Taguba traced the origins of the abuses directly to Office of Legal Counsel memoranda authorizing harsh interrogation techniques (Restad, 2005). In a 2007 interview with Seymour Hersh, Taguba himself acknowledged that the abuses at Abu Ghraib constituted violations of the laws of armed conflict and the Geneva Conventions and represented a betrayal of fundamental military ethics and values (Restad, 2005).

Between October and December 2003, Taguba documented numerous incidents involving what he described as 'sadistic, blatant, and wanton criminal abuses.' His investigation concluded that systematic mistreatment had been perpetrated by soldiers from the 372nd Military Police Company in collaboration with members of the U.S. intelligence community. The company operated under the authority of the 320th Military Police Battalion commanded by Brigadier General Janis Karpinski. The report catalogued a wide range of abuses, including pouring phosphoric liquid from chemical lights onto detainees, drenching naked prisoners with cold water, beating detainees with broom handles and chairs, and threatening prisoners with sexual violence (Taguba, 2004). Other documented practices included permitting an unqualified guard to stitch a prisoner's wound after he had been violently thrown against a wall, sodomizing detainees with chemical lights and possibly broomsticks, and using military dogs to terrorize prisoners, occasionally resulting in physical attacks (Taguba, 2004). Taguba emphasized that these findings rested upon extensive testimonial and photographic evidence. Although he

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

excluded photographs and videos from the report because of their 'extremely sensitive nature,' many of these images were later broadcast publicly by CBS, revealing the scale and brutality of the abuse (Hersh, 2004).

The photographs themselves became globally recognized symbols of detainee humiliation. One image depicted Private Lynndie England smoking a cigarette while pointing toward the genitals of a naked Iraqi prisoner whose head was covered with a sandbag. Other photographs showed hooded detainees arranged in degrading positions, including human pyramids, while American soldiers posed beside them smiling. Another image portrayed a prisoner positioned to simulate oral sex with another detainee (Hersh, 2004). Bernard Haykel, a professor of Middle Eastern studies at New York University, argued that such acts of humiliation carried particular severity within Arab cultural contexts, where public nudity and homosexual acts are associated with profound shame.

Among the most disturbing images were photographs of deceased detainees, including one showing the severely battered face of prisoner No. 153399 and another displaying a blood-covered corpse wrapped in cellophane and placed on ice. Additional photographs depicted blood-spattered interrogation rooms. The conduct of the 372nd Military Police Company appeared not as isolated deviance but as a routinized practice carried out without fear of concealment or accountability (Hersh, 2004).

Charles Graner and Ivan Frederick, who lacked adequate military police training when deployed to Iraq in 2003, initially served in traffic control roles before being reassigned to Abu Ghraib. Witness testimony later described Frederick employing excessive force against detainees, including conduct that nearly caused a prisoner's cardiac arrest. Attempts by his legal defense team to call witnesses were reportedly denied by the Army (Hersh, 2004). During Frederick's court-martial, his attorney argued that he acted under instructions issued by military intelligence personnel rather than independently devising abusive practices. Frederick claimed

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

that military intelligence officers, CIA personnel, and contractors controlled interrogation procedures at Abu Ghraib and directed guards to employ degrading treatment, including forced nudity, the use of women's underwear, and prolonged shackling to cell doors. He further stated that military intelligence personnel instructed guards to isolate detainees in unsanitary and poorly ventilated cells for extended periods. According to Frederick, interrogators praised these methods as effective means of extracting intelligence. He also recounted that military investigators knew military dogs were being used to intimidate prisoners at the request of military intelligence officers (Hersh, 2004).

Frederick further described the death of an Iraqi detainee held by 'O.G.A.' personnel, a term referring to other government agencies such as the CIA. According to his account, the detainee died following severe abuse, after which the body was placed on ice in a shower area before being secretly removed without being entered into official prison records, effectively erasing any documentation of the detainee's detention or death (Hersh, 2004).

Taguba's findings corroborated claims that military intelligence personnel encouraged abuse through directives such as 'Loosen this guy up,' thereby institutionalizing physical and psychological mistreatment as preparatory measures for interrogation (Taguba, 2004). The report also criticized General Karpinski's failure to maintain adequate oversight and security within the prison, circumstances that exacerbated overcrowding, understaffing, and the detention of individuals who posed no identifiable security threat. Taguba noted that more than sixty percent of detainees were considered non-threatening, yet efforts to release them were neglected (Taguba, 2004).

Following public disclosure of the scandal, Major General Geoffrey Miller assumed responsibility for Iraq's prison system while General Sanchez initiated investigations into interrogation practices. Although official statements portrayed the abuse as the conduct of a few rogue soldiers, Taguba's report demonstrated the existence of systemic failures and widespread

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

violations of military regulations and Geneva Convention standards. Human rights organizations condemned indefinite detention practices and coercive interrogation methods, while experts questioned the reliability and effectiveness of intelligence obtained through torture (Taguba, 2004).

The Abu Ghraib scandal inflicted severe damage upon the international reputation of the U.S. military and intensified anti-American sentiment globally. It also generated accusations that low-ranking personnel were being scapegoated while senior civilian and military officials escaped accountability. In response, Secretary Rumsfeld ordered an independent review, which concluded that both military intelligence and military police personnel bore responsibility for detainee abuse. The review further criticized Pentagon leadership, arguing that ambiguous interrogation policies fostered an environment conducive to mistreatment, which one official described as resembling an 'animal house on the night shift' (Hersh, 2004). The revelations at Abu Ghraib were not isolated incidents but part of a broader system of secret detention and coercive interrogation that extended beyond publicly acknowledged military facilities.

3.2.3.3 CIA Secret Prisons

The CIA's network of secret detention facilities represented a substantial departure from traditional wartime legal principles. Under conventional laws of armed conflict, captured combatants who surrender or are rendered incapable of fighting are entitled to humane treatment and may not be punished solely for participating in hostilities. The Third Geneva Convention further prohibits coercive interrogation, stipulating that prisoners of war who refuse to answer questions may not be threatened, insulted, or subjected to adverse treatment. Upon the cessation of hostilities, they must also be repatriated (Luban, 2002).

The Bush administration, however, approached international terrorism through a hybrid framework that combined elements of warfare and criminal law. Terrorist violence was conceptualized not merely as armed conflict but also as criminal conspiracy. Within this

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

framework, individuals accused of terrorism could be prosecuted in either civilian or military courts, and participation in hostilities against the United States was treated as a federal criminal offense. Luban (2002) notes that the indictment of John Walker Lindh, commonly referred to as the 'American Taliban,' reflected this approach because the relevant statute criminalized attempts or conspiracies to kill U.S. nationals abroad irrespective of the perpetrator's nationality.

Lindh's treatment raised serious ethical and legal concerns. Jesselyn Radack, an ethics adviser within the Department of Justice, maintained that multiple legal violations occurred during his interrogation (Restad, 2005). Radack advised that Lindh should not be interrogated without legal counsel because his family had already secured an attorney on his behalf. Despite this advice, the interrogation proceeded. Radack later stated that any questioning conducted under such circumstances should have been limited strictly to intelligence purposes rather than criminal prosecution (Murphy & Purdum, 2009). Attorney General John Ashcroft subsequently announced criminal charges against Lindh while publicly claiming that Lindh had not requested legal representation, a statement Radack later disputed. Assertions that Lindh's rights had been fully respected also conflicted with widely circulated images showing him blindfolded, naked, gagged, and restrained to a board (Murphy & Purdum, 2009).

A decisive moment in the legal restructuring of detainee treatment emerged through the January 9 memorandum drafted by John Yoo and Robert J. Delahunty. This document argued that the Geneva Conventions did not apply to either Al-Qaeda or Taliban detainees. In relation to Al-Qaeda, the memorandum contended that because the organization was not a state actor, it could not claim protections derived from treaties governing conflicts between states (Fontas, 2010). Regarding the Taliban, the memorandum argued that Afghanistan's status as a 'failed state' invalidated the Taliban's ability to invoke Geneva Convention protections despite Afghanistan's treaty obligations (Yoo & Delahunty, 2002). On January 19, 2002, Secretary

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

Rumsfeld issued a memorandum to the Joint Chiefs of Staff affirming that detainees in Department of Defense custody were not entitled to prisoner-of-war status under the 1949 Geneva Conventions (Mayer, 2007).

The interrogation of Abu Zubaydah became one of the earliest and most consequential applications of this legal framework. Captured in 2002 and believed at the time to be a senior Al-Qaeda operative, Zubaydah's detention generated uncertainty within the CIA regarding the permissible scope of interrogation practices. Seeking protection from potential criminal liability, the CIA requested legal guidance from the administration (Restad, 2005). In response, John Yoo and Jay Bybee of the Office of Legal Counsel produced what later became known as the 'torture memoranda.' These memoranda defined torture in extraordinarily narrow terms, arguing that only conduct causing pain equivalent to organ failure, death, or severe physical impairment constituted torture under U.S. law (Honigsberg, 2009). Interrogation practices falling below this threshold were effectively deemed lawful.

The memoranda also invoked expansive theories of presidential wartime authority, arguing that the President possessed ultimate authority over wartime conduct unless explicitly constrained by statute (Conyers, 2009). Techniques subsequently authorized included sleep deprivation, slapping, exposure to extreme temperatures, threats of death, and mock executions. A later Justice Department investigation confirmed the Office of Legal Counsel's role in authorizing these methods (Otterman, 2007).

According to Danner (2009), administration officials sought what was internally described as a 'golden shield' from the Justice Department to protect officials involved in detention and interrogation operations from prosecution. One memorandum, authored by Yoo and signed by Assistant Attorney General Jay Bybee in August 2002, stated that interrogation methods would qualify as torture only if they produced pain equivalent to severe physical injury associated with death, organ failure, or permanent loss of bodily function (Danner, 2009; Bybee, 2002). This

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

legal protection was formalized through two memoranda issued on August 1, 2002. One memorandum interpreted the domestic implementation of the United Nations Convention Against Torture under 18 U.S.C. § 2340A, concluding that torture required 'extreme' physical suffering comparable to organ failure or death and that psychological suffering had to result in long-term mental harm lasting months or years (Cole, 2002). A second memorandum, addressed to CIA Acting General Counsel John Rizzo and declassified in 2009, explicitly approved ten interrogation methods: Attention grasp, walling, facial hold, facial slap, cramped confinement, stress positions, sleep deprivation, wall standing, confinement with insects, and waterboarding (Cole, 2002).

The release of these memoranda generated intense criticism from legal scholars and human rights advocates, many of whom argued that the documents functioned less as objective legal analysis than as mechanisms designed to immunize government officials and CIA personnel from criminal liability. Georgetown law professor David Cole argued that the memoranda represented an effort to circumvent both domestic criminal law and international legal standards prohibiting torture, thereby normalizing conduct previously regarded as criminal (Cole, 2002).

On February 7, 2002, President Bush formally declared that Geneva Convention protections did not apply to members of Al-Qaeda and that Taliban detainees were not entitled to prisoner-of-war status. Although the memorandum stated that detainees would be treated humanely, humane treatment was framed as a matter of executive discretion rather than legal obligation (Greenburg, Rosenberg & de Vogue, 2008). This policy shift provided the legal and political foundation for the CIA's black site program, formally established in March 2002.

Abu Zubaydah became one of the first detainees transferred to a CIA black site, where he was subjected to techniques authorized in the Bybee memoranda. According to the Senate Select Committee on Intelligence (2014), Zubaydah was waterboarded at least eighty-three times, deprived of sleep for periods extending up to eleven days, and confined inside coffin-

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

like boxes. These methods were justified internally on the assumption that he possessed intelligence concerning future terrorist attacks. Subsequent investigations, however, determined that Zubaydah did not occupy the senior operational role within Al-Qaeda originally attributed to him and did not possess the anticipated intelligence. Nevertheless, the methods employed during his interrogation became templates for subsequent interrogations of other 'high-value' detainees. The Senate Intelligence Committee later reported that some CIA officers themselves questioned both the effectiveness and morality of the program, although such concerns were largely dismissed by senior officials (Senate Select Committee on Intelligence, 2014).

The enhanced interrogation program also generated institutional conflict between federal agencies. The FBI, which traditionally opposed coercive interrogation, objected to CIA practices. FBI agent Ali Soufan argued that rapport-based methods had already yielded valuable intelligence from Abu Zubaydah before harsher techniques were introduced. His objections were ultimately disregarded, prompting the FBI to withdraw from the interrogation process and leaving the CIA in sole control (Mayer, 2007). By 2003 and 2004, reports of detainee abuse emerged publicly, particularly in connection with Abu Ghraib prison. Although the Pentagon initially portrayed these incidents as isolated misconduct by low-ranking soldiers, later investigations demonstrated substantial similarities between the techniques used at Abu Ghraib and those authorized under the CIA interrogation program. This convergence suggested the existence of broader institutional authorization for coercive treatment rooted in legal opinions formulated at the highest levels of government (Greenburg, Rosenberg & de Vogue, 2008).

The International Committee of the Red Cross (ICRC) also expressed grave concern regarding detainee treatment in U.S. custody. In confidential reports later leaked to the press, the ICRC documented practices it concluded amounted to torture, reinforcing claims that abuse reflected systemic policy rather than isolated incidents (Mayer, 2007). Faced with growing criticism and mounting legal challenges, the Bush administration eventually began retreating

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

from aspects of the detention and interrogation framework. In 2004, the Office of Legal Counsel formally withdrew the August 2002 Bybee memorandum and replaced it with a more restrictive interpretation of anti-torture law. Despite this reversal, the legal reasoning developed in the original memoranda continued to shape U.S. detention policy and provided enduring justification for practices widely condemned by legal scholars, international institutions, and human rights organizations as torture (Honigsberg, 2009). In addition to the operation of secret prisons, the United States also expanded the practice of extraordinary rendition, further extending counter-terrorism operations beyond conventional legal and territorial boundaries.

3.2.4 Extraordinary Rendition

The practice of extraordinary rendition predates the attacks of September 11, 2001. The term refers to the transfer of terrorism suspects to foreign states where they may be subjected to coercive interrogation methods, including waterboarding and other 'enhanced interrogation techniques.' In legal terms, extraordinary rendition involves the transfer of an individual by one state to another jurisdiction for purposes of detention and interrogation despite a substantial risk of torture or other forms of ill-treatment (International Human Rights Clinic, 2006). Historically, interstate transfers of suspects occurred within the framework of extradition and international criminal cooperation, primarily for prosecution before competent courts. In the post-Cold War era, however, rendition increasingly evolved into a mechanism through which Western governments transferred detainees to states known for employing aggressive interrogation methods prohibited under international law (Conyers, 2009).

The United States maintained that individuals transferred through rendition were not subjected to torture and argued that detention outside U.S. territory was necessary for national security purposes. Legally, such transfers were purportedly conditioned upon diplomatic assurances from receiving states guaranteeing that detainees would not be tortured. Former Attorney General Alberto Gonzales stated: "We do not transport anyone to a country if we

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

believe it more likely than not that the individual will be tortured.” (Otterman, 2007, p. 113). Although this formulation denied direct knowledge of torture, it simultaneously acknowledged the existence of the rendition program while allowing the government to disclaim responsibility for abuses committed after transfer. Under the Torture Victim Protection Act, foreign officials involved in torture may be sued before U.S. courts. In practice, however, evidentiary barriers and state secrecy frequently make accountability exceedingly difficult, enabling perpetrators to avoid legal consequences (Otterman, 2007).

The Bush administration defended extraordinary rendition as an indispensable instrument within the broader architecture of counter-terrorism policy. The precise number of individuals subjected to rendition after 9/11 remains unknown. One official associated with the program bluntly summarized its logic by stating: “We do not kick the shit out of them. We send them to other countries so they can kick the shit out of them” (Conyers, 2009, p. 138). If accurately reported, this statement reflects not only indifference toward international legal obligations but also the institutional normalization of practices previously regarded as unlawful. U.S. federal law prohibits torture and conspiracy to commit torture, including conduct occurring extraterritorially. Consequently, officials connected to the rendition program could potentially incur criminal liability if prosecutions were pursued (Conyers, 2009).

On September 17, 2001, President George W. Bush signed classified memoranda of notification authorizing the CIA to conduct extraordinary renditions with minimal governmental oversight and limited judicial scrutiny (Johnson, 2009). Under the Bush administration, rendition was reframed as ‘extraordinary rendition,’ a policy facilitating the transfer of foreign nationals suspected of terrorism to third-party states for detention and interrogation without formal criminal charges or conventional legal procedures (Garcia, 2009). Amnesty International characterized the program as a system of enforced disappearance deliberately structured to evade public accountability and legal oversight (Manawalia, 2012).

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

The program entailed multiple violations of international human rights law, including abduction, arbitrary detention, unlawful transfer, denial of due process, and enforced disappearance. Detainees subjected to rendition were routinely denied the opportunity to challenge either their detention or transfer because the system was specifically designed to prioritize intelligence extraction over judicial safeguards (Manawalia, 2012).

Critics argued that extraordinary rendition transformed what had once been an exceptional mechanism for transferring fugitives into a systematic process facilitating coercive interrogation without credible diplomatic protections against abuse (Clarke, 2009). The American Civil Liberties Union emerged as one of the most prominent critics of the CIA rendition program, contending that detainees were frequently held in facilities under effective U.S. control where ordinary legal protections were suspended. Former CIA officer Robert Baer described the operational logic of the program in stark terms: "If you want a serious interrogation, you send a prisoner to Jordan. If you want them to be tortured, you send them to Syria. If you want someone to disappear (never to see them again) you send them to Egypt." (ACLU, 2005). Such statements reinforced the argument that extraordinary rendition functioned, in practice, as a system of 'rendition to torture.'

The International Commission of Jurists urged the United States to abandon policies involving torture, cruel and degrading treatment, secret detention, unlawful transfer, refoulement, arbitrary detention, unfair trials, and enforced disappearance, arguing that such measures could not be justified as legitimate counter-terrorism practices because they violated fundamental norms of international law (O'Connor & Rumann, 2009). Similarly, Human Rights Watch criticized the extraordinary rendition program, particularly the broad discretionary authority exercised by the Bush administration in its implementation (Radsan, 2006). These concerns were reinforced by the Bybee memorandum, which defined torture narrowly as pain equivalent to severe physical injury such as organ failure, impairment of bodily functions, or

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

death (Bybee, 2002). By restricting torture to only the most extreme forms of suffering, the memorandum effectively permitted a wide spectrum of cruel, inhuman, and degrading treatment to occur outside the formal legal definition of torture (Forcese, 2009).

Although the administration relied heavily upon diplomatic assurances from receiving states, it failed to establish meaningful mechanisms of accountability or independent monitoring. This reliance was particularly problematic given that the U.S. State Department itself had documented systematic torture practices in several recipient countries. As early as 1994, State Department reports acknowledged that Egyptian authorities employed torture to extract confessions and intelligence. Reported methods included forced stripping, suspension by the wrists, prolonged standing, beatings, exposure to extreme temperatures, and electric shocks (Weissbrodt & Bergquist, 2006).

These findings were corroborated by the Egyptian Organization for Human Rights, which documented 567 cases of torture in police stations and 167 deaths resulting from torture or mistreatment between 1993 and July 2007 (Manawalia, 2012). State Department reports likewise consistently documented torture and abuse within Syrian detention facilities, noting that many incidents remained unreported. In light of these records, reliance upon diplomatic assurances from governments with well-documented histories of torture constituted a clear contradiction of obligations imposed under the Convention Against Torture (Manawalia, 2012).

The continuation of extraordinary rendition to states with extensive records of abuse further weakened the program's claims to legality and adherence to the rule of law (Manawalia, 2012). Although the Bush administration possessed the opportunity to construct a transparent legal framework regulating rendition practices, it instead adopted an improvised and reactive approach lacking coherent oversight mechanisms. Michaels (2008) argues that the absence of institutional accountability rendered the rendition program structurally susceptible to systematic abuse and violations of international legal standards. While the President may

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

possess constitutional authority to authorize rendition operations, constitutional authority does not necessarily confer moral legitimacy, particularly where allegations of torture and enforced disappearance are concerned. The secrecy surrounding the program, combined with its reliance on informal intelligence cooperation, rendered meaningful external scrutiny exceptionally difficult (Manawalia, 2012).

In addition to extraordinary rendition, the CIA also operated secret detention facilities and engaged in the practice known as 'ghosting,' whereby detainees were held in undisclosed locations without official registration or acknowledgment. According to media reports, President Bush issued a classified directive only six days after the September 11 attacks authorizing the CIA to capture, detain, and interrogate terrorism suspects outside ordinary legal procedures (Conyers, 2009). This directive reportedly permitted detainees to be held without any official record of detention. Individuals were allegedly transferred secretly to undisclosed 'black sites,' where they remained isolated from legal counsel, family members, and international humanitarian organizations such as the International Committee of the Red Cross and Amnesty International (Conyers, 2009). Families were often left entirely unaware of the whereabouts or fate of detainees. The related practice of 'ghosting' similarly involved detaining individuals, particularly in Iraq, without registering them within official prison systems, thereby erasing their existence from formal records altogether (Federici, 2010).

Several individuals subjected to extraordinary rendition or ghost detention were subsequently found to be innocent. One of the most widely cited examples is the case of Maher Arar, a Canadian citizen of Syrian origin, wrongfully detained while transiting through John F. Kennedy Airport in New York on his return from Tunisia to Montreal. His detention reportedly stemmed from tenuous associations with an individual connected to a person sought by the CIA (Otterman, 2007). Arar was detained for eight days in a New York immigration facility before being transferred by the CIA to Syria, where he was imprisoned and tortured. Recounting his

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

treatment, Arar later stated: "The cable is a black electrical cord, about two inches thick. They hit me with it everywhere on my body. I could hear other prisoners being tortured, and screaming and screaming." (Otterman, 2007). Under torture, he falsely confessed to having attended a training camp in Afghanistan. Although eventually released, his case was later acknowledged by CIA officials as an example of 'erroneous rendition.' Such acknowledgment, however, offered little remedy for the physical and psychological harm inflicted upon him (Otterman, 2007).

Another significant example concerns Khaled El-Masri. On December 31, 2003, El-Masri, a German citizen of Kuwaiti descent, traveled by bus from Ulm, Germany, toward Skopje, Macedonia. At the Macedonian border, authorities detained him on suspicion of links to Islamist militants (D'Arcus, 2014). Despite repeatedly denying the allegations, he was held in isolation in a hotel in Skopje for several weeks while subjected to repeated interrogations regarding his personal associations and religious activities (El-Masri, 2005). Describing his detention, El-Masri stated: "I was guarded at all times, the curtains were always drawn, I was never permitted to leave the room, I was threatened with guns, and I was not allowed to contact anyone." (El-Masri, 2005). After thirteen days, he initiated a hunger strike in protest against his confinement.

El-Masri later recounted that Macedonian officers eventually blindfolded and handcuffed him, falsely informing him that he was being returned to Germany. Instead, he was transferred onto an aircraft after being beaten, stripped, dressed in a diaper and tracksuit, shackled, hooded, and injected with unknown substances. He later realized that he had been transported to Afghanistan rather than Germany (El-Masri, 2005). His account illustrates the extreme secrecy and coercion characterizing rendition operations. El-Masri subsequently brought one of the first lawsuits challenging extraordinary rendition, arguing that he had become an innocent victim of a CIA program designed to circumvent domestic and international legal protections by

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

transferring suspects into legal environments where meaningful safeguards no longer applied (El-Masri v. Tenet, 2006). Extraordinary rendition thereby created a fragmented legal geography existing between domestic and international law, allowing states to exploit jurisdictional ambiguities and evade accountability. In El-Masri's case, Afghanistan functioned as a legal vacuum in which sovereignty and judicial protections remained uncertain. According to his testimony, one interrogator explicitly informed him that he was "in a country with no laws." (El-Masri, 2005).

The Bush administration failed to establish a transparent legal framework governing extraordinary rendition or to demonstrate sustained commitment to the rule of law and international treaty obligations. During the broader war on terror, U.S. anti-terrorism policies repeatedly conflicted with international humanitarian and human rights law. Drone strikes weakened the principle of distinction by expanding the definition of lawful combatants, resulting in civilian deaths such as those caused by the 2006 Pakistani school strike and double-tap attacks targeting rescuers. Arbitrary detention at Bagram and CIA black sites relied heavily upon weak evidence, collective suspicion, and mass detention practices incompatible with Article 9 of the ICCPR. Military review boards denied detainees meaningful judicial remedies and lacked institutional independence. Simultaneously, the Bush administration authorized interrogation techniques (including waterboarding, stress positions, and prolonged isolation) widely condemned as torture under both domestic and international law.

By designating detainees as 'enemy combatants,' the administration denied them Geneva Convention protections and confined many within legal gray zones such as Guantanamo Bay and CIA black sites. Justice Department memoranda, particularly the Yoo-Bybee memoranda, further narrowed the legal definition of torture in ways that facilitated coercive interrogation practices. Extraordinary rendition intensified these developments by transferring suspects to states known for systematic abuse under the guise of diplomatic assurances, resulting in

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

enforced disappearances, torture, and prolonged arbitrary detention, as illustrated by the cases of Maher Arar and Khaled El-Masri. Collectively, these policies normalized practices previously regarded as unlawful, weakened due process protections, and severely damaged the international credibility of the United States.

Public discourse in the United States frequently portrays human rights violations as phenomena occurring primarily outside its borders. Yet the practices adopted during the war on terror demonstrate that serious violations of fundamental rights also occurred within the framework of U.S. counter-terrorism policy. Despite the existence of domestic constitutional protections and binding international legal obligations, the post-9/11 period revealed the extent to which national security imperatives could erode legal safeguards intended to protect individual rights and human dignity. These counter-terrorism practices not only transformed legal and human rights frameworks but also produced far-reaching political, social, and humanitarian consequences across regions directly affected by the War on Terror.

3.3 The Impact of George W. Bush's War on Terror

George W. Bush's war on terror constituted a decisive turning point in both global politics and U.S. foreign policy. Although initially framed as a campaign to dismantle Al-Qaeda and remove the Taliban regime in Afghanistan, the intervention rapidly evolved into a far-reaching military and ideological project that reconfigured the political dynamics of South Asia and the Middle East. In Afghanistan, the U.S.-led invasion generated a prolonged conflict that devastated infrastructure, displaced millions of civilians, and produced extensive human casualties without securing durable political stability. In neighboring Pakistan, the expansion of drone warfare, cross-border military operations, and the militarization of tribal regions intensified anti-American sentiment, destabilized internal security structures, and strained relations between Washington and Islamabad. In Iraq, the 2003 invasion removed Saddam Hussein's regime but precipitated sectarian violence, institutional collapse, and enduring

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

political fragmentation. Collectively, the war on terror entrenched cycles of violence, humanitarian crises, and regional instability, raising profound questions regarding the political, legal, and moral consequences of militarized counter-terrorism strategies. The first and most immediate arena in which these consequences became visible was Afghanistan, where prolonged military intervention reshaped the country's political structures, security environment, and humanitarian conditions.

3.3.1 Afghanistan

The protracted character of the war on terror generated enduring consequences that continue to shape Afghanistan's political, economic, and social realities. The conflict inflicted severe damage on livelihoods while undermining the country's economy, healthcare system, infrastructure, and security environment (Shah & Romaniuk, 2023).

A 2022 report issued by the Special Inspector General for Afghanistan Reconstruction revealed that the conflict substantially aggravated food insecurity, with nearly 92% of the population facing shortages of food and necessities. The report further estimated that approximately three million Afghan children were suffering from acute malnutrition as a consequence of the prolonged war (Shah & Romaniuk, 2023).

Beyond active combat zones, unexploded ordnance and landmines continue to endanger civilians, particularly children and other vulnerable populations. Fiederlein and Rzegocki (2019) identify Afghanistan as one of the countries most severely contaminated by landmines and unexploded ordnance due to decades of continuous warfare. The conflict also produced mass displacement on an unprecedented scale, forcing millions of Afghans to seek refuge in neighboring states such as Pakistan and Iran. This refugee crisis further intensified already precarious living conditions characterized by limited access to healthcare, education, and adequate nutrition (Lee, 2022).

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

According to the Cost of War Project conducted by the Watson Institute for International and Public Affairs in August 2022, the war in Afghanistan caused approximately 243,000 deaths between 2001 and 2022, including more than 70,000 civilian fatalities (Shah & Romaniuk, 2023). The broader human consequences of the conflict, including physical injuries, psychological trauma, and forced displacement, remain incalculable (Shah & Romaniuk, 2023). The war also resulted in the deaths of 2,324 U.S. military personnel, 3,917 U.S. contractors, and 1,144 allied troops. Afghan security institutions suffered catastrophic losses as well, with approximately 70,000 Afghan military and police personnel killed during the conflict (Bateman, 2022).

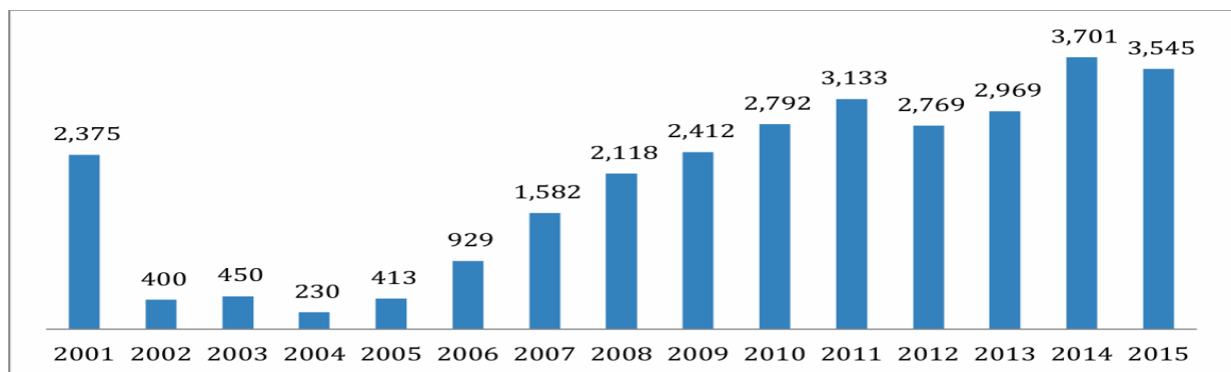
The following figures illustrate the escalating human cost of the Afghanistan War during George W. Bush's presidency (2001-2009), revealing the transformation of the conflict from an initial military intervention into a sustained insurgency. Civilian casualties reached their highest levels in 2001 during the U.S.-led invasion, then declined after the collapse of Taliban rule and the temporary reduction in hostilities. From 2005 onward, however, civilian deaths increased sharply as a result of the Taliban's resurgence, intensified U.S.-NATO military operations, and the deterioration of Afghan governance structures. By 2008, annual civilian fatalities exceeded 2,100, with United Nations data indicating that nearly 40% were caused by U.S. and allied forces.

At the same time, fatalities among Coalition troops and Afghan security forces rose steadily as the conflict deepened. Although military casualties remained comparatively limited during the early years of the intervention, the resurgence of the Taliban after 2004 led to mounting losses, particularly among poorly equipped and undertrained Afghan forces. The Bush administration's prioritization of counter-terrorism operations over long-term institutional development and sustainable governance left Afghan state institutions fragile and vulnerable. By 2007-2008, an increasing share of the war's human cost had shifted onto Afghan security

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

forces. Taken together, these figures demonstrate both the intensification of the conflict and the structural weaknesses embedded within the Bush administration's strategy in Afghanistan.

Figure 3.1: Number of Civilians Killed in Afghanistan from 2001 to 2015



Source: Crawford, N.C. (2011, September). Civilian Death and Injury in Afghanistan, 2001-2015

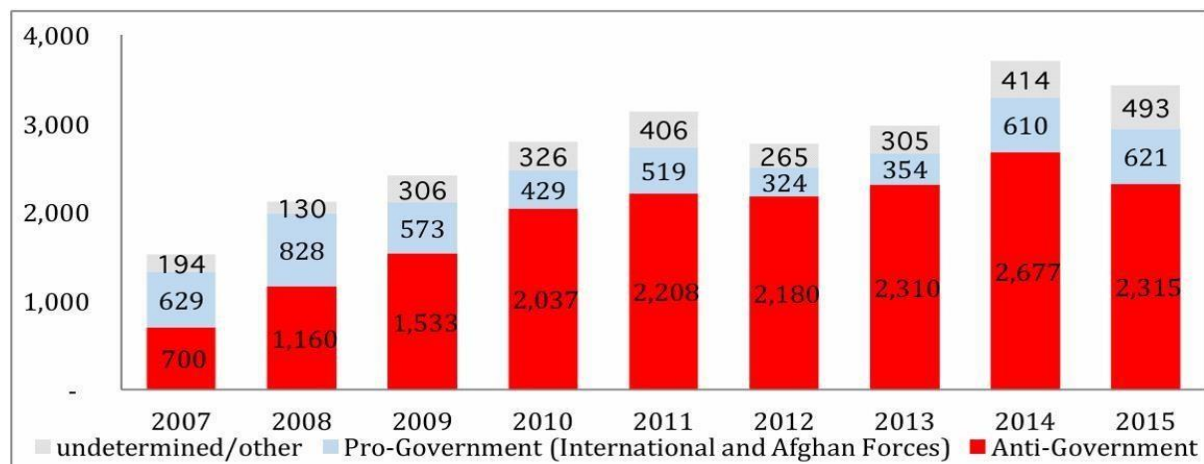
The figure titled “*Number of Civilians Killed in Afghanistan from 2001 through 2015*” provides annual civilian casualty data across the Afghanistan War, with particular relevance to the Bush administration period (2001-2008). The pattern reflects an initial reduction in fatalities followed by a sustained and pronounced escalation. In 2001, civilian deaths reached 2,375, corresponding to the intensity of the U.S.-led invasion launched after the September 11 attacks. This phase was characterized by extensive aerial bombardment and ground operations directed against Taliban and Al-Qaeda positions, which contributed to elevated civilian harm. Between 2002 and 2004, a marked decline is observable, with figures recorded at 400 in 2002, 450 in 2003, and 230 in 2004, reflecting the temporary consolidation of military control following the collapse of the Taliban regime.

From 2005 onwards, the trajectory shifted upward. Civilian fatalities increased to 413 in 2005, then rose sharply to 929 in 2006, 1,582 in 2007, and 2,118 in 2008. This renewed escalation corresponds to the reconfiguration of the conflict into a sustained insurgency, accompanied by intensified Taliban operations, expanded U.S. and NATO military

Chapter Three: The Cost and Consequences of George W. Bush’s War on Terror

engagement, and weakening Afghan governance structures. The progression of these figures reflects the widening scope of the conflict and the growing exposure of civilian populations to violence.

Figure 3.2: UNAMA Attribution of Civilian Death from 2007-2015



Source: UNAMA. (2008-2015). Afghanistan Annual Report: Protection of Civilians in Armed Conflict.

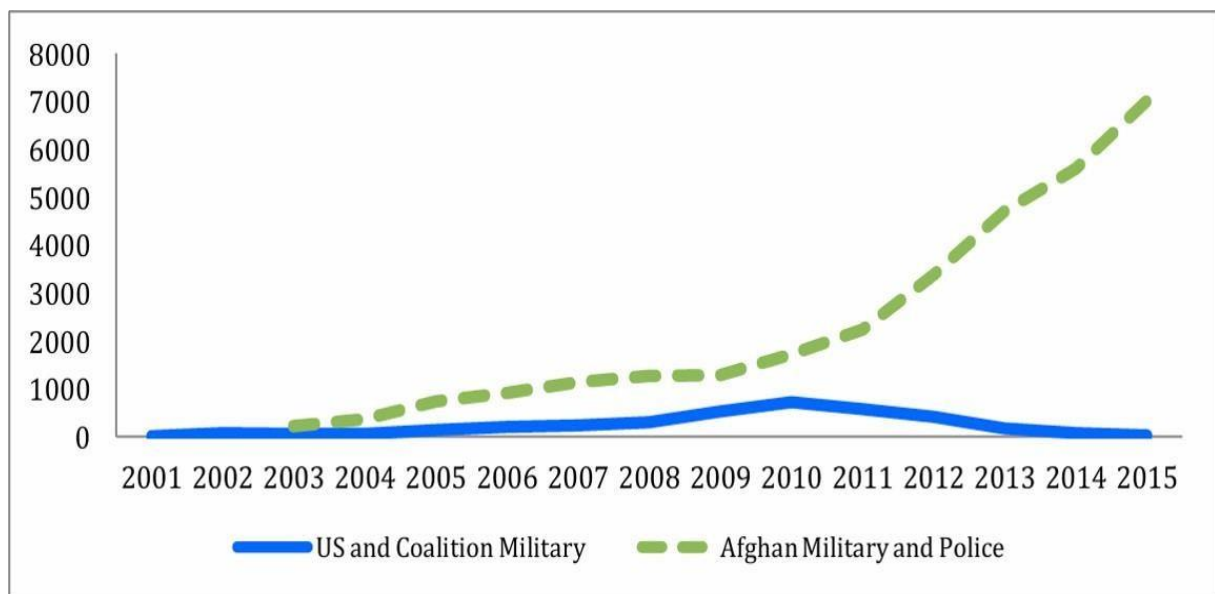
The figure titled “*UNAMA Attribution of Civilian Deaths from 2007-2015*” offers a detailed account of civilian casualties in Afghanistan during the final phase of President George W. Bush’s administration (2007-2008), drawing on data compiled by the United Nations Assistance Mission in Afghanistan. The dataset disaggregates responsibility for civilian deaths into three categories: Anti-government elements (including the Taliban), pro-government forces (comprising U.S. and Afghan security forces), and incidents classified as undetermined or attributable to other causes.

In 2007, total civilian fatalities stood at 1,523. Of these, 700 were attributed to anti-government elements, 629 to pro-government forces, and 194 to undetermined causes. In 2008, civilian deaths increased significantly to 2,118, representing an approximate 40% rise compared to the previous year. During this period, insurgent forces were responsible for 1,160 deaths, while pro-government forces accounted for 828, with the remainder attributed to unspecified

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

causes. The distribution of casualties indicates that responsibility for civilian harm was not confined to insurgent actors alone, as pro-government forces were implicated in a substantial proportion of deaths, approaching 40 percent across both years. This pattern complicates prevailing narratives surrounding the conduct of counter-insurgency operations during the Bush administration. The 2007-2008 period also corresponds to a methodological turning point in UNAMA reporting practices, as civilian casualties began to be systematically attributed to specific parties, thereby rendering more visible the humanitarian consequences of the conflict and the extent of civilian exposure to violence.

Figure 3.3: Coalition Military and Afghan Security Force Deaths, 2001-2015



Sources: Defense Casualty Analysis System. (2016). Overseas Contingency Operations.

Figure 3, which presents data on Coalition military and Afghan security force fatalities between 2001 and 2015, illustrates the evolving character of the Afghanistan conflict during President George W. Bush's administration (2001-2008), as the war transitioned from a rapid regime change operation to a protracted insurgency.

During the initial phase (2001-2003), Coalition casualties remained relatively limited, while losses among Afghan security forces were minimal, reflecting the collapse of Taliban resistance and the early stabilization efforts under U.S.-led military dominance. From 2004 to 2006, a

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

gradual escalation became evident, with both Coalition and Afghan security force fatalities increasing in parallel. By 2006, Afghan military and police deaths had risen to approximately 500-700 annually, indicating growing insurgent activity and increasing pressure on newly formed Afghan security institutions. In the period 2007-2008, the escalation became more pronounced. Intensified insurgent operations led to a substantial rise in Afghan security force casualties, while Coalition fatalities also increased, though at a comparatively more moderate rate. This pattern reflects the deepening insurgency, expanding geographic scope of conflict, and the shifting burden of frontline combat increasingly borne by Afghan forces as the war progressed.

The prolonged war in Afghanistan imposed profound human and social consequences upon the population, leaving large segments of society affected by severe psychological trauma. The conflict also produced approximately 1.5 million people living with disabilities and nearly 2 million widowed women, reflecting the devastating social legacy of decades of warfare (Shah & Romaniuk, 2023). The repercussions of the conflict extended far beyond Afghanistan itself. The war contributed to the expansion of cross-border militancy in Pakistan, intensified instability across South Asia, and fostered conditions conducive to the proliferation of extremist movements and the emergence of new militant organizations (Lee, 2022). The instability generated by the Afghan conflict did not remain confined within Afghanistan's borders; rather, it extended into neighboring Pakistan, where the War on Terror produced significant political, economic, and security repercussions.

3.3.2 Pakistan

Following the September 11 attacks, U.S.-Pakistan relations entered a new phase characterized by intensified military cooperation and strategic alignment within the framework of the war on terror. Pakistan emerged as one of the principal recipients of American military assistance, with U.S. arms sales reaching approximately \$3.5 billion in 2006. Washington also

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

approved a \$1.2 billion arms package that included nearly \$950 million allocated for the acquisition of P3C Orion aircraft. In March 2005, President George W. Bush further authorized the sale of an unspecified number of F-16 fighter jets to Pakistan. Military collaboration expanded beyond arms transfers to include training initiatives, as the United States reinstated military education programs with Islamabad; according to Hussain (2005, p. 6), “three hundred officers have received instruction at U.S. military institutions since 2001.”

The fourth figure illustrates Pakistan's increasing dependence on U.S. military assistance during the Bush administration (2001-2008). American support rose sharply after 9/11, reaching more than 40% of Pakistan's military budget in 2002. While this partnership strengthened Pakistan's military capacity, it also generated substantial domestic repercussions. Prolonged military involvement intensified economic pressures, fueled public dissatisfaction with state policies, and contributed to widening political and social divisions within Pakistani society (Herman & Peterson, 2008).

Figure 3.4: Trends in Percent of Pakistan's Military Budget from U.S. Military Aid and Reimbursement, 2001-2015



Sources: U.S. spending: Kronstadt, K.A., & Epstein, S. (2016, February 24). Direct Overt US Aid Appropriations for and Military Reimbursement to Pakistan, FY2000-FY2017.

The figure titled “*Trends in Percent of Pakistan's Military Budget from U.S. Military Aid and Reimbursement, 2001-2015*” traces the changing proportion of Pakistan's military

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

expenditure supported through U.S. military assistance and Coalition Support Funds, with particular salience during the Bush administration period (2001-2008). The data reflect the extent to which Pakistan's defense apparatus became financially intertwined with U.S.-led operations in Afghanistan following 9/11.

In 2001, U.S. military support constituted approximately 2-3 percent of Pakistan's military budget. This share increased abruptly in 2002, exceeding 40 percent, indicating Pakistan's immediate strategic incorporation into U.S. operational logistics and regional counter-terrorism efforts. Although the proportion remained elevated in 2003, it declined markedly in 2004 to slightly above 20 percent, suggesting a partial recalibration of aid flows following the initial surge of post-9/11 military cooperation.

Between 2005 and 2007, the U.S. contribution fluctuated within the 20-30 percent range, reflecting a more stabilised but still substantial dependency relationship. In 2008, the share rose again, reaffirming Pakistan's continued centrality to U.S. military strategy in Afghanistan. Collectively, these patterns indicate that financial assistance functioned not merely as support but as an operational instrument that reinforced Pakistan's integration into the broader architecture of the war on terror.

Pakistan incurred substantial military costs as a consequence of its alignment with the United States in the war on terror. Between 85,000 and 120,000 Pakistani troops were deployed along the western border with Afghanistan, while more than 2,000 Pakistani soldiers lost their lives, a figure exceeding the total number of allied military deaths in Afghanistan during the same period (Bruno & Bajoria, 2008). These losses were accompanied by extensive civilian casualties and widespread social disruption.

Pakistan also faced serious geopolitical repercussions stemming from the Indo-U.S. nuclear agreement. According to Musarrat (2007, p. 10), "India tried to manipulate the American doctrine of pre-emption to pressurize Pakistan." Historically, Pakistan had perceived its western

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

frontier as relatively secure due to the presence of the Taliban regime in Afghanistan, which maintained cooperative relations with Islamabad. Following the collapse of Taliban rule, however, the Northern Alliance assumed power in Kabul, producing a government perceived by Pakistan as hostile and closely aligned with India. This political transformation reduced Pakistan's influence in Afghanistan while simultaneously expanding Indian influence, thereby intensifying insecurity along Pakistan's western border and contributing to broader regional instability (Musarrat, 2007).

The expansion of extremism within Pakistan constituted another major consequence of the alliance with the United States. Militancy generated severe political, social, and economic repercussions, while foreign involvement in domestic affairs became increasingly visible, particularly in the Federally Administered Tribal Areas (FATA) and Balochistan. Under sustained American pressure, Pakistan launched military operations in West Asia and North Africa (WANA), FATA, and Balochistan to capture Taliban and Al-Qaeda operatives and suppress extremist movements. These operations were followed by recurring suicide bombings, attacks on civilians, assassinations of political leaders, and violent confrontations between militant organizations and security forces. As a result, militancy and terrorism intensified, creating profound political instability and major security challenges within the country (Kronstadt, 2003).

Despite Pakistan's extensive cooperation with Washington, the United States continued to view Islamabad with suspicion, particularly because numerous Al-Qaeda members were believed to be operating within the tribal regions along the Durand Line. Consequently, Pakistan remained under constant external pressure concerning its counter-terrorism commitments. Violations of Pakistani territorial sovereignty through allied military incursions and drone strikes further undermined national security and territorial integrity (Kronstadt, 2003).

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

Economically, Pakistan emerged as one of the principal strategic and financial casualties of the post-9/11 international order. Inflation rose from 4.4% in 2001 to 7.9% in 2006, while the trade deficit expanded from \$4.3 billion in 2006 to \$8.62 billion in 2008 (Rabbi, 2012). External debt also increased dramatically, with the State Bank of Pakistan reporting liabilities of \$32.46 billion in June 2003, rising to \$50.14 billion by March 2009 (Khan, 2009). Although Washington provided substantial financial assistance, much of the aid was directed toward military expenditures and remained conditional upon Pakistan's continued support for the war on terror, democratic reforms, and restrictions on the proliferation of nuclear technology, as certified by President George W. Bush (Rabbi, 2012).

The conflict also imposed a massive financial burden on the United States itself, with expenditures estimated at approximately \$2.3 trillion over two decades (The Watson Institute for International and Public Affairs, 2022). Within Pakistan, insecurity and political instability discouraged foreign investment, while ethnic and sectarian violence resulted in the cancellation of commercial agreements and investment projects (Zaiby, 2008). On May 26, 2009, Shaukat Tarin, Adviser to the Prime Minister on Finance, declared: "The cost, which Pakistan has paid so far, of the war against terrorism, is \$35 billion, which is increasing every year" (Rabbi, 2012, p. 87).

President Asif Ali Zardari similarly stated: "Pakistan is suffering massive economic losses in the war on terror due to wasted opportunities of trade, growth, and revenue of millions of dollars" (Rabbi, 2012, p. 88). Pakistan's participation in the war on terror, therefore, contributed to severe economic deterioration. Political instability, militancy, and persistent terrorist violence generated widespread uncertainty among investors and destabilized financial markets, leading to weak economic growth and worsening national economic conditions (Rabbi, 2012).

The conflict further accelerated the proliferation of small arms and narcotics within society, intensified anti-American sentiment, and provided renewed momentum to non-state armed

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

groups. Assassination attempts and attacks directed at senior political leaders, including the President and Prime Minister, reflected the growing fragility of the state. Suicide bombings, introduced by various banned sectarian organizations, caused extensive civilian casualties and deepened social insecurity (Abbas, 2005).

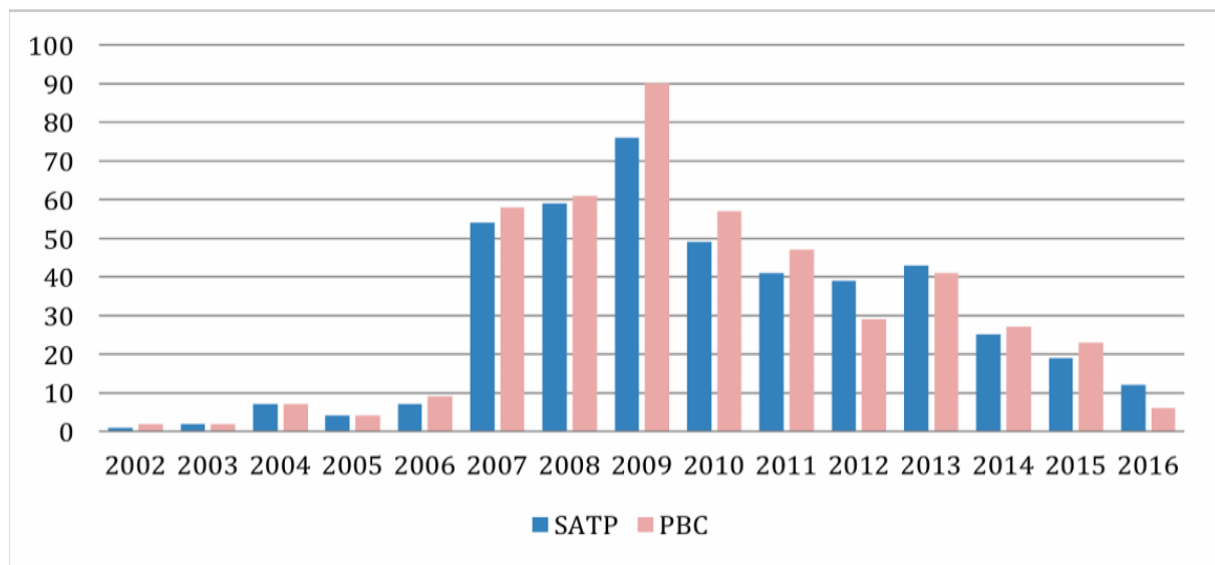
Since Pakistan's cooperation with the United States in the war on terror, terrorism and extremism have emerged as central domestic challenges with far-reaching social consequences. Military campaigns in FATA and Swat triggered waves of suicide attacks targeting security forces, military convoys, police and army installations, and civilian spaces such as schools, mosques, hotels, polling stations, restaurants, and public gatherings. Bombings and rocket attacks directed against government buildings, military facilities, gas pipelines, railway infrastructure, bridges, power transmission lines, and communication networks became increasingly frequent (Abbas, 2005).

Extremist organizations also imposed social restrictions by shutting down girls' schools, barber shops, and video stores, thereby challenging state authority not only in tribal areas but also across settled regions of Khyber Pakhtunkhwa and other parts of the country. Suicide bombings and militant violence produced a pervasive climate of fear while contributing to deteriorating law and order conditions. Crimes such as robbery, kidnapping, and murder also increased, reinforcing a broader sense of insecurity within Pakistani society (Rabbi, 2012).

Figures 5 and 6 demonstrate the dramatic escalation of militant suicide attacks in Pakistan during the Bush administration (2002-2008), illustrating the country's transformation into a major battleground within the U.S.-led war on terror. These developments intensified anti-American sentiment, strengthened militant networks, and exposed the limitations of predominantly military-centered counter-terrorism strategies. By the end of Bush's presidency, suicide bombings had become widespread, and Pakistan was confronting a large-scale domestic insurgency shaped by political instability and the militarization of counter-terrorism policies.

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

Figure 3.5: South Asia Terrorism Portal(SATP) and Pakistan Body Count (PBC) Counts of Militant Suicide Attacks 2002 -1 July 2016



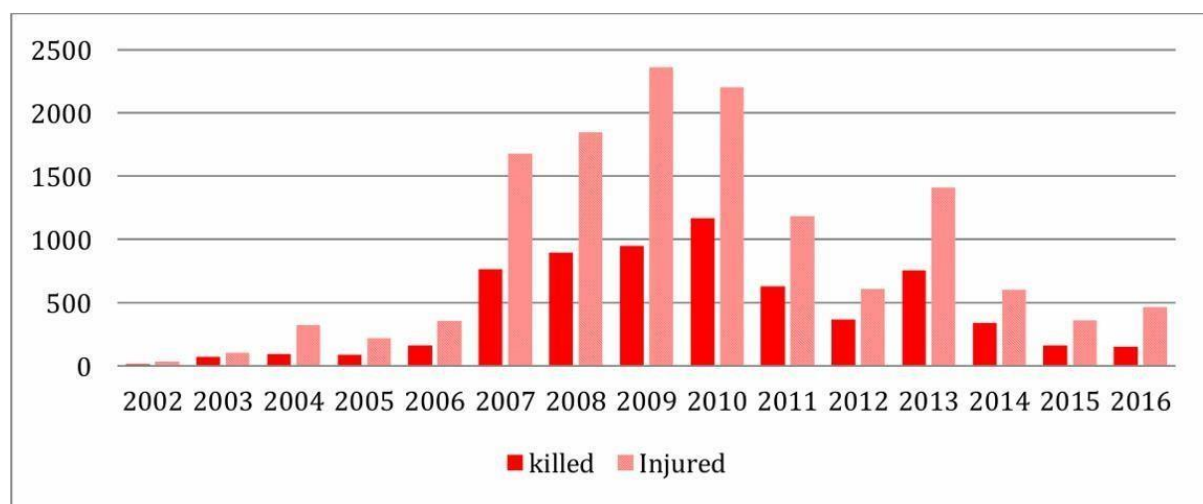
Sources: South Asia Terrorism Portal. (2016). Fidayeen (Suicide Squad) Attacks in Pakistan.

Figure 5, drawing on comparative datasets from SATP and PBC, documents the pronounced escalation of militant suicide attacks in Pakistan during President George W. Bush's administration (2002-2008), reflecting profound transformations in the country's internal security environment. The early phase (2002-2004) shows a relatively limited incidence of suicide operations, with both sources recording fewer than ten attacks annually, indicating that this form of militancy had not yet become a widespread tactic. From 2005 onward, a gradual upward movement becomes visible, suggesting the initial diffusion of suicide attacks within militant networks operating in Pakistan. This trajectory intensifies markedly in 2007, when SATP records 54 incidents, and PBC reports approximately 58, representing a steep multiplication compared to earlier years. The trend continues into 2008, with SATP documenting over 59 attacks and PBC reporting around 62, sustaining a persistently high level of violence.

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

The convergence of both datasets indicates not only the rapid normalization of suicide bombing as a tactical instrument but also the deepening entrenchment of insurgent violence within Pakistan's domestic landscape. The pattern corresponds with the broader consequences of anti-terrorism strategies that relied heavily on military assistance and intelligence collaboration, which, rather than containing militancy, coincided with its intensified internal manifestation during the Bush-era war on terror.

Figure 3.6: Number of People Killed and Injured in Militant Suicide Attacks, in Pakistan, 2002-June 2016



Source: South Asia Terrorism Portal. (2016). Fidayeen (Suicide Squad) Attacks in Pakistan.

Figure 6, which presents data on casualties resulting from militant suicide attacks in Pakistan between 2002 and June 2016, captures a pronounced escalation during the Bush administration period (2002-2008), situating Pakistan within the broader operational theatre of the U.S.-led war on terror. In the early years (2002-2004), fatalities remained below 200 annually, corresponding to a relatively constrained level of militant activity and a comparatively stable domestic security environment. From 2005 to 2006, a marked increase became evident, with casualties rising to approximately 300 and then 400, respectively. This phase indicates the gradual consolidation and operational expansion of militant networks within Pakistan's

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

territory. The trajectory shifts decisively in 2007 and 2008, when violence intensifies sharply. In 2007, approximately 800 individuals were killed, and more than 1,600 were injured in suicide-related incidents. In 2008, fatalities approached 900, accompanied by nearly 1,900 injuries, reflecting a sustained peak in the lethality and frequency of attacks.

By the end of Bush's presidency, suicide bombings had become a recurrent feature of Pakistan's internal security landscape, signalling the transition toward a consolidated insurgency. Within this context, the counter-terrorism approach grounded in extensive military pressure, sustained demands for Pakistani action against militant groups, and expanded drone operations coincided with processes of radicalisation in border and tribal regions. These dynamics contributed to the entrenchment of long-term militancy, embedding patterns of violence that extended beyond the initial phase of the war on terror.

While Pakistan became a central frontline state in the U.S.-led War on Terror, the broader consequences of the Bush administration's strategy were equally evident in Iraq, where military intervention generated far-reaching political fragmentation, sectarian conflict, and regional instability.

3.3.3 Iraq

The Bush administration presented its military interventions as indispensable responses to the September 11 attacks. Nevertheless, several of these operations bore little direct connection to Al-Qaeda. Within this framework, the war on terror evolved into a mechanism through which the United States expanded its geopolitical influence, frequently collaborating with authoritarian regimes under the justification of counter-terrorism cooperation (Herman & Peterson, 2008).

Beyond conventional warfare, the war on terror accelerated the privatization of military operations. Private security corporations, most notably Blackwater Worldwide, operated in Iraq with limited accountability and frequently contributed to the deterioration of security

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

conditions. Simultaneously, the United States developed a clandestine detention network extending across multiple regions, where detainees were held indefinitely without judicial process and subjected to torture and coercive interrogation methods. Facilities such as Abu Ghraib in Iraq, alongside secret prisons in Europe and the Middle East, became emblematic of these practices. Numerous detainees were imprisoned based on unreliable intelligence, financial incentives offered to informants, or mistaken identity, producing extensive human rights violations and weakening the legitimacy of U.S. counter-terrorism policies internationally (Herman & Peterson, 2008).

The invasion of Iraq redirected strategic attention away from Al-Qaeda, the organization responsible for the 9/11 attacks, toward a state that had no operational involvement in them. This strategic shift weakened the broader counter-terrorism campaign by enabling Al-Qaeda to consolidate its networks and expand recruitment efforts. Moreover, the overthrow and subsequent execution of Saddam Hussein destabilized Iraq's political order, intensified sectarian divisions, and created the conditions for the emergence of extremist organizations such as ISIS (Lee, 2022). The invasion also severely damaged the international standing of the United States, as it was widely perceived as an unlawful use of force that contravened the principles of the United Nations Charter (Lee, 2022).

The consequences of the Iraq War extended far beyond the battlefield, provoking widespread criticism and generating significant public and international reactions. As civilian casualties increased and allegations of human rights violations emerged, the Bush administration's counter-terrorism policies became the subject of growing domestic opposition and global condemnation.

3.4 Public and Global Reaction

The Bush administration sought to establish a democratic political order in Afghanistan within the context of a broader regional strategy. Despite these objectives, instability persisted

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

throughout the period of U.S. occupation. The Taliban maintained an active insurgency, while endemic corruption, institutional weakness, and limited domestic legitimacy undermined the Afghan government (Brands, 2018). Dependent on military and financial support from the United States and NATO, the Afghan state lacked the institutional capacity to function autonomously. Following the withdrawal of U.S. forces under President Biden, the government rapidly collapsed, allowing the Taliban to regain control in 2021.

In efforts to suppress Taliban insurgents, U.S. and allied forces conducted extensive night raids that frequently resulted in civilian casualties and arbitrary detentions. The absence of transparency and meaningful accountability intensified public resentment among Afghans (Badalic, 2019). At the same time, the United States operated a detention facility at Bagram Air Base, where prisoners were confined indefinitely without trial and exposed to torture and abusive treatment. Allegations involving stress positions, sleep deprivation, and physical violence generated substantial international criticism. The deaths of detainees Dilawar and Habibullah at Bagram in 2002 further amplified global condemnation. Several Afghan detainees were subsequently transferred to Guantanamo Bay, where they endured interrogation practices broadly denounced as torture under international law (Badalic, 2019).

Critics have argued that the Bush administration manipulated intelligence narratives and amplified public fear to legitimize military intervention. Scholars such as David Cole and Jules Lobel contend that the war on terror eroded civil liberties, strengthened adversarial networks, and contributed to greater global instability rather than enhanced security (Herman & Peterson, 2008). Legal scholars likewise condemned the Iraq War as incompatible with international law. Former United Nations Secretary-General Kofi Annan characterized the invasion as illegal, while theorists such as Michael Walzer questioned the political and strategic motivations underlying the conflict (Borger, 2004; Peterson, 2018). The subsequent failure to discover weapons of mass destruction further undermined U.S. credibility and exposed the invasion as a

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

profound political and strategic miscalculation rather than a necessary act of self-defense (Iraq Survey Group, 2004).

Political commentators, including Anatole Lieven, emphasized the role of propaganda in shaping domestic and international perceptions of the war on terror. The Bush administration framed the campaign as indispensable to national security, thereby legitimizing policies that frequently conflicted with democratic principles and constitutional protections (Jones, 2012). During this period, several U.S. officials portrayed international legal norms as outdated constraints, arguing that the United States possessed the authority to act unilaterally in defense of its strategic interests (Glennon, 2002). Such reasoning weakened collective efforts to regulate the use of force and established precedents with significant implications for future military interventions.

Historians and legal scholars have drawn comparisons between Bush's doctrine of pre-emptive war and earlier instances of aggressive warfare. Arthur Schlesinger likened the invasion of Iraq to Japan's attack on Pearl Harbor, arguing that the United States had abandoned its moral authority in favor of militarized expansionism (Chomsky, 2003). Similarly, international law scholar Richard Falk described the Iraq War as a "crime against peace," comparable to the offenses prosecuted during the Nuremberg Trials (Chomsky, 2003).

The Chilcot Report (2016), the United Kingdom's official inquiry into the Iraq War, concluded that the conflict had been justified through flawed intelligence and pursued without adequate postwar planning. The report determined that Iraq posed no imminent threat to the United Kingdom and that diplomatic alternatives had not been exhausted. It also criticized Prime Minister Tony Blair for aligning too closely with President Bush despite the foreseeable long-term consequences of the invasion (Lee, 2022).

The war on terror has been widely criticized as a political and strategic instrument rather than a narrowly defined counter-terrorism initiative. Although it enabled an unprecedented

Chapter Three: The Cost and Consequences of George W. Bush's War on Terror

expansion of U.S. military power, it also generated extensive instability, widespread human rights abuses, and a decline in global confidence in American leadership. Critics maintain that, rather than eliminating terrorism, the policies pursued under the Bush administration intensified existing conflicts and facilitated the growth of extremist movements (Lee, 2022).

3.5 Conclusion

The chapter indicates that the Bush administration's War on Terror functioned less as a temporally bounded counter-terrorism campaign than as a structural reorientation of security governance. The outcomes of military intervention and security partnerships reveal a pattern in which the pursuit of counter-terrorism objectives intersected with intensified instability and fragmented authority structures in affected regions. Rather than producing durable containment of transnational militancy, the cases of Afghanistan, Iraq, and Pakistan demonstrate how coercive strategies and regime-level interventions often generated adaptive insurgent dynamics, governance vacuums, and expanded cycles of violence.

The qualitative evidence suggests that the War on Terror produced outcomes that extended beyond its stated objectives, contributing to the diffusion of conflict rather than its resolution. In this sense, the chapter supports the argument that security practices grounded predominantly in militarised and exceptional logics tend to generate complex spillover effects that reshape regional conflict environments. These findings establish the analytical basis for the subsequent chapter, which turns to a more detailed examination of the costs and consequences of the Bush-era War on Terror, particularly in relation to human rights violations, civilian harm, and the long-term destabilisation of affected political and social systems.

Chapter Four:

Barack Obama's War on Terror: *Human Rights, Counter-terrorism and Foreign Policy*

4.1 Introduction

The presidency of Barack Obama emerged within an international environment shaped by the consequences of the post-9/11 Global War on Terror, the wars in Iraq and Afghanistan, growing criticism of unilateral interventionism, and increasing concern regarding the erosion of human rights and civil liberties under the administration of George W. Bush. Obama entered office promising a recalibration of U.S. foreign policy through diplomacy, multilateral cooperation, and strategic restraint while seeking to restore American credibility after years of controversial military interventions and the expansion of executive security powers.

This chapter examines the extent to which the Obama administration transformed, modified, or preserved the post-9/11 security architecture established during the Bush era. It analyses major dimensions of Obama's foreign and security policy, including the Afghanistan strategy, the 'AfPak' framework, drone warfare, targeted killing, detention policy, humanitarian intervention, and U.S. responses to the Arab uprisings and the Palestinian issue. Particular attention is given to the tension between the administration's discourse of legality, human rights, and multilateralism and the continued expansion of coercive counter-terrorism practices.

Methodologically, the chapter is based on a qualitative research design grounded in analytical and interpretivist approaches. It relies primarily on secondary sources, including academic scholarship, peer-reviewed journal articles, government publications, presidential speeches, legal documents, reports issued by international organizations, and publications produced by human rights institutions such as Amnesty International and Human Rights Watch. Official U.S. government materials (national security strategies, congressional records, Department of Defense reports, and executive statements) are examined to analyze the formulation and implementation of Obama's foreign and counter-terrorism policies.

Discourse analysis is employed to examine how concepts such as terrorism, humanitarian intervention, democracy promotion, multilateralism, and national security were constructed

within official political rhetoric to justify practices including drone warfare, targeted killing, and military intervention. Comparative analysis is also employed to identify continuities and divergences between the Bush and Obama administrations regarding executive power, counter-terrorism measures, military intervention, and approaches to international conflict.

Through a case-study approach focused on key theaters of U.S. intervention (Afghanistan, Pakistan, Yemen, Libya, Syria, Egypt, and Palestine), the chapter investigates the contradictions between the Obama administration's rhetoric of diplomacy, legality, and democratic values and the persistence of coercive security practices within post-9/11 American foreign policy. The argument is that Obama's presidency represented both continuity and recalibration within the broader War on Terror framework: While the administration modified the language, presentation, and operational methods of intervention, many structural features of the post-9/11 security state remained intact, demonstrating the enduring influence of counter-terrorism logic on American governance and international relations.

4.2 Transition from George W. Bush to Barack Obama: *Major Policies, Legislative Changes, and Civil Liberties.*

Barack Obama entered office amid growing domestic and international criticism of the Bush administration's reliance on unilateral military intervention, indefinite detention, enhanced interrogation practices, and expansive executive authority following the attacks of September 11, 2001. His presidency emerged within a political climate characterized by demands for legal reform, the restoration of constitutional protections, and a recalibration of U.S. foreign policy toward diplomacy and multilateral engagement.

This section examines the political and legal transition between the two administrations, focusing on the extent to which Obama altered, reformed, or preserved the counter-terrorism framework established during the Bush era. It explores major policy and legislative developments concerning detention practices, surveillance programs, military commissions,

executive power, and civil liberties. Particular attention is devoted to the tension between Obama's discourse of constitutionalism, human rights, and legal accountability and the persistence of several coercive security structures inherited from the post-9/11 security state. Understanding the evolution of Obama's counter-terrorism and foreign policies requires first examining his political formation, ideological background, and rise to national prominence.

4.2.1 Barack Obama: *Political Background and Rise to Power*

Barack Obama was born on 4 August 1961 in Honolulu, Hawaii, to Barack Obama Sr., a Kenyan economist, and Ann Dunham, an American anthropologist from Kansas. His multicultural background and early exposure to different cultural and social environments later influenced his political discourse concerning dialogue, diversity, international cooperation, and diplomacy. During his childhood, Obama spent part of his early years in Indonesia before returning to Hawaii, where he completed his secondary education at Punahou School (Maraniss, 2012).

Obama pursued higher education at Occidental College in California before transferring to Columbia University in New York, where he graduated in 1983 with a degree in political science specializing in international relations. After graduation, he worked in community organizing projects in Chicago, particularly in economically marginalized African American neighborhoods affected by unemployment and industrial decline. These experiences contributed significantly to the development of his political perspectives on social justice, inequality, and public policy (Mendell, 2007).

In 1988, Obama enrolled at Harvard Law School, where he achieved national prominence after becoming the first African American president of the *Harvard Law Review* in 1990. His election to this position attracted considerable media attention and established his reputation within legal and political circles as a promising intellectual and political figure (Remnick, 2010). After completing his Juris Doctor degree in 1991, Obama returned to Chicago and

worked as a civil rights attorney while also teaching constitutional law at the University of Chicago Law School. His academic and legal background later became central to his political identity, particularly his emphasis on constitutional governance, civil liberties, and the rule of law.

Obama formally entered electoral politics in 1996 when he was elected to the Illinois State Senate as a member of the Democratic Party. During his tenure, he focused on ethics reform, healthcare access, and criminal justice issues while developing a reputation as a pragmatic and consensus-oriented politician (Mendell, 2007). His national profile expanded considerably after his keynote address at the 2004 Democratic National Convention, where he emphasized themes of unity, political cooperation, and national reconciliation. The speech transformed Obama into a major national political figure and contributed to his successful election to the United States Senate later that year.

As a U.S. senator, Barack Obama opposed the Iraq War and criticized the unilateral interventionism associated with the administration of George W. Bush. In a 2002 speech delivered before the invasion of Iraq, Obama described the proposed war as a 'dumb war' driven by ideological and political considerations rather than strategic necessity (Obama, 2006). This position later became central to his presidential campaign and distinguished him from several political rivals within the Democratic Party.

Obama announced his candidacy for the presidency in 2007 and campaigned on promises of political reform, healthcare expansion, and the restoration of America's international standing after the controversies of the 'Global War on Terror.' His campaign also emphasized diplomacy, multilateral cooperation, and greater adherence to constitutional protections in matters related to national security and civil liberties. In November 2008, Obama defeated Republican candidate John McCain and became the first African American president in United

States history. His election was widely interpreted as a significant political and social turning point both domestically and internationally.

Upon assuming office in January 2009, Obama inherited major domestic and international challenges, including the global financial crisis, ongoing wars in Iraq and Afghanistan, and growing criticism of post-9/11 detention, interrogation, and surveillance practices. His presidency, therefore, began amid expectations of substantial reform in both U.S. foreign policy and counter-terrorism governance. Obama's political discourse, emphasizing constitutionalism, legal reform, and multilateralism, strongly influenced the expectations surrounding his presidency, particularly in relation to civil liberties and counter-terrorism governance.

4.2.2 Transition Policies and Civil Liberties

By 2008, growing public exhaustion with the prolonged 'war on terror' generated expectations of a substantial reorientation in U.S. counter-terrorism policy. Obama's presidential campaign emerged within this climate of political disillusionment and framed terrorism less as a permanent wartime condition than as a matter that could be addressed within constitutional and criminal justice frameworks. This rhetorical repositioning suggested a departure from the expansive security paradigm institutionalized during the Bush administration, particularly regarding detention practices, executive authority, and the treatment of terrorism suspects. Yet the legal and institutional infrastructure inherited from the post-9/11 period imposed substantial constraints on the possibility of immediate transformation.

Civil liberties advocates interpreted Obama's campaign discourse as a potential restoration of constitutional safeguards eroded during the Bush presidency. Jane Mayer observed that Obama consistently situated counter-terrorism debates within the language of constitutionalism and legal accountability, while resisting the tendency among Democratic politicians to adopt more aggressive national security positions in response to Republican criticism (Mayer, 2008). Unlike many contemporaries, Obama defended judicial oversight in terrorism-related cases and

supported the extension of habeas corpus protections to detainees held by U.S. authorities. Upon entering office, the administration sought to signal an immediate policy shift through a series of executive measures issued on 22 January 2009. These directives ordered the closure of the Guantanamo Bay detention camp within one year, suspended military commission proceedings pending review, prohibited CIA-operated detention facilities, restored International Committee of the Red Cross access to detainees, and revoked prior legal interpretations that had facilitated enhanced interrogation practices. Compliance with the Geneva Conventions was reaffirmed through the reversal of Executive Order 13440, while waterboarding was formally recognized as torture and prohibited (Pearlstein, 2010). Obama nevertheless maintained that counter-terrorism operations themselves would continue, though conducted “on our own terms” (Mayer, 2008, p. 340).

The administration's effort to redefine the legal foundations of counter-terrorism governance became more explicit in Obama's May 2009 speech at the National Archives. In this address, he argued that the legal framework developed after 9/11 had been improvised and inconsistent with constitutional traditions, calling instead for a coherent statutory basis governing detention policy (Obama, 2009). He situated this argument within a broader historical narrative portraying the United States as a state committed to dismantling coercive detention systems and promoting rule-of-law governance internationally. At the same time, the speech exposed contradictions within the administration's reform agenda. Detainees held at Guantanamo Bay were divided into five categories: Individuals to be prosecuted in federal courts, those designated for military commissions, detainees approved for release by judicial order, individuals eligible for transfer to third countries, and a final category comprising persons considered neither prosecutable nor releasable and therefore subject to continued “prolonged detention” (Cutler, 2010, p. 70). The existence of this residual category preserved the logic of

indefinite detention within a framework ostensibly committed to legal normalization, thereby reproducing many of the ambiguities associated with the previous administration.

Implementation of these reforms encountered considerable institutional resistance. The withdrawal of Dawn Johnsen's nomination to a senior legal position after a prolonged confirmation battle reflected broader tensions surrounding attempts to restructure the legal architecture of national security policy. By 2010, several commentators, including Leonard Cutler, observed increasing continuity between Obama-era detention practices and those established under Bush, attributing this convergence to institutional path dependency and the transformation of executive perspectives once responsibility for national security governance shifted from the legislative arena to the presidency itself (Cutler, 2010).

This continuity became particularly visible in the sphere of surveillance policy. Despite the administration's reformist rhetoric, the Obama presidency maintained and adapted several intelligence programs inherited from the post-9/11 security apparatus, most notably the National Security Agency's mass metadata collection operations. Although formally subject to renewal through the Foreign Intelligence Surveillance Court every ninety days, the program generated sustained controversy concerning privacy rights, transparency, and constitutional limitations on state surveillance. Originating in the post-9/11 initiative known as Stellar Wind, the program authorized the bulk collection of internet metadata, including email addresses, Internet Protocol (IP) addresses, and communication timestamps involving American citizens. Defenders of the program argued that the absence of direct interception of message content preserved constitutional protections; however, critics maintained that metadata itself enabled extensive reconstruction of individual behavior, relationships, affiliations, and social networks. Julian Sanchez of the Cato Institute argued that metadata analysis could reveal patterns of personal life comparable in intrusiveness to the contents of private correspondence, particularly when aggregated through sophisticated analytical technologies.

At the center of the NSA's surveillance methodology was the practice of 'contact chaining,' a technique that traced communication networks outward from an initial target through multiple degrees of association. This process enabled intelligence agencies not only to monitor individuals under suspicion but also to extend surveillance across broad social and professional networks. Similar techniques had previously been rejected during the 1990s due to concerns regarding compatibility with the Foreign Intelligence Surveillance Act, yet the political environment created by the September 11 attacks facilitated their reintroduction under the justification of emergency counter-terrorism requirements.

Internal opposition to the program briefly emerged in 2004 when senior officials, including James Comey, expressed concerns regarding the legality and ethical implications of the surveillance regime. Rather than terminating the initiative, however, the administration restructured portions of the program to fit within formal FISA oversight mechanisms. This adaptation introduced an appearance of judicial accountability while leaving intact the underlying practice of bulk and suspicionless data collection. Although the internet metadata component of the program was officially terminated in 2011, subsequent reporting indicated that surveillance activities continued through modified technical and legal frameworks. A 2012 initiative reportedly expanded the volume of processed data substantially, suggesting that surveillance capabilities were being recalibrated rather than reduced.

The persistence of these programs reflected a broader tendency within U.S. national security governance for emergency powers to outlast the conditions that initially justified them. Counter-terrorism surveillance was consistently defended through the language of public safety and prevention, yet the secrecy surrounding operational procedures and the ambiguity of legal boundaries intensified concerns regarding democratic accountability. Critics argued that such practices conflicted with Fourth Amendment protections against unreasonable searches and seizures while contributing to a gradual normalization of extraordinary state powers. The

continuation of NSA surveillance under Obama demonstrated the extent to which institutional security structures developed after 9/11 constrained reform efforts, even under an administration publicly committed to constitutional restoration. In this respect, the trajectory of detention and surveillance policy during the Obama presidency revealed not a decisive rupture with the Bush era, but the persistence of a security framework in which civil liberties remained subordinated to the perceived imperatives of national security. While the administration introduced reforms concerning surveillance and constitutional protections, detention policy remained one of the most contested dimensions of Obama's counter-terrorism framework.

4.2.3 Reforming Detention Practices and the Persistence of Coercive Counter-Terrorism Measures under the Obama Administration

Upon assuming office, the administration of Barack Obama confronted a detention and counter-terrorism framework that had become deeply institutionalized during the presidency of George W. Bush. Early initiatives suggested an intention to recalibrate this system through legal reform and procedural modification; however, these efforts unfolded within entrenched institutional, legislative, and security structures that limited the extent of substantive transformation. Consequently, many of the central mechanisms associated with the post-9/11 detention regime persisted despite changes in legal terminology and administrative procedure.

This continuity became visible in the administration's approach to detention authority. In March 2009, submissions filed in the Hamdan habeas litigation indicated that the administration sought to reposition detention powers within a more formally legalistic framework rather than abandon the underlying logic of preventive confinement. Detention authority was grounded in the Authorization for Use of Military Force (AUMF) rather than expansive Article II executive powers and interpreted through the normative framework of the laws of war (Wittes et al., 2011, pp. 23-24). The phrase "enemy combatant" was replaced with "persons detainable under the AUMF," a formulation broadly accepted by the courts. Yet this linguistic revision did not

substantially narrow the scope of detention. The administration maintained that individuals who had provided 'substantial support' to hostile organizations could also be detained, despite the ambiguity surrounding the term. Civil liberties organizations criticized the elasticity of this category, arguing that it risked extending preventive detention far beyond conventional battlefields. The ACLU characterized the revised formulation as a continuation of earlier practices, while the Center for Constitutional Rights described it as a rearticulation of established policy under modified terminology (Mikkelsen, 2009).

Concurrent tensions also emerged in relation to military commissions. Although Obama had opposed the Military Commissions Act (MCA) of 2006 during his Senate career, the administration later endorsed revised commissions incorporating procedural adjustments. The MCA of 2009, integrated into the National Defense Authorization Act (NDAA), removed restrictions on detainee invocation of the Geneva Conventions and introduced evidentiary constraints excluding coerced statements while tightening rules on hearsay (Mikkelsen, 2009). It also redefined cruel or inhuman treatment through reference to Common Article 3 of the Geneva Conventions and replaced the earlier designation of "unlawful enemy combatants" with "unprivileged enemy belligerents" (Cutler, 2010, p. 75).

Despite these modifications, the legitimacy of military commissions remained contested. Human Rights Watch argued that the reforms did not resolve fundamental due process limitations (Human Rights Watch, 2009), while former military prosecutor Morris Davis emphasized their limited prosecutorial effectiveness compared to federal courts. The administration initially sought to reintroduce federal judicial venues for terrorism prosecutions. In 2009, Attorney General Eric Holder announced plans to prosecute Khalid Sheikh Mohammed and other co-defendants in federal court in New York. The initiative marked a departure from earlier reliance on military tribunals but encountered immediate political resistance. Following congressional opposition and legislative restrictions on detainee transfers,

the proposal was abandoned, and the case was subsequently returned to military commissions at Guantanamo Bay (The New York Times, 2011).

Within this broader legal framework, the Guantanamo Review Task Force formalized the category of 'indefinite detainees,' referring to individuals considered too dangerous to release but lacking prosecutable evidence (Guantanamo Review Task Force Final Report, 2010). This classification reflected the structural persistence of the logic of preventive detention within the counter-terrorism system. Judicial interpretations of detention authority continued to rely on *Hamdi v. Rumsfeld*, which affirmed detention for the duration of active hostilities under the AUMF. However, the asymmetrical and geographically diffuse nature of the post-9/11 conflict complicated the temporal limits of lawful confinement. Courts largely deferred to executive and legislative authority, leaving unresolved questions regarding the duration of detention powers (Wittes et al., 2011). Closely connected to detention policy was the question of interrogation practices and the extent to which the administration addressed the legacy of torture and coercive counter-terrorism measures inherited from the Bush era.

4.4.3 Enhanced Interrogation Methods: *Formal Prohibition and the Persistence of Impunity*

The administration of Barack Obama entered office amid widespread expectations that it would dismantle the coercive interrogation regime established during the presidency of George W. Bush. On 22 January 2009, organizations such as Human Rights Watch welcomed the administration's decision to prohibit torture, arguing that such measures could contribute to restoring U.S. moral legitimacy while strengthening national security policy. Yet the termination of officially sanctioned torture did not resolve the broader legal and institutional dilemmas generated by post-9/11 counter-terrorism practices. One year later, Kenneth Roth argued that the prohibition of torture, while necessary, remained incomplete in the absence of accountability mechanisms directed at officials responsible for authorizing or implementing

coercive interrogation policies during the Bush era (Roth, 2010). Consequently, the administration's reforms assumed a predominantly prospective orientation, aimed at preventing future abuses rather than confronting past violations through judicial or political accountability.

Internal deliberations between the incoming administration and the intelligence community illustrated the complexity of this transition. In December 2008, Obama met with CIA Director Michael Hayden and Director of National Intelligence Michael McConnell to discuss revisions to the CIA interrogation programme that had been introduced in 2006. According to Bob Woodward's *Obama's Wars*, the earlier framework authorizing thirteen interrogation techniques had already been reduced to six, with waterboarding formally removed. The revised programme relied heavily on sleep deprivation, which Hayden described as "the lone technique that worked on hard-core terrorists" (Woodward, 2009, p. 54). At the same time, the intelligence community maintained a distinction between CIA interrogation practices and those authorized under the Army Field Manual for military personnel. Hayden defended the existence of a differentiated interrogation regime because it created psychological pressure by signaling that detainees might face harsher treatment depending on the authority exercising custody (Woodward, 2009).

These discussions also revealed broader institutional anxieties concerning legal exposure and reputational damage. Hayden warned incoming CIA Director Leon Panetta against publicly associating the Agency with torture, arguing that CIA officers had acted within the scope of legal authorization provided through memoranda issued by the Department of Justice during the Bush administration. This defense reflected the manner in which legal rationalizations surrounding enhanced interrogation techniques operated not only as policy instruments but also as protective mechanisms shielding officials from criminal liability. Obama rejected the continuation of this separate interrogation structure and ordered the CIA to terminate post-2006 interrogation procedures in favor of exclusive adherence to the Army Field Manual

(Woodward, 2009). The decision formally ended the CIA's enhanced interrogation programme and constituted a symbolic rupture with the coercive methods associated with the post-9/11 security environment.

The administration's release of four redacted Office of Legal Counsel memoranda on 16 April 2009 further exposed the legal foundations of Bush-era interrogation practices. These memoranda had provided legal justification for methods widely regarded as torture or cruel, inhuman, and degrading treatment. Their disclosure, however, emerged primarily through litigation initiated by the American Civil Liberties Union rather than through a voluntary transparency initiative by the executive branch. During the 2008 presidential campaign, Obama had unequivocally rejected torture as incompatible with American constitutional and moral principles (Lewis, 2020), and this position was later formalized through executive orders prohibiting such practices. Yet the reliance on executive authority rather than durable legislative reform meant that these prohibitions retained a contingent and reversible character, dependent upon future presidential discretion rather than entrenched legal transformation (Lewis, 2020).

The administration simultaneously adopted a cautious approach toward retrospective accountability. Obama publicly emphasized the need to 'look forward, not backward,' signaling resistance to broad criminal investigations or institutional inquiries into the conduct of officials involved in enhanced interrogation programmes. Proposals for a truth commission were rejected, large-scale prosecutions were avoided, and the administration intervened in litigation brought by former detainees against government officials implicated in coercive interrogation practices (Lewis, 2020). This position generated criticism because it appeared inconsistent with obligations established under the United Nations Convention Against Torture, which requires states to investigate credible allegations of torture and ill-treatment (Johnston & Savage, 2009).

The limited scope of federal investigations reinforced these concerns. A prosecutorial review of 101 interrogation-related cases connected to post-9/11 detention practices resulted in

only two referrals for further investigation, neither involving senior policymakers or architects of the interrogation regime. Jameel Jaffer of the ACLU questioned the plausibility of such narrow findings, arguing that the evidentiary threshold employed by investigators appeared implausibly restrictive given the documented scale of abuses (Finn & Tate, 2011). Critics consequently interpreted the administration's approach as contributing to a broader culture of institutional impunity in which lower-level misconduct might receive scrutiny while senior decision-makers remained insulated from legal accountability.

Continuity also persisted in related counter-terrorism practices such as extraordinary rendition. Despite formally prohibiting torture, the administration retained the practice of transferring terrorism suspects to foreign states based on diplomatic assurances that detainees would not be subjected to abuse. Leon Panetta confirmed before the Senate in 2009 that rendition remained an operational instrument within U.S. counter-terrorism policy (Urban, 2011). Human rights advocates questioned the reliability of such assurances, particularly given the longstanding evidence that transferred detainees often faced mistreatment in receiving states. The continuation of rendition, therefore, suggested that while coercive interrogation methods had been curtailed, the broader security logic underpinning the 'war on terror' remained substantially intact.

The persistence of structural continuity was further reflected in detention conditions at the Guantanamo Bay detention camp. Reports published by The New York Times and National Public Radio's 'Guantanamo Docket' documented the deaths of three detainees during Obama's presidency (Restad, 2012). These incidents reinforced criticism that the administration's reforms had not fundamentally transformed the detention system or resolved the broader humanitarian consequences associated with indefinite confinement and coercive counter-terrorism practices.

In short, the Obama administration's restructuring of interrogation policy combined formal repudiation of torture with significant continuity in the treatment of accountability, detention, rendition, and executive security authority. Legal terminology and institutional procedures were recalibrated in ways that aligned more closely with constitutional discourse and international legal standards, yet these changes remained constrained by political considerations, institutional resistance, and the entrenched logic of post-9/11 national security governance. The prohibition of torture represented an important normative departure from the Bush administration, but the absence of comprehensive accountability mechanisms limited the depth of this transformation. As a result, the administration produced a partial reconfiguration of interrogation policy in which symbolic and procedural reform coexisted with enduring structural continuities inherited from the broader architecture of the 'war on terror.' Beyond domestic security and detention policies, Obama's presidency also sought to redefine the broader orientation of U.S. foreign policy and international engagement.

4.3 Obama Doctrine and Humanitarian Intervention

In the aftermath of the George W. Bush administration, whose foreign policy legacy included protracted military engagements and severe economic strain, the Obama presidency sought to recalibrate the United States global engagement toward a framework defined by restraint, pragmatism, and strategic multilateralism. This reorientation was intended to distinguish the new administration from the unilateral and militarised posture associated with the Bush Doctrine, while restoring credibility in international affairs. Obama described this orientation as an acknowledgement of shifting global power structures and finite American capacities, stating that U.S. leadership must operate in a context marked by the rise of states such as China, India, and Brazil, and by structural limits in national resources and operational reach (Zakaria, 2012).

From the outset, Obama's foreign policy positioning drew on a broader domestic and international demand for a departure from unilateral interventionism and a return to cooperative diplomatic engagement. In contrast to the Bush administration's reluctance to engage adversarial states, Obama articulated an approach premised on dialogue, including with hostile actors, invoking earlier diplomatic traditions that emphasised negotiation over isolation (Part 3 of CNN Democratic presidential debate, 2008). This position reflected a broader critique of post-9/11 foreign policy, particularly its reliance on military force as a primary instrument of statecraft, which had generated reputational damage and weakened alliance structures. In this regard, the Obama framework sought to restore diplomatic capital through re-engagement with international institutions and strategic partnerships, positioning diplomacy as a central mechanism for managing global insecurity.

In his inaugural address, Obama further articulated a departure from coercive unilateralism, situating American power within a network of alliances and shared international responsibility rather than unilateral enforcement capacity (Office of the Press Secretary, 2009). This articulation signalled an attempt to reframe United States authority not as exceptionalism detached from international norms, but as embedded within a system of interdependence. The emphasis on internal renewal also reflected a recognition that prolonged external military commitments, combined with the global financial crisis, had generated domestic pressure for policy redirection toward economic stabilization and institutional repair.

By 2010, this approach had been formalised in the National Security Strategy, which redirected attention toward emerging geopolitical theatres, particularly the Asia-Pacific region, while reducing emphasis on large-scale military interventions in the Middle East. The strategy also articulated a normative claim that U.S. influence should derive from domestic governance practices rather than external imposition, thereby reframing democracy promotion in more

indirect terms (The White House, 2010). This represented a departure from earlier formulations that had explicitly linked security policy to regime transformation abroad.

The Obama approach was also shaped by explicit political opposition to the Iraq War, which had become a defining reference point in his critique of Bush-era foreign policy. His early policy discourse positioned the Iraq intervention as a strategic diversion from emerging security threats and as symptomatic of broader doctrinal overreach (Obama, 2006). This critique became foundational to the conceptual separation between the Bush Doctrine and what later came to be characterised as the Obama Doctrine. Whereas the Bush Doctrine had prioritised pre-emption and unilateral force projection, the Obama framework rejected systematic regime imposition and instead favoured conditional engagement and coalition-based intervention.

The 2009 Cairo speech further reinforced this repositioning by rejecting the legitimacy of externally imposed governance systems, thereby signalling a formal break with the ideological assumptions underpinning the Iraq intervention (Obama, 2009). This recalibration was widely interpreted as an attempt to reconstruct the United States legitimacy in regions where perceptions of occupation and coercion had intensified anti-American sentiment. Furthermore, the administration emphasised the withdrawal from Iraq and the gradual drawdown of military presence in Afghanistan as material expressions of this doctrinal shift (Tyler, 2017).

Despite these changes, the Obama Doctrine retained significant continuities with prior security frameworks, particularly in its selective use of military intervention under humanitarian justification. The intervention in Libya, conducted under a coalition framework, illustrated this hybrid orientation, combining multilateral authorisation with limited military engagement. At the same time, the administration's strategic discourse increasingly emphasised the Asia-Pacific region as a long-term geopolitical priority, reflecting a redistribution of attention away from the Middle East, which was increasingly framed as a declining strategic centre of gravity (Gerges, 2012).

All in all, the Obama Doctrine constituted a recalibration rather than a rupture in United States foreign policy. It displaced the explicit unilateralism of the Bush era with a more restrained and multilateral vocabulary, while preserving significant continuity in the use of force under specific strategic and humanitarian conditions. The resulting framework combined diplomatic re-engagement, selective intervention, and geopolitical repositioning, reflecting both normative aspirations and enduring structural constraints within U.S. foreign policy practice. The practical application of the Obama Doctrine became particularly visible in Afghanistan and Pakistan, where the administration attempted to reconcile military escalation with strategic restraint and multilateral coordination.

4.3.1 Military Actions in Afghanistan and Pakistan

The Afghan conflict became increasingly identified with the Obama presidency, often characterised as 'Obama's war' due to the scale of troop escalation and strategic recalibration undertaken during his first term. During the 2008 electoral campaign, Obama distinguished himself from his opponents by opposing the Iraq War from its inception and advocating a strategic reallocation of U.S. military and political attention toward Afghanistan. In a *New York Times* op-ed, he argued that Iraq did not constitute the principal theatre of counter-terrorism operations and proposed a revised strategy centred on Afghanistan, including additional combat brigades, enhanced aerial mobility, expanded intelligence capacity, and increased non-military assistance (Obama, 2008). This framing allowed him to position Afghanistan as the legitimate theatre of engagement while rejecting Iraq as a strategic diversion.

Upon assuming office, the administration initiated a recalibration of priorities in Afghanistan, accompanied by partial reliance on European allies for development assistance and increased pressure on Afghan governance, particularly in relation to corruption. Secretary of Defense Robert Gates cautioned against expansive state-building ambitions, arguing that overextension would undermine operational effectiveness and redefining the mission as

preventing Afghanistan from functioning as a sanctuary for transnational militant networks (Cooper & Shanker, 2009). This approach reflected a more constrained conception of success centred on counter-terrorism containment rather than comprehensive political transformation.

By March 2009, the administration formalised an integrated Afghanistan-Pakistan strategy, presenting Al-Qaeda's presence across both territories as the central justification for continued military engagement. Obama defined the core objective as the disruption and dismantling of Al-Qaeda networks operating in the region and the prevention of their reconstitution (Obama, 2009). Intelligence assessments indicating operational planning against U.S. interests originating from Pakistani territory reinforced this regional framing. The strategy extended beyond anti-terrorism operations to intensified engagement with the Taliban insurgency in southern and eastern Afghanistan and the deployment of 17,000 additional combat troops.

This operational framework incorporated a state-building dimension linking security objectives to institutional development, economic reconstruction, and the strengthening of Afghan and Pakistani security forces. It included ambitious expansion targets for Afghan forces (134,000 army personnel and 82,000 police officers by 2011) although these benchmarks were widely questioned given insurgent resilience and institutional fragility. Simultaneously, the administration endorsed increased civilian assistance to Pakistan, including a proposed \$1.5 billion annual aid package directed toward development programmes (The White House, 2009).

A structural reconfiguration of the conflict emerged through the 'AfPak' framework, which treated Afghanistan and Pakistan as a single operational theatre characterised by interdependent instability. Cross-border militancy was conceptualised as a unified strategic problem rooted in the interaction between insurgent mobility and governance weakness across the Durand Line. The framework combined objectives of strengthening Afghan governance with reinforcing civilian oversight and economic stability in Pakistan, while acknowledging the scale and complexity of implementation challenges (The White House, 2009).

Within this architecture, the administration distinguished between irreconcilable insurgent factions and actors deemed open to reintegration. This approach sought to induce defections among non-ideologically committed groups through political incorporation under constitutional parameters, combining coercive military pressure with selective accommodation (The White House, 2009). By mid-2009, Obama emphasised the limits of military primacy, arguing for the interdependence of military, diplomatic, and developmental instruments. Although he characterised the conflict as necessary, he rejected the sufficiency of force alone, linking governance and development to strategic success (Obama, 2009). This position informed the approval of an additional 21,000 troops, generating internal disagreement between escalation-oriented and restraint-oriented approaches (Woodward, 2009).

These tensions culminated in the 2009 strategic review and the subsequent West Point speech of 1 December 2009, in which Obama announced a troop surge of 30,000 personnel alongside a timeline for withdrawal beginning after eighteen months (Goldgeier, 2010). The strategy attempted to reconcile intensified military pressure on the Taliban with a temporal limitation designed to signal the bounded nature of U.S. commitment and to compel governance reforms under President Hamid Karzai. The formulation reflected competing institutional preferences. Military leadership under General Stanley McChrystal advocated a comprehensive counterinsurgency model centred on population security and governance reform, while Vice President Joe Biden supported a narrower counter-terrorism approach focused on targeted operations against Al-Qaeda leadership. The counterinsurgency model effectively extended earlier doctrinal approaches, despite Obama's initial emphasis on limited objectives.

Scholarly commentary, including Pillar (2011), questioned the feasibility of externally driven state-building in Afghanistan's fragmented political and economic environment. Nevertheless, these assumptions informed policy design, even as the gap between campaign rhetoric and operational realities widened. By 2011, troop levels reached approximately

100,000 personnel in an effort to stabilise the security environment (Glaser & Mueller, 2019). Despite this escalation, Taliban resilience persisted, territorial control remained contested, and governance deficiencies endured. By 2016, the Taliban continued to demonstrate operational capacity and territorial gains, while approximately 8,400 U.S. troops remained deployed without a defined political settlement (Glaser & Mueller, 2019).

Across this trajectory, the conflict reflected a broader post-9/11 dilemma: The mismatch between narrowly defined counter-terrorism objectives and the expansive military, political, and institutional instruments employed to achieve them. Although initially framed as a focused campaign against Al-Qaeda, the war evolved into a prolonged counterinsurgency and state-building project involving regional stabilisation and governance transformation, contributing to its protracted and inconclusive nature.

Comparatively, the Obama administration adopted a more pragmatic and multilateral approach than its predecessor, integrating diplomacy, alliance management, and regional coordination into military strategy. However, continuity persisted in the reliance on troop surges, counter-terrorism framing, and the difficulty of defining achievable strategic endpoints. Both administrations sought to dismantle Al-Qaeda and contain the Taliban, yet neither succeeded in producing durable stability or resolving structural governance deficits in Afghanistan.

In short, the trajectory of U.S. engagement demonstrated the limits of external military power in contexts marked by entrenched political fragmentation, corruption, and insurgent adaptability. Evaluations by the Special Inspector General for Afghanistan Reconstruction documented persistent strategic incoherence and limited institutional consolidation across successive phases of intervention (Glaser & Mueller, 2019). The conflict thus combined continuity and adjustment within the post-9/11 security paradigm, where counterterrorism imperatives coexisted with prolonged military occupation and unresolved state-building

ambitions. Alongside conventional military operations, the Obama administration increasingly relied on remote warfare and targeted killing as central instruments of counter-terrorism strategy.

4.3.2 Drone Warfare, Targeted Killing, and the Expansion of Executive Counter-terrorism Power under the Obama Administration

The administration of Barack Obama transformed drone warfare into a central instrument of U.S. counter-terrorism strategy, institutionalizing targeted killing within a broader architecture of remote and technologically mediated warfare. During this period, the expressions 'targeted killing' and 'drone strikes' increasingly converged in public and academic discourse, largely because unmanned aerial systems became the primary operational mechanism through which lethal anti-terrorism policies were executed (Miller, 2014). Targeted killing has generally been defined as "the killing of terrorists by security agency personnel" (Miller, 2014, p. 317), although the scope of the category remains contested. Some scholars restrict the concept to the intentional killing of specifically identified individuals, whereas others extend it to include any person targeted outside state custody (Senn & Troy, 2017). Operational responsibility for such strikes was divided between the Joint Special Operations Command and the Central Intelligence Agency, depending on whether operations were formally categorized as overt military action or covert intelligence activity (Gholiagha, 2015).

Within this framework, the Obama administration developed two principal forms of drone operations. The first consisted of 'surgical strikes' directed against pre-identified high-value targets based on accumulated intelligence profiles (Miller, 2014). The second, more controversial category involved 'signature strikes,' which targeted individuals whose behavioral patterns were interpreted as indicative of militant activity rather than confirmed identity (Miller, 2014). This latter practice substantially broadened the field of potential targets because lethal force was authorized through probabilistic interpretation and behavioral

inference rather than individualized verification. Existing scholarship frequently treats targeted killing as an isolated operational practice, thereby obscuring the wider technological, institutional, and political structures within which drone warfare functions (Boyle, 2016).

Obama expanded drone operations significantly during the early years of his presidency, particularly in the Federally Administered Tribal Areas of Pakistan, where CIA-led strikes intensified considerably (Rohde, 2012). The administration justified the extension of lethal operations beyond conventional battlefields through a legal and moral discourse portraying drone warfare as both necessary and precise. John O. Brennan, serving at the time as Counter-terrorism Advisor, argued that targeted strikes against Al-Qaeda operatives were ethically justified and legally permissible because remotely piloted technologies enabled accurate targeting while minimizing civilian casualties (Rohde, 2012). This narrative of technological precision became central to the administration's defense of drone warfare and to broader efforts to distinguish Obama's counter-terrorism practices from the large-scale invasions associated with the administration of George W. Bush.

Although the first U.S. drone strike outside a recognized battlefield had occurred in Yemen in 2002, the scale of drone warfare expanded dramatically under Obama (Gholiagha, 2015). Across Pakistan, Yemen, and Somalia, the administration authorized approximately 563 drone strikes, representing nearly a tenfold increase compared to the Bush presidency (Purkiss & Serle, 2017). Brennan (2012) defended this escalation by emphasizing the 'surgical precision' of drone technology, claiming that such operations reduced noncombatant harm while effectively neutralizing militant threats. Yet the assumption that technological precision necessarily produces humanitarian restraint remained deeply contested, particularly in light of the procedural structures governing target identification and engagement.

The institutional framework for drone operations was formalized through the Presidential Policy Guidance (PPG) issued in 2013. The policy established operational standards requiring

'near certainty' both in identifying intended targets and in avoiding civilian casualties (Ackerman & Wintour, 2016). Under these procedures, lethal strikes against identified individuals required all feasible precautions to ensure accurate identification and minimize collateral harm. More controversial, however, was the authorization of strikes against unidentified persons when intelligence agencies claimed that all available resources had been exhausted in attempts to determine identity before engagement (Ackerman & Wintour, 2016). Such provisions reflected a broader confidence that technological surveillance and intelligence capabilities could approximate certainty even within environments characterized by ambiguity and incomplete information.

Despite repeated official references to precision and discrimination, drone warfare remained fundamentally dependent upon human interpretation embedded within intelligence analysis and executive decision-making. Unmanned systems did not eliminate subjective judgment; rather, they displaced it into distributed networks of surveillance operators, intelligence analysts, military planners, and political authorities. Decisions concerning lethal force continued to rely heavily upon assumptions, interpretations, and probabilistic calculations. Consequently, responsibility for civilian casualties and erroneous targeting remained inseparable from the institutional structures authorizing and administering drone operations (Gholiagha, 2015).

Critical scholarship has interpreted these practices through theories of sovereignty and biopolitical governance. Drawing on the work of Achille Mbembe and other theorists of sovereign power, drone warfare can be understood as an extension of state authority through the capacity to determine exposure to death across territorial boundaries (Mbembe, 2003). In this configuration, sovereign power operates through differentiated regimes of visibility, surveillance, and classification that determine who may legitimately be targeted and under what conditions. Advanced military states thereby project forms of biopolitical control beyond their

territorial borders, constructing operational spaces in which exceptional forms of violence become normalized.

The legal basis for signature strikes and extraterritorial targeted killings rested primarily on an expansive interpretation of self-defense under international law. The administration argued that lethal operations against actors associated with Al-Qaeda, the Taliban, and affiliated organizations were permissible where host states were unable or unwilling to neutralize such threats (Heller, 2003). Brennan (2012) maintained that international law neither prohibited remotely piloted aircraft nor barred the use of lethal force outside conventional battlefields under conditions of armed conflict and self-defense. This reasoning relied heavily upon Article 51 of the United Nations Charter, which recognizes the inherent right of self-defense following an armed attack (Davis et al., 2016). At the same time, Article 2, paragraph 4 of the Charter prohibits the use of force against the territorial integrity or political independence of states (Davis et al., 2016). The administration's interpretation effectively expanded the temporal and spatial dimensions of armed conflict beyond traditional war zones by treating the post-9/11 conflict with Al-Qaeda as a continuous and transnational armed confrontation (Enemark, 2013).

This legal logic was reinforced through internal memoranda concerning operations such as the killing of Anwar al-Awlaki, a U.S. citizen targeted in Yemen. Legal justifications presented the operation as an act of self-defense conducted within an ongoing armed conflict (Gholiagha, 2015). Such reasoning contributed to the construction of a legal and political space in which executive authority could authorize lethal force outside conventional battlefield constraints and without judicial oversight. In this sense, drone warfare reflected the emergence of a globalized 'state of exception' in which the boundaries of lawful violence were redefined through executive interpretations of security necessity.

The expansion of drone warfare also generated significant ethical and humanitarian criticism. Although Obama consistently portrayed drone strikes as a more humane alternative

to large-scale military intervention, operational realities revealed substantial contradictions between official rhetoric and practice. The administration's reliance on 'signature strikes' intensified concerns regarding civilian protection because individuals could be targeted based on behavioral patterns rather than verified identity (Gholiagha, 2015). Practices such as treating military-age males within strike zones as presumptive militants unless proven otherwise after death raised serious concerns regarding compliance with the principle of distinction under international humanitarian law. Such assumptions widened the category of targetable individuals while obscuring the evidentiary standards used in lethal decision-making.

The administration's increasing dependence on signals intelligence, metadata analysis, and algorithmic profiling further complicated the relationship between drone warfare and due process protections. Target identification frequently relied upon communication patterns, geolocation data, and proximity analysis rather than direct evidence of participation in hostilities (Gholiagha, 2015). These methods created significant risks of misidentification, particularly in regions characterized by tribal affiliations, informal communication networks, and limited intelligence verification mechanisms. Reports also indicated that local informants occasionally manipulated U.S. targeting procedures for personal, tribal, or financial motives by falsely identifying rivals as insurgents (Gholiagha, 2015).

Operational failures exposed the limitations of technological precision. Drone surveillance systems often produced incomplete or low-quality visual information, while the so-called 'soda straw effect' restricted broader situational awareness by narrowing the operator's field of observation. Confirmation bias and institutional pressures within drone operations further contributed to erroneous threat perceptions, leading in some cases to civilians and even U.S. personnel being mistaken for insurgents (Enemark, 2013). The psychological environment surrounding drone operations, shaped by assumptions of persistent threat, encouraged patterns

of interpretation in which civilian behavior was frequently viewed through militarized suspicion.

Humanitarian criticism intensified following reports of strikes targeting funerals, mosques, and rescue operations. Incidents such as the 2011 tribal jirga bombing and 'double-tap' strikes directed at first responders raised profound concerns regarding compliance with the principles of proportionality and civilian protection under international humanitarian law. Such operations disrupted local social structures, generated fear within affected communities, discouraged humanitarian assistance, and intensified anti-American sentiment in precisely the regions where counterterrorism policy sought to reduce militant support (Enemark, 2013). Independent investigations conducted by organizations, including the Bureau of Investigative Journalism, frequently challenged official casualty figures, reporting significantly higher levels of civilian deaths than those acknowledged by the U.S. government (Enemark, 2013).

Obama's drone strategy, therefore, revealed a profound tension within his broader foreign policy doctrine. Publicly, the administration emphasized legality, restraint, multilateralism, and ethical warfare. In practice, however, drone operations normalized a technologically mediated form of extraterritorial violence that expanded executive authority, weakened traditional territorial constraints on the use of force, and institutionalized targeted killing as a routine instrument of statecraft. Although Obama criticized aspects of Bush-era unilateralism and legal overreach, his administration consolidated executive control over lethal operations by centralizing targeting decisions within the White House and personally overseeing kill lists. This concentration of authority was presented as evidence of responsible oversight, but simultaneously reduced transparency and limited external accountability.

The comparison between the Bush and Obama administrations, therefore, reveals both continuity and transformation within post-9/11 U.S. counter-terrorism policy. Bush initiated the use of drone strikes but employed them on a comparatively limited scale, authorizing

approximately forty-five strikes during his presidency. Obama dramatically expanded their use, approving more strikes in his first year than Bush had authorized over eight years. Strategically, this shift represented a movement away from large-scale occupation and toward remote, covert, and technologically driven warfare designed to minimize U.S. troop exposure while preserving aggressive counter-terrorism operations.

At the level of political rhetoric, the two administrations differed significantly. Bush justified the 'war on terror' through a discourse of pre-emptive war, emergency powers, and regime transformation, whereas Obama adopted a more restrained and philosophically nuanced language. In speeches such as his Nobel Peace Prize lecture, Obama argued that military force could be morally justified under certain conditions and portrayed drone warfare as a precise and legally regulated alternative to conventional war. Yet this ethical framing also facilitated the normalization of targeted killings, including operations against U.S. citizens conducted without judicial process.

Thus, Obama's drone programme refined and institutionalized rather than fundamentally dismantled the logic of the post-9/11 security state. The administration replaced large-scale invasions with remote warfare while preserving expansive interpretations of executive power and self-defense. Drone warfare became embedded within the operational core of U.S. anti-terrorism strategy, establishing precedents for future administrations to conduct extraterritorial lethal operations with limited transparency, diffuse accountability, and constrained public scrutiny. While drone warfare reflected the expansion of executive counter-terrorism powers, Obama's foreign policy also invoked humanitarian intervention and liberal internationalist principles in response to regional conflicts and political uprisings.

4.3.3 Humanitarian Intervention, Responsibility to Protect, and the Limits of Liberal Internationalism

Humanitarian intervention during the presidency of Barack Obama was shaped by the evolving doctrine of the 'Responsibility to Protect' (R2P), which sought to redefine sovereignty through the proposition that states and the international community possess obligations toward populations facing mass atrocity crimes. Koh (2016) characterizes R2P as an emerging normative framework requiring states committed to human rights principles to respond when governments fail to protect civilian populations from large-scale violence. The Obama administration confronted the challenge of reconciling this humanitarian imperative with the legal restrictions of international law, domestic political constraints, and the strategic calculations of U.S. foreign policy. This tension became particularly visible in U.S. responses to the uprisings and conflicts in Egypt, Libya, and Syria, where the administration's discourse on democracy and human rights repeatedly encountered the limits of geopolitical caution and military restraint.

The Egyptian uprising of 2011 exposed the administration's difficulty in balancing support for democratic mobilization with long-standing strategic alliances. Initially, the White House responded cautiously to protests against Hosni Mubarak, reflecting Washington's longstanding reliance on the Egyptian state as a regional security partner. Only after the scale and momentum of the demonstrations became unmistakable did the administration gradually reposition itself in support of political transition. Critics interpreted this shift as reactive rather than principled, suggesting that support for democratic change emerged less from normative commitment than from recognition of Mubarak's declining viability. The contradictions within this approach became more pronounced following the overthrow of Mohamed Morsi in 2013. The intervention of the Egyptian military raised immediate legal and political dilemmas because

formally classifying the event as a coup would have required suspension of more than one billion dollars in U.S. military assistance under American law (Koh, 2016).

The administration avoided applying the term 'coup' and delayed direct condemnation of mass killings carried out by Egyptian security forces, privileging strategic continuity over legal consistency. Although portions of military aid were temporarily frozen, assistance was later restored, reinforcing perceptions of inconsistency within the administration's democracy and human rights discourse. This approach also created opportunities for external actors such as Russia and China to strengthen their influence in Cairo, demonstrating how geopolitical considerations frequently constrained the practical application of humanitarian norms (Wood, 2018).

The intervention in Libya became the defining test case for R2P during the Obama presidency. As the forces of Muammar Gaddafi advanced toward Benghazi amid warnings of imminent mass atrocities, the United States and its allies secured United Nations Security Council Resolution 1973, which authorized 'all necessary measures' to protect civilians while excluding foreign occupation. For Obama, this multilateral authorization provided the legal and political legitimacy considered necessary for military action. The decision emerged after extensive internal debate. Figures such as Robert Gates warned against another military entanglement in the Middle East, whereas Hillary Clinton and Susan Rice emphasized the urgency of preventing mass violence. Obama approved Operation Odyssey Dawn while explicitly rejecting the deployment of ground forces and rapidly transferring operational command to the North Atlantic Treaty Organization. This 'light footprint' strategy reflected a broader foreign policy orientation favoring multilateral burden-sharing, limited military exposure, and avoidance of prolonged occupation.

The Libyan intervention allowed the administration to portray U.S. leadership as restrained, coalition-based, and legally justified. Yet the aftermath revealed the limitations of this model.

Although the intervention prevented the immediate assault on Benghazi, it evolved into a campaign culminating in regime collapse without a viable postwar stabilization strategy. Libya subsequently descended into fragmentation, civil conflict, and institutional disintegration, leading critics to argue that humanitarian protection had become indistinguishable from externally driven regime change. The collapse of the Libyan state weakened the normative credibility of R2P by reinforcing suspicion among non-Western states that humanitarian intervention could function as a mechanism for coercive political transformation rather than civilian protection. Libya, therefore, emerged simultaneously as a landmark in multilateral humanitarian action and as an illustration of the destabilizing consequences that may follow intervention in the absence of long-term political reconstruction.

The conflict in Syria exposed the most severe limitations of Obama's humanitarian and strategic doctrine. From the beginning of the uprising against Bashar al-Assad, the administration condemned state repression and affirmed commitments to human rights and civilian protection. In practice, however, U.S. policy remained centered on sanctions, diplomatic pressure, and humanitarian assistance rather than direct military intervention. Unlike Libya, Syria was not treated as a vital strategic priority warranting large-scale U.S. involvement. This distinction reflected the administration's determination to avoid another open-ended military conflict in the Middle East, particularly after the experiences of Iraq and Afghanistan. Yet the disparity between rhetorical commitment and operational restraint became increasingly evident as violence escalated and civilian casualties mounted.

The most consequential moment in this trajectory emerged during the 'red line' crisis of 2013. Obama publicly declared that the use of chemical weapons by the Assad government would constitute a red line, triggering serious consequences. When chemical attacks subsequently occurred, expectations of military retaliation intensified. However, the administration ultimately retreated from direct military action in favor of a negotiated

arrangement involving the dismantling of Syria's declared chemical weapons stockpiles. Critics interpreted this reversal as evidence of indecision and strategic inconsistency. The episode weakened U.S. credibility among regional allies and opponents alike while enabling Russia to expand its role as a decisive actor within the Syrian conflict. The administration's earlier reluctance to arm selected opposition groups in 2012 also narrowed opportunities to shape the trajectory of the uprising before extremist organizations such as the Islamic State consolidated territorial influence. Over time, the Syrian conflict evolved into a multilayered proxy war in which Moscow and Iran entrenched their strategic positions while the United States occupied an increasingly constrained role.

The administration's responses to Egypt, Libya, and Syria reveal a recurring tension between liberal internationalist rhetoric and strategic restraint. In Egypt, the administration oscillated between support for democratic aspirations and preservation of longstanding security relationships. In Libya, humanitarian intervention succeeded in preventing imminent violence but produced long-term instability and renewed skepticism toward externally driven regime change. In Syria, reluctance to commit military force preserved short-term strategic caution while allowing the conflict to expand beyond Washington's capacity to shape its outcome decisively.

These cases collectively demonstrate the limits of humanitarian intervention within a global order structured by competing legal norms, geopolitical rivalries, domestic political pressures, and public exhaustion with military intervention. Obama's foreign policy sought to distance itself from the unilateral interventionism associated with the Bush administration while preserving American influence through multilateral legitimacy, calibrated force, and diplomatic engagement. Yet the coexistence of humanitarian rhetoric and strategic caution produced a doctrine marked by ambiguity. The administration attempted to reconcile moral commitments with political realism, but this balance frequently generated inconsistent responses to mass

violence and democratic upheaval. In this sense, the Obama presidency illustrated both the persistence of liberal internationalist aspirations within U.S. foreign policy and the structural constraints limiting their realization in the context of post-Iraq and post-Afghanistan global politics.

4.3.3.1 Egypt

The Arab Spring uprisings of 2011 confronted U.S. foreign policy with a rapid sequence of political transformations across the Middle East. The Obama administration initially responded with cautious optimism, expressing support for the democratic transition while seeking to preserve regional stability (Crowley, 2016). However, internal divergences within the national security apparatus complicated the formulation of a unified position. Egypt, as a long-standing strategic partner, became an early and particularly sensitive test of the administration's declared commitment to democratic governance.

The mass protests against President Hosni Mubarak exposed a persistent disjunction between normative commitments and strategic calculations. Early U.S. messaging favored gradual reform rather than immediate regime change, reflecting an attempt to preserve an alliance that had long served American security and regional interests (Selim, 2013). This approach was also shaped by uncertainty regarding the durability of Mubarak's rule, as initial assessments within the administration suggested that the regime might withstand the unrest. However, as mobilization intensified, the position shifted, and by February 2011, President Obama publicly urged Mubarak to step down while expressing support for the protest movement (Miller, 2016).

The policy shift did not occur linearly. In Tunisia and Yemen, similar hesitations preceded a gradual alignment with pro-democracy actors once regime collapse appeared increasingly likely. In Egypt, this produced a perception of reactive rather than anticipatory diplomacy, as strategic commitments were recalibrated in response to unfolding events (Selim, 2013). The

oscillation between support for stability and endorsement of democratic transition weakened the coherence of U.S. messaging and opened space for competing international actors, including Russia and China, to expand their regional engagement. The strategic importance of Egypt, reinforced by approximately \$1.3 billion in annual U.S. military assistance, further intensified the stakes of policy ambiguity (Aziz, 2018).

Tensions resurfaced in 2013 following mass demonstrations against President Mohamed Morsi and the subsequent military intervention led by General Abdel Fattah El-Sisi. The removal of an elected president generated a legal dilemma for the United States, as the classification of the event as a 'coup' would have triggered statutory restrictions on military assistance, while avoiding such classification risked legitimizing military intervention in civilian politics (Baker, 2013). This ambiguity contributed to prolonged deliberation within the administration, reflecting competing priorities between democratic principles and geopolitical stability.

The U.S. response was marked by delay and incremental adjustment. The administration initially refrained from labeling the events a coup, maintaining diplomatic flexibility. This position became increasingly difficult to sustain following the violent dispersal of pro-Morsi demonstrations in August 2013, which resulted in significant casualties (Crowley, 2016). Subsequent policy actions included the suspension of military exercises and the temporary freezing of aid, measures that generated friction with the Egyptian authorities (Wood, 2018). However, these steps were preceded by continued arms transfers, including \$300 million in approved deals during the same period (Marshall, 2015), illustrating the fragmented nature of policy execution.

The inconsistency of the U.S. response contributed to a perceptible decline in American influence within Egypt. The resulting diplomatic space was partially filled by Russia, which strengthened ties with the Egyptian government and expanded cooperation in infrastructure and

arms procurement (Marshall, 2015). Although Russia's economic limitations constrained its capacity to displace the United States entirely, China emerged as a more structurally significant actor. Since 2012, China has become Egypt's principal trading partner and has directed substantial investment toward infrastructure projects, including transport systems and large-scale urban development initiatives (Molavi, 2020; Wood, 2018). Egypt's strategic position within the Suez Canal corridor further integrates it into China's Belt and Road Initiative, reinforcing Beijing's broader maritime and logistical expansion strategy.

Despite the diversification of external partnerships, the United States has remained a central security and financial partner for Egypt. Nevertheless, the post-2011 period produced a reconfiguration of regional alignments, shaped in part by the ambiguity of U.S. policy during the transition. Under President El-Sisi, the political system has increasingly consolidated authoritarian characteristics, while foreign policy has been structured around balancing relations among major global powers (Dentice, 2020). The cumulative effect of these developments reflects a shift in Egypt's external dependencies and the gradual erosion of uncontested U.S. influence in the post-Arab Spring environment (Walsh & Rashwan, 2020). Whereas the Egyptian case revealed the limits of U.S. support for democratic transformation, the Libyan crisis represented a more direct application of humanitarian intervention under international authorization.

4.3.3.2 Libya

The Libyan crisis originated in January 2011, when demonstrations against Colonel Muammar Qaddafi in Benghazi escalated from peaceful protest into armed rebellion by mid-February. The regime's response involved sustained aerial and ground assaults, including operations directed at civilian populations (Domansky et al., 2012). As violence intensified, policy deliberations in Washington began almost immediately, reflecting the rapid

internationalization of the crisis and the possibility of external military involvement (Chivvis, 2014).

On 23 February 2011, President Obama publicly affirmed support for the universal rights of Libyan citizens and stated that the Qaddafi regime bore responsibility for halting violence, warning that continued repression would entail consequences (Obama, 2011a). This was followed by coordinated sanctions imposed by the United States, France, and the United Kingdom. Shortly thereafter, United Nations Security Council Resolution 1970 introduced an arms embargo aimed at constraining the regime's military capacity (United Nations Security Council, 2011). The resolution received backing from the Arab League, contributing to a rapidly consolidating international position against the Libyan government.

Within the U.S. executive branch, initial reluctance to intervene gave way to structured debate regarding possible military options. The emerging policy discussion quickly polarized into two broad positions. One camp, including senior officials within the Department of Defense, expressed strong reservations about military engagement, particularly in light of ongoing commitments in Iraq and Afghanistan (Sanger, 2012). Secretary of Defense Robert Gates characterized proposals for intervention, especially the establishment of a no-fly zone, as strategically and operationally misleading, arguing that such a measure would require disabling Libya's air defenses before enforcement (Gates, 2011). He further emphasized the fiscal and operational constraints resulting from prolonged conflicts in the Middle East.

In contrast, advocates of intervention within the administration and diplomatic corps argued that limited military action could be justified within a multilateral framework. On 16 March 2011, U.S. Ambassador to the United Nations Susan Rice signaled support for additional Security Council measures, including the imposition of a no-fly zone (Rice, 2011). She also indicated that such measures alone might be insufficient to ensure civilian protection. The following day, the United Nations Security Council adopted Resolution 1973, authorizing the

establishment of a no-fly zone and permitting the use of 'all necessary measures' to protect civilians, excluding foreign occupation (United Nations Security Council, 2011). This resolution provided the legal foundation for subsequent military action, resolving a central constraint on U.S. participation.

Secretary of State Hillary Clinton supported intervention under an international mandate, arguing that unilateral action would expose the United States to significant legal and political risks (Clinton, 2014; Chivvis, 2014). The authorization by the Security Council thus served as a legitimizing mechanism that enabled military engagement within a multilateral framework. Domestic political conditions also shaped the scope and design of intervention. Public opinion in the United States remained deeply influenced by fatigue from the Iraq and Afghanistan wars. Surveys conducted in March 2011 indicated limited support for military involvement in Libya, with a majority of respondents opposing direct intervention and a substantial proportion attributing opposition to overstretched military resources (Pew Research Center, 2011). Support for ground deployment was particularly low, while airstrikes received only moderate backing (Blomdahl, 2018). Within the administration, senior figures including Vice President Biden and Chief of Staff Daley expressed concerns regarding political justification and public communication costs associated with intervention (Lewis, 2020).

In response to these constraints, the administration structured Operation Odyssey Dawn as a limited air and naval campaign explicitly excluding ground forces. President Obama repeatedly emphasized the constrained nature of the operation in both public statements and formal communications with Congress (Obama, 2011). In his March 21 letter to Congress, he stated that U.S. forces would not be deployed on the ground and that operational responsibility would be transferred rapidly to coalition partners and international organizations in accordance with United Nations resolutions (Obama, 2011). This framing was intended to maintain alignment with domestic political expectations while preserving international legitimacy.

Congressional reactions reflected broader fiscal and political constraints, particularly in the context of ongoing military expenditures in Iraq and Afghanistan. Resistance to granting broad authorization for military engagement further narrowed policy options. Within these constraints, a limited air campaign combined with rapid transfer of command responsibilities emerged as the most politically and strategically viable course of action (Marsh, 2014).

On 19 March 2011, coalition forces initiated strikes that disabled Libyan air-defense systems and established enforcement of the no-fly zone (Chivvis, 2014). Shortly thereafter, operational leadership began transitioning to NATO, consistent with the administration's preference for multilateral burden-sharing. By 25 March, NATO assumed formal command of the operation under Operation Unified Protector, integrating the no-fly zone and arms embargo enforcement into a unified structure (Chivvis, 2014).

The decision to limit direct U.S. operational leadership reflected both strategic calculation and material constraint. The administration inherited a military system already strained by prolonged engagements, while economic pressures and defense budget reductions further limited the feasibility of sustained unilateral operations (Marsh, 2014). From this perspective, Libya was conceptualized as an intervention in which U.S. capabilities would be deployed selectively rather than expansively.

Between 20 and 21 March, diplomatic coordination facilitated the transfer of operational authority to NATO, supported by close alignment between the United States, the United Kingdom, and France (Sanger, 2012). This arrangement enabled the United States to contribute critical enabling capabilities while shifting the operational burden to allied forces. The administration presented this approach as consistent with a broader strategic orientation favoring reduced military footprint and increased reliance on coalition structures (Gates, 2011).

In subsequent communication with Congress, Obama justified the intervention by reference to U.S. interests in regional stability and the credibility of multilateral institutions, particularly

the United Nations Security Council (Obama, 2011). He also reiterated that U.S. involvement would remain limited in duration, scope, and intensity. NATO assumed full control of enforcement operations on 27 March 2011, consolidating allied participation and formalizing command integration (Chivvis, 2014).

The Libyan intervention became emblematic of a broader strategic approach emphasizing constrained engagement and burden-sharing. Obama consistently argued that allied states should assume greater responsibility for collective security, particularly in regional crises not directly affecting core U.S. security interests (Blomdahl, 2018). In a March 28 address, he articulated this position by stating that the United States would mobilize international action rather than bear unilateral responsibility for intervention (Obama, 2011).

This approach generated competing interpretations. Critics associated it with diminished U.S. leadership, while supporters interpreted it as a recalibration of global responsibilities in response to economic and military constraints. Within this framework, Libya functioned as a case in which U.S. strategic behavior combined institutional legitimacy, alliance management, and resource conservation (Blomdahl, 2018). The intervention thus reflected a broader redefinition of the conditions under which military force would be deployed, as well as the distribution of burdens within NATO-led operations. In contrast to the intervention in Libya, the Syrian conflict exposed the administration's increasing reluctance to engage in direct military intervention despite escalating humanitarian catastrophe.

4.3.3.3 Syria

The outbreak of the Syrian civil war confronted Western policymakers with an unusually broad and simultaneous set of objectives, including the pursuit of a ceasefire, regime change, humanitarian relief, chemical weapons control, and accountability mechanisms for mass atrocities (Koh, 2016). These ambitions, however, quickly exceeded the capacity of available

diplomatic instruments, as non-coercive tools proved insufficient to influence the trajectory of an increasingly fragmented and militarized conflict.

From the outset of his presidency, Obama displayed consistent reluctance to employ military force in contexts where core U.S. strategic interests were not directly implicated. Even when confronted with escalating humanitarian suffering, his approach remained shaped by a preference for containment and de-escalation rather than confrontation (Gerges, 2013). In the Syrian case, this translated into a clear threshold condition for intervention: The deployment of American forces would be considered only when vital national security interests were at stake. Syria was not interpreted by the administration as meeting that threshold, which significantly constrained the scope of possible engagement. As a result, U.S. policy remained limited to diplomatic initiatives, sanctions, and indirect support to selected opposition structures (Gerges, 2013).

Within this framework, proposals emerged from within the national security establishment advocating a more interventionist posture, particularly through the provision of arms to elements of the opposition. According to testimony from General Martin E. Dempsey, senior defense officials, including Secretary Leon Panetta, supported the idea of supplying vetted rebel groups (Gerges, 2013). Reports indicated that a structured plan, initially developed in 2012 under CIA leadership with backing from senior diplomatic figures, proposed screening opposition groups, providing training, and supplying weapons. Nevertheless, this proposal was not adopted, with the White House opting against escalation during a politically sensitive electoral period (Gordon & Lander, 2013). While electoral considerations were present, they do not fully account for the broader strategic hesitation shaping the decision.

Obama later articulated the rationale for restraint in more explicit strategic terms, framing Syria as a case in which the potential effectiveness of U.S. intervention was uncertain. In interview settings, he questioned whether American involvement could produce meaningful

leverage over the conflict's trajectory (Foer & Hughes, 2013). These reflections were situated within a broader concern regarding military overstretch, particularly in light of the ongoing withdrawal from Afghanistan after more than a decade of sustained engagement. The possibility that intervention could intensify violence, accelerate chemical weapons use, or destabilize the post-Assad order further complicated the decision calculus (Foer & Hughes, 2013). This caution was reinforced by a comparative ethical framing, in which civilian casualties in Syria were implicitly weighed against those in other global conflicts.

Public justification of restraint also emphasized prudential limits on intervention. Administration officials argued that arms transfers carried significant risks of diversion to unintended actors, including extremist groups operating within the fragmented opposition landscape (Dreyfuss, 2012). The Syrian theatre was already saturated with weapons, and additional militarization risked exacerbating fragmentation rather than producing coherent opposition capacity. The administration, therefore, prioritized indirect assistance and coordination mechanisms rather than large-scale arming initiatives.

A central constraint on policy formation was the fragmentation of the opposition and the increasing prominence of jihadist groups such as the Al-Nusra Front. The presence of transnational militant actors generated concern that external support could indirectly strengthen groups hostile to both regional and Western interests (Gerges, 2013). This concern was repeatedly articulated by senior officials, including President Obama, who warned that poorly regulated support could produce unintended strategic consequences, including threats to regional allies and U.S. security interests (DeYoung, 2013). Similar concerns were echoed by Secretary of State John Kerry, who identified both extremist infiltration and Syria's chemical weapons stockpiles as critical security risks (Gordon, 2013).

The administration's preferred end-state remained a negotiated political transition leading to Assad's removal, rather than a militarily driven collapse of the state. The underlying

assumption was that sustained internal pressure, combined with diplomatic leverage and external sanctions, might eventually force regime compromise without triggering systemic state disintegration. This expectation also included the possibility of external diplomatic pressure from Russia, which was presumed at certain points to potentially recalibrate its support for Assad. However, these assumptions did not materialize into effective political change, and the conflict instead evolved into a prolonged stalemate characterized by territorial fragmentation and persistent violence (Gerges, 2013).

As the conflict continued, the administration explored incremental adjustments to its policy, including expanded non-lethal assistance to opposition structures such as logistical support, protective equipment, and training mechanisms (McGreal, 2008). Nevertheless, the threshold for direct military intervention remained high, with chemical weapons use increasingly framed as a potential trigger for reassessment rather than a guaranteed catalyst for action. Despite periodic signals of policy recalibration, including references in the State of the Union address, the administration maintained limited operational engagement while continuing diplomatic and economic pressure on the Assad government (DeYoung, 2013).

A significant explanatory factor for this restraint lies in the experiential legacy of Iraq. The administration consistently interpreted the Iraq intervention as evidence of the risks associated with large-scale military engagement in the Middle East, absent clear objectives and broad international consensus. This interpretation reinforced a doctrine of conditional engagement, in which intervention required both compelling strategic justification and multilateral legitimacy, ideally through United Nations authorization. Within this framework, domestic priorities also played a decisive role, as economic recovery and internal governance challenges were treated as constraints on external military commitments (Gerges, 2013).

The Arab uprisings of 2011 further complicated this strategic posture by forcing a reassessment of U.S. regional engagement. In a major policy address, Obama sought to

reposition U.S. foreign policy around support for political reform and individual self-determination, alongside traditional concerns for regional stability (Gerges, 2013). This rhetorical shift signaled an attempt to reconcile strategic interests with normative commitments to political rights. However, the practical application of this framework revealed persistent inconsistencies, particularly in the differentiated treatment of allied and adversarial regimes across the region.

Despite the articulation of a more principled foreign policy orientation, implementation remained uneven, contributing to perceptions of ambiguity in U.S. objectives among regional actors. The Syrian case thus reflects a broader structural tension between normative commitments to political transformation and strategic caution regarding military intervention. In practice, this produced a policy of limited engagement characterized by sanctions, indirect support, and diplomatic pressure, without a decisive shift toward direct military involvement. The outcome was a prolonged conflict in which external influence remained constrained, and the balance between humanitarian concern and strategic restraint remained unresolved.

The responses to Egypt, Libya, and Syria reveal a foreign policy shaped by persistent tension between support for political transformation and concern for strategic stability. The administration attempted to reposition U.S. regional policy around democratic reform and self-determination while simultaneously preserving security partnerships, avoiding military overstretch, and limiting direct intervention. In practice, this produced differentiated and frequently inconsistent responses across the region. Egypt reflected the primacy of strategic alliances despite democratic rhetoric; Libya embodied constrained humanitarian intervention within a multilateral framework; and Syria demonstrated the limits of American willingness to intervene where humanitarian catastrophe intersected with geopolitical risk and uncertain strategic outcomes. The contradictions between rhetorical commitment and practical restraint

were similarly reflected in Obama's approach to the Palestinian question and the broader Middle East peace process.

4.3.3.4 A Peace Prize Without Peace: *Obama's Unfulfilled Promise in Palestine*

Barack Obama's failure to support the peace process in Palestine, notwithstanding his status as a Nobel Peace Prize laureate, reveals a profound disjuncture between rhetorical aspirations and political reality. His approach to the Arab uprisings and the Palestinian-Israeli conflict was marked by a consistent pattern of symbolic gestures, lofty promises, and moral posturing, but with minimal tangible outcomes (Gerges, 2013). Early in his presidency, Obama appeared poised to redefine U.S. engagement with the Middle East. He broke with precedent by connecting the resolution of the Palestinian-Israeli conflict to U.S. national security interests and advocating publicly for the establishment of a Palestinian state. This signaled an initial willingness to confront long-standing grievances in the Arab world and align U.S. policy with broader demands for justice and dignity (Gerges, 2013). However, this momentum quickly dissipated under political pressure. The rise of Benjamin Netanyahu's right-wing government and Israel's continued settlement expansion presented a direct challenge to any serious peace process. While Obama publicly demanded a settlement freeze and initially confronted Netanyahu, he soon retreated in the face of stiff domestic resistance (Scowcroft, 2011). His backtracking not only weakened U.S. credibility as an impartial mediator but also disappointed Arab civil society actors who had looked to the United States for principled leadership during a time of regional upheaval (Scowcroft, 2011). This retreat was most clearly demonstrated in Obama's 2011 speech at the United Nations, where he embraced a security narrative centered on Israel that marginalized Palestinian aspirations for statehood. By prioritizing Israel's narrowly defined security interests, Obama signaled that these concerns outweighed Palestinian claims to security and self-determination. He declared, America's

commitment to Israel's security is unshakeable. Our friendship with Israel is deep and enduring. And so we believe that any lasting peace must acknowledge the very real security concerns that Israel faces every single day (Myers & Lander, 2011), reflecting a diplomatic stance that subordinated Palestinian rights to Israeli security imperatives.

President Obama's emphasis on Israel's narrowly defined security over Palestinian security and self-determination depicts a fundamental imbalance in U.S. Middle East policy. While Obama consistently affirmed America's 'unshakeable' commitment to Israel, his framing of peace prioritized Israeli security concerns without offering an equivalent recognition of the daily insecurity experienced by Palestinians under occupation and blockade (Goldberg, 2013). This one-sided approach effectively subordinated Palestinian rights, such as statehood, sovereignty, and freedom from military control, to Israel's perceived need for safety. Although Obama occasionally expressed rhetorical support for Palestinian dignity, such as in his 2009 Cairo speech, his administration did little to hold Israel accountable for actions that undermined Palestinian aspirations, including settlement expansion and human rights violations (Goldberg, 2013). His frequent diplomatic caution, coupled with the U.S. vetoing of UN resolutions critical of Israel, reinforced the perception that the United States was not an impartial mediator. Domestically, powerful pro-Israel lobbies and bipartisan support further constrained Obama's ability to apply pressure on Israel, while regional instability made the U.S.-Israel alliance a strategic asset. Consequently, Palestinian security and self-determination were often treated as secondary concerns (Gerges, 2013). This policy stance discouraged meaningful negotiations and entrenched the status quo, where security rhetoric justified continued occupation and denied Palestinians' agency. Obama's approach, though framed as pragmatic, at its core reaffirmed structural inequalities in the peace process, making a just and lasting resolution more elusive.

Obama's reluctance to integrate the Palestinian issue into his broader support for democratic movements during the Arab Spring further compounded the problem. Although the uprisings were primarily domestic in focus, the Palestinian cause remained a potent symbol of injustice throughout the region (Goldberg, 2013). Many Arab activists saw the occupation as emblematic of Western hypocrisy and demanded a realignment of foreign policy to reflect their aspirations. Obama's failure to respond meaningfully to these calls contributed to growing disillusionment, especially as rising Islamist political forces, which emphasized Palestinian solidarity, gained traction. The president's inaction signaled a missed opportunity to engage with new regional actors and to reassert American moral leadership through a principled stance on one of the world's most enduring conflicts (Gerges, 2013).

Strategic voices like Brent Scowcroft urged Obama to launch a bold peace initiative, warning that U.S. credibility and influence in the Arab world depended on addressing the occupation. But rather than pursuing diplomacy with enforcement mechanisms, Obama defaulted to cautious pragmatism. By the end of his presidency, the peace process had collapsed, Secretary of State John Kerry's efforts had failed, and Obama himself had disengaged, convinced that Netanyahu was too politically constrained to negotiate in good faith. Yet this diagnosis, while accurate, also became a rationale for inaction.

Obama's failure to support the Palestinian peace process reflects the deep limitations of American diplomacy when constrained by domestic political interests and a risk-averse leadership style. The Nobel Peace Prize, symbolizing hope for transformative global engagement, clashed with the realities of a foreign policy shaped more by caution than conviction. Obama's presidency thus stands as a cautionary tale of how even well-intentioned leaders can fall short when systemic inertia and political calculations override the pursuit of justice and peace. The cases of Egypt, Libya, Syria, and Palestine illustrate the broader tensions and limitations that characterized Obama's foreign policy and counter-terrorism doctrine.

4.4 Conclusion

The presidency of Barack Obama represented a process of strategic recalibration rather than a substantive departure from the post-9/11 security paradigm established under George W. Bush. Although the Obama administration adopted a discourse emphasising multilateralism, legality, and restrained intervention, the underlying structures of the Global War on Terror remained largely intact through the continued expansion of targeted killing, drone warfare, surveillance practices, and executive security powers.

The transformation of U.S. counter-terrorism policy under Obama occurred primarily at the operational and rhetorical levels. Remote warfare, intelligence-driven targeting, and technologically mediated forms of intervention reduced the political visibility of military engagement while simultaneously extending the geographical reach and institutional permanence of counter-terrorism operations. In this context, the administration reconfigured rather than dismantled the mechanisms of exceptional governance inherited from the Bush era, reinforcing a model of security policy increasingly dependent on flexibility, secrecy, and transnational projection of force.

The analysis indicates the persistence of tensions between liberal internationalist discourse and the practical realities of U.S. strategic interests. Military operations and security partnerships in Afghanistan, Pakistan, Yemen, Libya, and other conflict zones continued to generate concerns regarding civilian casualties, state sovereignty, due process, and accountability under international law. The empirical evidence and policy analysis presented throughout the chapter suggest that the pursuit of precision and risk management did not eliminate the humanitarian and legal consequences associated with counter-terrorism operations, but instead altered their form and visibility.

More broadly, the findings demonstrate how post-9/11 counter-terrorism evolved into an institutionalised framework embedded within legal authorisations, intelligence systems,

technological infrastructures, and bureaucratic practices that transcended changes in presidential leadership. The Obama administration, therefore, illustrates the durability of the War on Terror as a governing logic shaping both domestic and international security policy. These conclusions provide the foundation for the following chapter, which examines the human rights consequences of Obama's counter-terrorism policies in greater depth, with particular focus on the legal, ethical, and humanitarian implications of drone warfare, surveillance, detention practices, and civilian harm within the broader framework of international human rights law.

Chapter Five:

The Cost and Consequences of

Barack Obama's War on Terror

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

5.1 Introduction

This chapter analyses the operational and policy dimensions of the War on Terror under Obama, focusing on the continuities and adaptations that shaped U.S. security governance after 2009. It analyses how inherited emergency powers and institutional structures remained embedded in state practice, even as the administration sought to recalibrate its public image and the strategic management of counter-terrorism. Special emphasis is placed on the contradiction between the administration's rhetoric of legality, human rights, and multilateral cooperation and the ongoing expansion of coercive counter-terrorism measures. The chapter further explores the implications of drone warfare, intelligence operations, and targeted killing for civilian protection, state sovereignty, accountability, and the distinction between war and law enforcement.

The analysis also considers how technological systems, intelligence networks, and bureaucratic decision-making processes shaped patterns of targeting and civilian harm across multiple theatres of operation, including Afghanistan, Pakistan, Yemen, and Somalia. By situating these developments within broader debates on securitisation, executive authority, and the normalisation of exceptional measures, the chapter demonstrates how the Obama administration reinforced and institutionalised the enduring architecture of the post-9/11 security state.

This chapter adopts a qualitative and interpretive approach grounded in a critical analysis of U.S. counter-terrorism policy and its human rights implications during the Obama administration. A case study approach is employed, with Afghanistan serving as the principal site of analysis alongside comparative references to other operational theaters. The study relies primarily on secondary sources, including academic literature, policy documents, United Nations reports, human rights investigations, and investigative journalism. Reports produced by organizations such as the United Nations Assistance Mission in Afghanistan and other

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

international monitoring bodies provide empirical grounding for examining civilian casualties, drone operations, surveillance practices, and special operations campaigns.

Furthermore, the chapter combines thematic, discourse, and comparative analyses to identify recurring patterns in targeting practices, intelligence reliability, technological mediation of warfare, and institutional decision-making. Data presentation integrates narrative interpretation with descriptive statistical analysis, using figures and visual data to illustrate trends in drone strikes, civilian casualties, military operations, and patterns of violence across different theaters of conflict. Through this research design, the chapter provides a structured and critical account of the Obama administration's counter-terrorism strategy within the broader trajectory of post-9/11 security governance.

5.2 Human Rights Violations

Although President Barack Obama assumed office with the stated intention of restoring U.S. moral credibility and discontinuing the most contested practices of the Bush-era counter-terrorism framework, the operational architecture of his administration continued to generate substantial human rights concerns. Despite formal prohibitions on torture and efforts to close Guantanamo Bay, the counter-terrorism strategy increasingly relied on covert action, drone warfare, and targeted killings executed outside conventional judicial processes. These operations, conducted across Afghanistan, Pakistan, Yemen, and Somalia, were frequently associated with civilian harm and extrajudicial deprivation of life. Other practices, including indefinite detention, military commissions, and expanded surveillance regimes, further strained established protections under international human rights law and due process norms. One of the clearest manifestations of these violations can be observed in the conduct of military operations, particularly through indiscriminate attacks that blurred the distinction between combatants and civilians.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

5.2.1 Indiscriminate Attacks

Discrepancies in reported figures of 'militants' and 'civilians' killed across major datasets raise questions regarding the reliability and methodological consistency of the underlying sources. The verification of civilian casualties resulting from drone strikes remains particularly constrained due to the geographical and political conditions of strike locations, notably in parts of Pakistan, Yemen, and Somalia, where state authority is weak and investigative access is limited. Consequently, casualty estimates often remain speculative and diverge significantly in both magnitude and classification (Columbia Law School Human Rights Clinic, 2012). Compounding these limitations, bodies are frequently removed and buried shortly after strikes, reducing the possibility of independent forensic verification (Zenko, 2010).

In addition, both U.S. officials and local authorities have, at various points, asserted without substantiating evidence that those killed were exclusively 'militants' or 'civilians' (International Human Rights and Conflict Resolution Clinic & Global Justice Clinic, 2012). Such assertions are often reproduced uncritically in media reporting and subsequently incorporated into quantitative datasets. Political communication further shapes casualty narratives, with all parties engaging in strategic framing of losses (Bergen & Tiedemann, 2011).

The U.S. government has repeatedly minimized reported civilian fatalities despite evidence suggesting otherwise. For instance, Brennan claimed that no civilian casualties occurred in drone operations between June 2010 and June 2011 (Fricker & Williams, 2010), while another senior official characterized civilian deaths as confined to the 'single digits' and dismissed higher estimates as propaganda, despite contrary documentation (Becker & Shane, 2012). Although technological improvements may have reduced harm relative to the 2004-2008 period, claims of negligible civilian impact remain contested. Independent estimates from the Bureau of Investigative Journalism indicate substantially higher levels of civilian mortality (The Bureau of Investigative Journalism, 2012).

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

A central mechanism shaping this discourse lies in the U.S. practice of post-strike classification. According to reporting in the New York Times, military-age males within strike zones are routinely designated as 'militants' unless posthumous evidence demonstrates otherwise (Becker & Shane, 2012). This presumption rests on the assumption that proximity to known militants implies affiliation, justified by the operational secrecy of groups such as Al-Qaeda. However, this inference is methodologically and normatively problematic. High-level militants frequently reside within familial and civilian environments, interacting with non-combatants such as traders, drivers, and service providers. Casualties among these groups conflict with the principle of non-combatant immunity under international humanitarian law (Boyle, 2013).

Furthermore, drone campaigns have extended to actors such as the Taliban and the Haqqani network, which are more embedded within civilian populations and exhibit less isolation than transnational networks, increasing the likelihood of incidental harm (Boyle, 2013). In regions such as Waziristan, extended family cohabitation structures intensify exposure to strike effects, including harm to women and children. The Bureau of Investigative Journalism reports at least 176 child fatalities in Pakistan since 2004 (The Bureau of Investigative Journalism, 2012). Even if some civilian harm is unavoidable in armed conflict, strikes on residential structures raise proportionality concerns under international legal standards (Boyle, 2013).

The application of guilt-by-association reasoning reflects a weakening of evidentiary thresholds for target selection (Boyle, 2013). This operational logic has contributed to strikes on civilian gathering sites, including mosques and funerals, with severe implications for social cohesion. Reports indicate that at least 50 civilians in Pakistan were killed while assisting victims of earlier strikes (Shane, 2015), illustrating the emergence of so-called 'double tap' operations. These patterns have altered civilian behavior during emergencies, discouraging

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

rescue efforts due to fear of secondary strikes, with some humanitarian actors delaying entry into strike zones for extended periods.

Funeral processions have also been affected, with documented cases of at least 20 civilian deaths in such contexts (Shane, 2015). One reported 2009 incident in Pakistan involved a strike on a funeral gathering that killed up to 60 individuals, including senior militant figures (Shah, 2013). These cases raise proportionality concerns, particularly where high-value targeting results in disproportionate civilian loss. Under international humanitarian law, attacks on civilian gatherings and rescue operations may meet the threshold for unlawful conduct when military advantage is outweighed by incidental harm (Boyle, 2013).

The expansion of 'signature strikes' further complicates compliance with distinction principles. Unlike identity-based targeting, these operations rely on behavioral patterns interpreted as indicative of militancy, such as proximity to suspected sites, cargo movement, or border crossings (Miller, 2011). However, such indicators are inherently ambiguous. As noted by a senior State Department official, even innocuous activity could be misinterpreted as hostile intent (Cloud, 2010). This reliance on probabilistic inference increases the likelihood of misclassification and civilian harm, embedding uncertainty into targeting logic in ways that weaken the combatant-civilian distinction (Boyle, 2013).

The strategic shift toward lower-level targets has produced broader political and social repercussions. Many individuals targeted in these operations are embedded within tribal and kinship networks, generating cycles of retaliation that can facilitate militant recruitment. Kilcullen and Exum argue that each non-combatant death produces social grievances that expand militant recruitment pools (Kilcullen & Exum, 2009). In Pakistan and Yemen, such dynamics have intensified opposition to U.S. operations. Political figures, including Imran Khan, have explicitly linked civilian casualties to anti-drone positions, including pledges to resist U.S. aerial operations (Ghosh, 2012). Similar patterns have been observed in Yemen,

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

where drone strikes have contributed to increased alignment with insurgent movements (Raghavan, 2012).

CIA-directed operations in Pakistan, Yemen, and Somalia operate in legal contexts that differ substantially from conventional armed conflict. As the United States is not formally engaged in declared hostilities in these territories, the application of wartime targeting logic remains legally contested (Boyle, 2013). A notable example occurred on 17 March 2011 in Data Khel, North Waziristan, where a strike targeted a jirga attended predominantly by tribal elders and government-aligned actors (Badalic, 2019). Eyewitness testimony confirmed the presence of state officials and paramilitary personnel alongside civilian participants. While some militants were reportedly present, subsequent investigations attributed 38 of 42 fatalities to civilians, with 14 additional injuries recorded (Badalic, 2019).

Further incidents illustrate similar patterns. In January 2016, a strike in Afghanistan's Achin district reportedly killed civilians gathered at a public execution site staged by Islamic State-Khorasan militants (Badalic, 2019). In August 2016, a strike on a Taliban-run facility in Helmand Province killed 32 individuals, initially described as insurgents but later identified largely as Afghan security personnel and civilians in captivity (Stanikzai, 2016). Survivor testimony indicated that the facility housed Afghan soldiers, police officers, and civilians at the time of the attack.

These cases demonstrate persistent difficulties in maintaining the principle of distinction in practice. International humanitarian law permits targeting of organized armed group members engaged in continuous combat functions, as well as civilians directly participating in hostilities (Badalic, 2019). However, operational interpretations have at times expanded the category of legitimate targets beyond these legal boundaries. Presence near militant actors has been treated as sufficient grounds for targeting, despite the continued civilian status of individuals such as family members, detainees, journalists, traders, and mediators. This interpretive expansion

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

increases the probability of civilian exposure to lethal force and complicates compliance with established protections under international humanitarian law (Badalic, 2019).

Beyond the general expansion of drone warfare, particular tactics employed during these operations generated intense controversy, especially the use of double-tap strikes, which were widely criticized for increasing civilian casualties and targeting rescuers and first responders.

5.2.1.1 Double-Tap Strike

The first recorded instance of a 'double-tap' drone operation occurred on 15 September 2010 in Danda Darpa Khel, North Waziristan, where two residential structures associated with members of the Haqqani network were targeted. At the time, Samiullah Dawar was conducting an interview with a Taliban commander in the vicinity. He recalled: "We heard a loud explosion very close by, maybe four or five houses away. I walked over and saw it was a drone strike. Many were badly injured with severe burns. Some were taken to the hospital in Miran Shah" (Badalic, 2019, p. 32). Approximately fifteen minutes later, while medical assistance was being provided to the injured, a second strike hit the same location. This follow-up attack killed eight individuals who had arrived to assist the victims of the initial explosion (Badalic, 2019). The fatalities included five residents (Yahya, Samin, Nimatullah, Shehzad, and Elyas) alongside three armed individuals who had emerged from the house where Dawar was conducting his interview. Combined, both strikes resulted in up to fifteen deaths (Badalic, 2019).

A defining operational concern in double-tap strikes lies in the narrow temporal gap between the initial impact and the secondary strike, which may occur within minutes. This interval constrains the ability of operators to distinguish between combatants and civilians converging at the site, particularly those engaged in rescue efforts. Consequently, individuals responding to assist the wounded are exposed to heightened risk, and documented cases indicate repeated civilian fatalities during such secondary engagements (Woods & Yusufzai, 2013; Woods & Lamb, 2012).

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

A related targeting practice classifies individuals as legitimate military targets based on recurrent communication with known militants. To operationalize this approach, the U.S. military employs social network analysis, also called correlation analysis, which processes large-scale metadata from mobile phone and SIM card tracking systems (Porter, 2011). The method focuses exclusively on communication patterns (such as frequency, duration, and network connectivity) rather than the substantive content of conversations, to map suspected militant networks (Clark, 2011). Within this framework, analysts seek to identify individuals occupying structural positions, such as leadership roles, intermediaries, or operational affiliates (Dreyer, 2006). When metadata shows repeated contact between a monitored number and a known militant, the individual associated with that device may be designated a lawful target (Porter, 2011).

According to testimony from a former drone operator involved in operations in Afghanistan, approximately 90% of so-called high-value targeting missions, including drone strikes and night raids, were predicated on signals intelligence (Scahill, 2016). Reliance on this form of intelligence often occurred in the absence of corroborating human intelligence, reducing opportunities for verification through contextual or local knowledge. In practice, targeting decisions were frequently based on the presumption that a mobile device belonged to a militant actor, rather than confirmed identification of the individual using it (Porter, 2011). This methodological reliance contributed to cases of misidentification and civilian harm. One such incident occurred on 2 September 2010 in Takhar province, Afghanistan, where a drone strike resulted in the death of unintended targets due to flawed signals intelligence analysis (Clark, 2011). Pre-strike network mapping incorrectly associated two individuals (Zabet Amanullah, a former Taliban affiliate who had disarmed in 2001, and Muhammad Amin, identified as a Taliban deputy shadow governor in Takhar) without verification from Afghan authorities or local sources. The absence of cross-validation led to fatal targeting errors (Clark, 2011).

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

Targeting based solely on mobile device attribution introduces persistent risks, particularly when operators lack knowledge of the actual user at the time of engagement. In such cases, the criteria employed to designate targets extend beyond the established parameters of lawful military objectives, thereby complicating adherence to the principle of distinction (Badalic, 2019). Metadata analysis enables the identification of communication linkages with known militants but does not establish direct participation in hostilities. As a result, individuals may be classified as targets despite lacking combatant status (Badalic, 2019). Communication patterns may reflect familial ties, social obligations, or local dispute mediation rather than insurgent involvement. In parts of southern Afghanistan, for instance, civilians have been known to retain contact numbers of Taliban figures for pragmatic or emergency-related purposes (Porter, 2011). However, intelligence systems reliant exclusively on metadata are structurally unable to differentiate between such forms of contact and active operational engagement (Porter, 2011). In addition to controversial strike patterns, civilian deaths were also linked to technological limitations and intelligence failures, raising further questions about the reliability and legality of targeted killing operations.

5.2.1.2 Technical Factors and Faulty Intelligence Leading to Civilian Victims

Two interrelated technical constraints contributed to the unpredictability of drone strike outcomes and the resulting exposure of civilians to lethal force. The first relates to limitations in imagery resolution produced by drone surveillance systems. In numerous operational contexts, image quality remained insufficient to support reliable visual identification, even under favourable meteorological conditions. Operators frequently worked with degraded visual data that prevented accurate differentiation between basic categories of individuals, including distinctions such as adult versus child or male versus female (Wheeler, 2012). Similar constraints extended to object identification, where potential weapons could not be consistently

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

distinguished from non-threatening implements, including agricultural tools commonly present in rural environments (Linebaugh, 2013).

Operational ambiguity linked to these imaging limitations is illustrated by an incident on 6 April 2011, when a drone strike resulted in the death of two U.S. Marines in Afghanistan during a confrontation with Taliban forces. Despite the presence of identifiable military personnel in uniform, drone operators were unable to clearly distinguish friendly forces from opposing combatants, resulting in a fatal misclassification and subsequent strike (Wheeler, 2012). The event demonstrates how insufficient image resolution can undermine reliable target discrimination even in relatively controlled combat settings.

A second constraint concerns the restricted situational awareness inherent in drone interface design. When operators zoom in to obtain visual clarity on a suspected target, the field of observation becomes substantially narrowed, producing what has been described as a 'soda straw effect.' This reduction in peripheral visibility limits the operator's capacity to detect movement or activity outside the immediate focal zone, particularly individuals entering or approaching the strike area (Shah, 2013). Lewis (2014) links this narrowed perceptual field to elevated risks in secondary strike scenarios, especially in double-click operations, where civilians arriving to assist victims of an initial strike may remain outside the operator's line of sight.

The same constraint applies in single-strike operations. A drone operator described an incident in Afghanistan involving a vehicle identified as transporting armed individuals. Following a review of aerial imagery, operators concluded that the vehicle's position relative to surrounding settlements reduced the likelihood of civilian exposure, and clearance was granted for engagement. However, immediately after missile deployment, two children on bicycles entered the visual frame of the drone feed (Badalic, 2019). The strike killed both the presumed combatants and the children, an outcome attributed to the inability of the operator to

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

maintain a sufficiently wide observational scope before engagement. In this case, the restricted field of vision prevented detection of non-combatants whose presence became visible only after irreversible action had been taken (Badalic, 2019).

The empirical record indicates two principal forms of informational distortion that contributed to civilian harm in drone operations (Badalic, 2019). The first concerns the reliability of intelligence provided by local informants embedded within U.S. targeting networks. In both Afghanistan and Pakistan, such informants operated within fragmented social and political environments, where intelligence provision was frequently shaped by strategic manipulation rather than factual reporting. A recurrent pattern involved tribal elders and warlords supplying deliberately misleading information in order to instrumentalize U.S. military capability against local rivals, thereby converting external force into an extension of intra-tribal conflict (Shah, 2013). Under these conditions, insurgent labeling functioned as a tactical resource within pre-existing social disputes rather than an objective classification of combatant status.

A second source of distortion arose from incentive structures tied to intelligence procurement. Informants were, in some instances, motivated by financial remuneration, producing intelligence designed to satisfy operational demand rather than reflect verifiable conditions on the ground (Mayer, 2009). In Pakistan's tribal regions, compensation schemes reportedly included monthly payments of approximately \$200, with some sources indicating payments of \$350 per designated target (Kadhim, 2013; Farooq & Kakakhel, 2014). Such arrangements created conditions in which the production of 'actionable intelligence' was partially decoupled from evidentiary validity, increasing the probability of misidentification.

The second broad category of error derives from interpretive practices within drone operations themselves, particularly the subjective reading of surveillance imagery under conditions of limited visual clarity. Operators frequently engaged with low-resolution footage

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

that required inferential interpretation, a process in which ambiguous visual data was mapped onto pre-existing conceptual categories of 'legitimate targets' (Badalic, 2019). In practice, this produced a form of confirmation bias, whereby indeterminate imagery was selectively aligned with prior expectations of insurgent activity. Rather than treating ambiguity as uncertainty, operators often resolved uncertainty through interpretive closure consistent with anticipated threat profiles.

The strike conducted in Uruzgan Province on 21 February 2010 illustrates the consequences of such interpretive practices. A convoy of three vehicles was targeted following identification as a hostile formation, resulting in the deaths of civilians, including women and children. Subsequent investigations estimated fatalities ranging from 15 to 23 individuals (Cloud, 2010). Declassified cockpit and communications transcripts reveal that classification decisions were made in real time under conditions of visual ambiguity (Badalic, 2019). Within these exchanges, indicators of civilian presence, including potential children within the vehicles, were systematically discounted. One operator rejected the likelihood of children being present based on temporal assumptions regarding civilian movement, stating, "I do not think they have children out at this hour" (Badalic, 2019, p.38). Another reclassified observed figures as adolescents or teenagers, further extending the scope of permissible targeting by equating youth with combatant risk (Badalic, 2019). A sensor operator similarly expressed uncertainty regarding stature while maintaining interpretive alignment with a combatant framework, remarking that "I have not seen anything that looks so short" (Badalic, 2019, p.38). Collectively, these exchanges demonstrate a systematic tendency to subsume ambiguous human figures under categories of military-age males, accompanied by explicit expressions of targeting preference such as the desire for "a pickup truck filled with dudes" (Badalic, 2019, p.38).

The same interpretive pattern emerged in relation to visual cues associated with weapons. Despite persistent image degradation, operators frequently interpreted indistinct shapes as

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

firearms, reinforcing the presumption of hostile intent. This interpretive inclination was reinforced through intra-crew validation, whereby tentative identifications of weapons were rapidly affirmed and incorporated into strike justification. Before engagement in the Uruzgan case, operators reported identifying multiple weapons, which formed part of the rationale for authorizing the strike. Post-strike investigations, however, confirmed that victims, including women and children, were unarmed civilians (Cloud, 2010).

A third dimension of interpretive distortion involved the attribution of hostile intent to otherwise ambiguous behavioural patterns. In one instance, the arrival of an additional vehicle in a monitored convoy was interpreted as reinforcement activity, described as 'a gathering of forces' (Cloud, 2010). In another, internal conflict within the convoy was reinterpreted as coercion involving the use of civilians as human shields. In a further case, deviation from a nearby military presence was construed as tactical manoeuvring designed to facilitate an ambush. Across these scenarios, observational uncertainty was consistently resolved in favour of insurgent attribution, reinforcing pre-existing threat narratives rather than empirically grounded verification.

The cumulative effect of these interpretive practices was the progressive substitution of evidentiary uncertainty with assumption-driven classification. Blurred or incomplete visual data were not treated as epistemic limitations but were instead converted into actionable certainty through interpretive preference (Badalic, 2019). This process was reinforced by an operational disposition oriented toward engagement, where the anticipation of targeting opportunities shaped perceptual framing. Expressions from drone crews indicate a pronounced readiness for kinetic action, including statements such as "I cannot wait for this to happen, with all this coordination" and "As long as you retain someone that we could shoot at in the field of view, I am happy" (Badalic, 2019, p.40). Such remarks suggest that interpretive practices were not solely technical but also conditioned by an operational expectation of strike authorization.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

Within this configuration, civilian harm cannot be reduced to isolated miscalculations, but rather emerges from the interaction between unreliable external intelligence, structurally incentivized misinformation, and internally biased interpretive frameworks.

While drone strikes represented a remote form of counter-terrorism intervention, civilian populations were similarly affected by direct military operations on the ground, particularly the expansion of night raids and kill-or-capture missions in Afghanistan.

5.2.2 The U.S. Kill-or-Capture Missions in Afghanistan (Night Raids)

The U.S. kill-or-capture campaign, commonly referred to as 'night raids,' constituted a central pillar of American military strategy in Afghanistan between 2001 and 2014. These operations were directed against senior Taliban figures, Al-Qaeda affiliates, and other individuals deemed integral to insurgent activity. Executed predominantly by elite special operations units, including SEAL Team and Delta Force, night raids consisted of rapid, covert incursions conducted during nocturnal hours with the objective of capturing or eliminating designated targets. The strategic rationale centred on the disruption of insurgent command structures and the prevention of planned attacks against U.S. and NATO personnel (Badalic, 2019).

Despite their operational intent, night raids generated sustained controversy due to their recurrent association with civilian casualties, destruction of property, and severe psychological distress among affected populations. In numerous rural communities, the distinction between insurgent actors and non-combatants was experienced as unstable in practice, producing a pervasive sense of insecurity. While U.S. military authorities frequently presented these operations as tactically efficient instruments of counter-insurgency, their implementation contributed to intensified anti-American sentiment and the deterioration of relations between Afghan civilians and foreign military forces (Badalic, 2019). Over time, night raids came to reflect broader structural difficulties within the counter-insurgency framework, particularly the

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

operational challenge of differentiating combatants from civilians in a fluid and socially embedded conflict environment (Badalic, 2019).

Beyond the broad and often indeterminate criteria used to designate targets, two interrelated deficiencies in the targeting process contributed to night raids that resulted in civilian harm. The first concerns the reliance on defective intelligence, particularly information supplied by local informants operating within U.S. intelligence networks (Mazetti et al., 2015). In practice, U.S. forces frequently accorded substantial credibility to informant reports regarding insurgent activity (Alston, 2009). However, the reliability of such intelligence was frequently compromised by deliberate misrepresentation. In certain cases, individuals with access to U.S. forces provided fabricated or strategically distorted information to target personal or political adversaries, effectively transforming counter-insurgency mechanisms into instruments of local rivalry (Badalic, 2019). Abdul Rahim Khurram, Head of Communications for the Liaison Office, an Afghan NGO, documented similar patterns in field research conducted across the eastern provinces of Paktika, Paktia, and Khost in 2011, where accusations of insurgent affiliation were at times instrumentalized within local disputes.

The second factor relates to operational inaccuracies in spatial identification during raid execution. In both rural and densely populated urban environments, the absence of clearly demarcated infrastructure, combined with narrow passageways and structurally similar residential compounds, increased the probability of navigational and identification errors. In such contexts, targeting teams occasionally misidentified intended locations, resulting in raids being conducted on incorrect households. These errors led to direct engagement with civilian residences rather than the intended insurgent-associated structures, producing unintended civilian exposure to lethal force (Badalic, 2019). The implementation of night raids often resulted in confrontations between U.S. forces and local civilians, leading to numerous

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

incidents classified as hostile acts and contributing to growing tensions between military operations and civilian protection.

5.2.2.1 Hostile Acts

During fieldwork on night raids, Vasja Badalic documented the testimony of Afzal Miskin's mother, whose infant daughter had been injured during an operation in Qala Zal, Tagab District, Kapisa Province, on 5 October 2011. She recounted that U.S. forces entered the residence at midnight, deployed a grenade inside the house, and opened fire. Her husband attempted to flee in panic and was killed, alongside her daughter (Badalic, 2019). Afzal, two months old at the time, sustained shrapnel injuries and was later transferred to a hospital in Kabul, where medical imaging revealed a fragment near her left knee. Physicians indicated that the injury was not likely to result in permanent impairment (Badalic, 2019).

The security conditions in Kapisa prevented independent verification of whether Afzal's father constituted a legitimate target. Competing accounts nonetheless emerged. The child's mother insisted that he was a civilian, whereas Afghan authorities claimed that ISAF forces had targeted a Taliban commander in the area (Safi, 2011). The district administration further identified him as Commander Maskin, allegedly involved in attacks on Afghan forces and explosive device production, although no corroborating evidence was made available to substantiate these claims (Safi, 2011). In the absence of verification, what remains uncontested is that the two child victims were civilians, illustrating the structural vulnerability of night raids to producing civilian harm even when targeting procedures are intended to identify combatants (Badalic, 2019).

Night operations carried an inherent risk profile due to the spatial organisation of insurgent and civilian life. Armed actors frequently resided within extended family compounds shared with non-combatants, including children and elderly relatives, which complicated the application of distinction in practice. Conversely, raids conducted on civilian households under

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

misidentification conditions amplified the probability of non-combatant casualties. Limited visibility at night further constrained the ability of forces to accurately interpret movement or identify individuals, with routine defensive actions by civilians often misread as hostile conduct (Badalic, 2019).

The analysis of civilian fatalities in such operations requires attention to interpretive frameworks guiding the use of force. According to U.S. rules of engagement, lethal force is permissible against individuals who have engaged in hostile acts or who demonstrate hostile intent, defined as behaviour indicating imminent use of force against designated personnel or assets (Chairman of the Joint Chiefs of Staff, 2005). These categories, however, rely heavily on situational interpretation under conditions of uncertainty.

Empirical evidence from Afghanistan indicates that misclassification of civilian defensive behaviour constituted a recurring mechanism of harm. Individuals defending their homes during night raids were frequently interpreted as engaging in insurgent activity, despite acting within a defensive framework aimed at protecting family members and property. The inability of assaulting units to reliably distinguish between insurgent combatants and civilians responding to intrusion resulted in repeated applications of lethal force against non-combatants (Badalic, 2019).

This interpretive ambiguity was formally acknowledged within ISAF operational guidance. In early 2010, General Stanley McChrystal issued a tactical directive recognising that Afghan men defending their homes contributed significantly to civilian casualties during night operations (Graff, 2010). The directive noted that such defensive actions were often misinterpreted as insurgent engagement, despite their grounding in protective intent. In many Afghan households, firearms were retained for security purposes, increasing the likelihood that occupants would respond to nocturnal intrusion with armed resistance, thereby intensifying the risk of lethal escalation (Alston, 2009).

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

A frequently cited case occurred on 14 May 2010 near Jalalabad in Nangarhar Province, where a raid targeted a compound housing multiple extended families. The residence contained over one hundred civilians, including women and children. During the assault, a member of the Kashkaki family discharged warning shots intended to deter intruders. These were interpreted as hostile fire, prompting immediate retaliatory action by U.S. forces. The operation resulted in nine fatalities, ranging in age from 16 to 70, including family members, agricultural workers, and security personnel affiliated with the household (Badalic, 2019). ISAF later maintained that the individuals were insurgents who engaged attacking forces with automatic weapons, although local accounts described them as civilians responding to an unidentified nighttime incursion (Badalic, 2019).

Within this operational environment, lethal force was frequently justified under the rubric of self-defence, even when applied to individuals engaged in protective or evasive behaviour. Three recurrent patterns of interpretation can be identified in relation to the construction of 'hostile intent.' The first involves the attribution of threat status based solely on weapon possession. In numerous cases, the presence of firearms within households was treated as sufficient justification for lethal engagement, notwithstanding their widespread use for domestic protection in environments characterised by limited state security provision (Alston, 2009). This practice generated conditions in which possession rather than use of weapons became the operative criterion for targeting.

An illustrative case occurred on 12 May 2011, when a night raid resulted in the deaths of both armed and unarmed civilians in a compound in eastern Afghanistan (Rubin, 2011). The victims included Shukrallah, a police officer, and his 12-year-old niece, Nelofar. Shukrallah was targeted after being observed holding a pistol, which was interpreted as confirmation of hostile intent, despite the absence of any discharge of the weapon. Nelofar was subsequently killed by grenade fragmentation while attempting to flee. ISAF later stated that an individual

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

had been incorrectly identified as armed, subsequently acknowledging that the victim was a minor civilian (Badalic, 2019). The incident illustrates how possession-based assumptions regarding threat status extended lethal liability to individuals without active participation in hostilities.

The second interpretive category concerns movement-based attribution of hostility. In certain operational frameworks, individuals exiting structures during raids were presumed to demonstrate hostile intent irrespective of behaviour or intent. During an operation in Khattaba village, Paktia Province, on 12 February 2010, a gathering of civilians was targeted during a family celebration. The raid resulted in multiple fatalities, including pregnant women and local officials. ISAF communications indicated that movement outside the compound during an active operation was sufficient to trigger lethal engagement, with individuals exiting buildings classified as legitimate targets without the requirement for demonstrable attack behaviour (Badalic, 2019). This procedural logic effectively collapsed the distinction between movement and aggression.

The third pattern involves the interpretation of evasive behaviour as hostile conduct. In a raid conducted in Khost Province on 9 April 2009, civilians fled to a rooftop after perceiving an intrusion into their home. U.S. forces positioned nearby engaged the group, resulting in the deaths of multiple family members, including women and infants (Kelly & Pearson, 2010). Initial ISAF statements characterised the victims as armed, although subsequent clarification confirmed civilian status (Badalic, 2019). In this instance, attempts to seek safety were reclassified as tactical evasion consistent with insurgent activity.

Across these cases, the operational application of 'hostile intent' functioned less as an evidentiary determination than as a flexible interpretive category shaped by contextual uncertainty and rapid decision-making requirements. The resulting framework enabled the conversion of defensive, ambiguous, or non-threatening actions into grounds for lethal

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

engagement, with significant implications for civilian protection under conditions of night-time military operations.

Beyond the violence associated with military raids, counter-terrorism measures also affected fundamental legal guarantees, particularly the right of detainees to access legal representation and fair judicial procedures.

5.2.3 Violation of the Right of Access to a Defense Lawyer

Neither humanitarian treaty law nor international human rights law explicitly guarantees access to legal counsel for individuals held in administrative detention. Nonetheless, a range of non-binding human rights instruments and judicial precedents have been interpreted as providing normative foundations for such a guarantee, particularly in relation to procedural fairness and due process in detention settings (Pejic, 2005). In this regard, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment stipulates that a detained person shall be entitled to the assistance of a lawyer (United Nations General Assembly, 1988).

Under the Bush administration, individuals detained in U.S. custody were systematically denied access to legal representation (Bovarnick, 2010). The Obama administration introduced procedural adjustments by permitting detainees to be assisted by so-called 'personal representatives' during hearings before the Detainee Review Board (HRF, 2011). However, this mechanism did not constitute legal representation in any substantive sense, as these representatives were not qualified attorneys but military personnel assigned to advisory roles (Bovarnick, 2010). As a result, the structural gap between legal counsel and administrative support remained intact.

The effectiveness of this substitute mechanism was further limited by deficiencies in training and professional preparation. Personal representatives reportedly underwent only five days of instruction, amounting to approximately 35 hours, before assuming responsibility for

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

detainee assistance (Human Rights Report, 2011). Although supplementary weekly refresher sessions were provided, no systematic training was offered in cultural competence or linguistic skills, both of which are essential for effective communication in detention contexts involving non-English-speaking detainees (Bovarnick, 2010). This absence of contextual preparation significantly constrained their ability to engage meaningfully with detainee testimonies and evidentiary materials.

Empirical observations of Detainee Review Board proceedings further indicate functional limitations in the role of personal representatives. HRF (2011) concluded that these individuals lacked the procedural competence required to act in an adversarial or advocacy capacity. In practice, they appeared unfamiliar with the principles governing fact-finding procedures and were unable to introduce new evidence or summon witnesses. This constrained the evidentiary scope of hearings and weakened the capacity of the review process to reach fully informed determinations regarding detainee status (Human Rights Fund, 2011).

The expansion of counter-terrorism policies was not limited to detention and military operations abroad; it also extended into the domestic sphere through enhanced surveillance programs justified in the name of national security.

5.2.4 Domestic Surveillance

The revelation that the Obama administration permitted the National Security Agency (NSA) to continue the large-scale collection of Americans' email and internet metadata for more than two years illustrates the enduring tension between national security imperatives and constitutional protections of privacy. According to classified documents disclosed by *The Guardian*, this surveillance architecture originated in 2001 under President George W. Bush as part of the broader warrantless intelligence framework. The program, operating under the codename *Stellar Wind*, received periodic authorisation from the Foreign Intelligence

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

Surveillance Act (FISA) court at 90-day intervals. A senior official later confirmed its termination in 2011 (Greenwald & Ackerman, 2013).

The programme authorised bulk acquisition of internet metadata, including email routing information such as sender and recipient identifiers and IP address data associated with domestic communications. While the content of communications was not directly collected, the structure of the dataset enabled extensive reconstruction of communication patterns and relational networks (Greenwald & Ackerman, 2013). Internal government documentation indicates the breadth of this collection, with a 2008 memorandum signed by senior executive officials authorising the analysis of email metadata fields such as 'to,' 'from,' and 'bcc.' Analysts and legal scholars, including Julian Sanchez of the Cato Institute, argued that such metadata could reveal highly sensitive aspects of personal behaviour, including informational interests and social networks, effectively approximating the informational density of private correspondence (Greenwald & Ackerman, 2013).

A central analytical technique employed within this framework was 'contact chaining,' which maps relational connections across communication networks. Following the 11 September 2001 attacks, the operational scope of this method expanded significantly, allowing intelligence analysts to trace indirect associations up to two degrees removed from a primary target. Earlier legal assessments within the Department of Justice during the 1990s had raised concerns regarding the compatibility of such practices with statutory limits under FISA, leading to the rejection of comparable proposals at the time (Greenwald & Ackerman, 2013).

In 2004, internal legal objections from senior officials within the Department of Justice and the Federal Bureau of Investigation, including James Comey, temporarily suspended the bulk collection of domestic internet metadata. Despite this interruption, the programme was subsequently restructured to align with FISA court requirements, allowing its reauthorisation under judicial oversight later that year. This marked the first instance in which the FISA court

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

assumed formal supervisory responsibility over the programme's operation (Greenwald & Ackerman, 2013).

Although the court-authorised iteration of bulk metadata collection was formally discontinued in 2011, surveillance practices continued to evolve in similar institutional forms. Reporting by *The Guardian* indicates that subsequent NSA initiatives expanded data processing capacity significantly, with a 2012 system reportedly doubling the volume of information filtered through agency infrastructure. These developments contributed to sustained concerns regarding the expansion of surveillance capabilities beyond the scope of earlier legal frameworks (Greenwald & Ackerman, 2013).

Within the broader analytical debate, these practices reflect an ongoing recalibration between security governance and civil liberties. While executive authorities have consistently justified large-scale data collection as necessary for the detection and prevention of security threats, legal and privacy scholars have raised concerns regarding the implications of mass surveillance for constitutional protections, particularly in relation to informational privacy, proportionality, and the potential for institutional overreach (Greenwald & Ackerman, 2013). These practices demonstrate that the Obama administration's counter-terrorism policies produced consequences that extended beyond immediate security concerns, shaping political, social, and humanitarian realities both within and outside the United States.

5.3 The Impact of Barack Obama's War on Terror

Civilian casualties in Afghanistan increased markedly over the course of the U.S.-led intervention, with particularly pronounced escalation during the period of the Obama administration. Despite official commitments to conduct a more restrained and precise form of warfare, recorded fatalities among civilians rose from 2,118 in 2008 to a peak of 3,701 in 2014, before marginally declining to 3,545 in 2015. This trajectory persisted irrespective of fluctuations in troop levels, indicating that variations in foreign military presence did not

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

produce a corresponding reduction in civilian harm. Rather, patterns of violence suggest that operational intensity, rather than troop numbers alone, constituted a more decisive factor in shaping civilian exposure (Crawford, 2011).

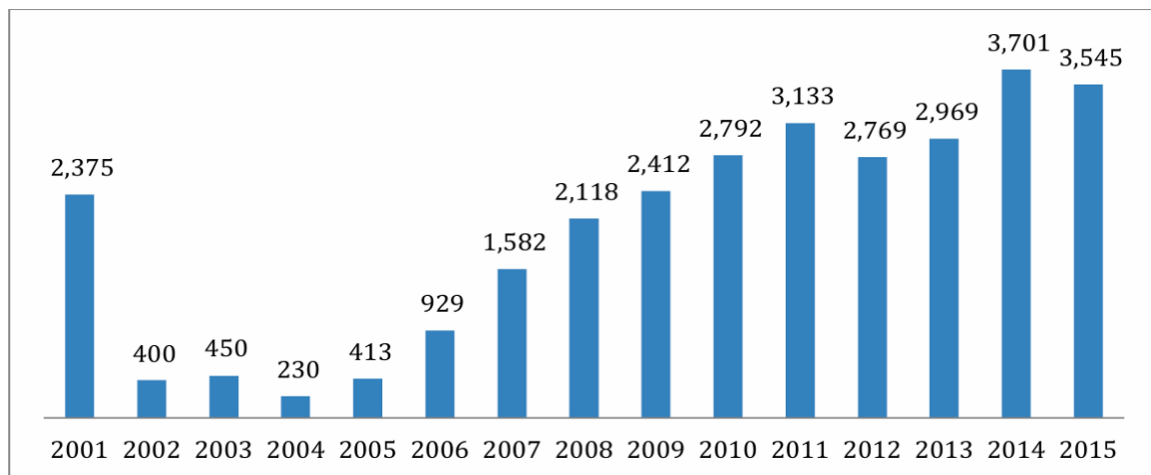
Pro-government forces, including U.S., NATO, and Afghan units, were consistently implicated in significant civilian harm, particularly during phases of intensified counter-insurgency operations and during the transition toward Afghan-led security responsibilities. The troop surge implemented between 2009 and 2011 coincided with an observable increase in civilian fatalities, despite subsequent revisions to rules of engagement intended to reduce harm. Operational practices such as night raids and joint offensives continued to generate civilian casualties, thereby complicating claims that procedural refinement alone could mitigate collateral damage. Aerial operations, including drone strikes, also remained a persistent source of civilian deaths. Although frequently presented as precision-based interventions, their cumulative effect contributed to sustained levels of non-combatant harm (Crawford, 2011).

Beyond direct conflict-related fatalities, civilian vulnerability was further compounded by indirect and residual forms of violence. Deaths associated with explosive remnants of war, including landmines and unexploded ordnance, increased by 2015, extending the temporal reach of conflict-related harm beyond active hostilities. Civilian injuries followed a similar upward pattern, with more than 7,000 recorded in 2015 alone, exceeding fatality rates and indicating a broader diffusion of violence into civilian life (UNAMA, 2016).

The evidence indicates that the counter-terrorism framework implemented during the Obama administration did not produce a sustained reduction in civilian harm. Instead, empirical patterns suggest an environment in which shifts in strategy and operational doctrine did not translate into effective civilian protection, thereby contributing to continued instability and undermining the stated objectives of the intervention.

Chapter Five: The Cost and Consequences of Barack Obama’s War on Terror

Figure 5.1: Number of Civilians Killed in Afghanistan from 2001 to 2015



Source: Crawford, N.C. (2011, September). Civilian Death and Injury in Afghanistan, 2001- 2011.

The bar chart titled “*Number of Civilians Killed in Afghanistan from 2001 to 2015*” presents a longitudinal record of civilian fatalities during the Afghanistan War, revealing a sustained escalation in harm during the period associated with the Obama administration. Between 2009 and 2015, civilian deaths display a consistent upward trajectory, beginning with 2,118 fatalities in 2008, already more than double the 2006 figure in the context of intensified post-surge operations initiated under Bush and expanded under Obama. In 2009, fatalities increased to 2,412, a rise plausibly linked to expanded U.S. and NATO operational activity in southern Afghanistan. The figure rose again to 2,792 in 2010, coinciding with the deployment of an additional 30,000 U.S. troops under Obama’s surge strategy. In 2011, civilian deaths reached 3,133, marking the highest recorded level at that point. Although 2012 registered a temporary decline to 2,769, this was followed by a renewed increase to 2,969 in 2013. The peak occurred in 2014, when civilian fatalities reached 3,701, aligning with the formal conclusion of U.S. combat operations and the transition to the Resolute Support Mission. In 2015, the figure marginally declined to 3,545, yet remained at a persistently elevated level.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

Governments often use casualty statistics in policy discourse to justify the necessity of forceful intervention in countering terrorism, invoking historical analogies such as the Vietnam-era proposition that it may become 'necessary to destroy the town to save it' (Carter, 2018). However, the aggregated nature of the data obscures the distinction between combatants and non-combatants, thereby complicating claims of operational precision and controlled use of force. As Connah (2021) notes, such statistical representations expose the structural limitations of external military intervention rather than its effectiveness.

By 2014, U.S. expenditure on the Afghanistan Security Forces Fund exceeded \$54 billion, allocated to the training and equipping of Afghan security institutions (Monten & Gisselquist, 2014). Despite this extensive investment, troop casualties continued to rise, indicating a disjunction between financial input and security outcomes. From a cost-benefit perspective, the prolonged duration and escalating expenditure of the intervention further suggest diminishing returns in relation to its strategic objectives (Carati, 2015).

Civilian casualties also stand in tension with stated normative commitments, particularly regarding the protection of women, given the sustained incidence of female fatalities in ground operations, aerial strikes, and suicide attacks (UNAMA, 2016). This pattern raises questions regarding the extent to which post-conflict reconstruction principles, or *jus post bellum*, were operationalised within the intervention framework. Effective post-conflict governance would require integrated attention to security provision, institutional development, economic recovery, healthcare systems, and educational infrastructure. Given the duration and depth of Western engagement, responsibility for aspects of Afghanistan's post-conflict order has been argued to extend, at least in part, to intervening powers (Boyle, 2013).

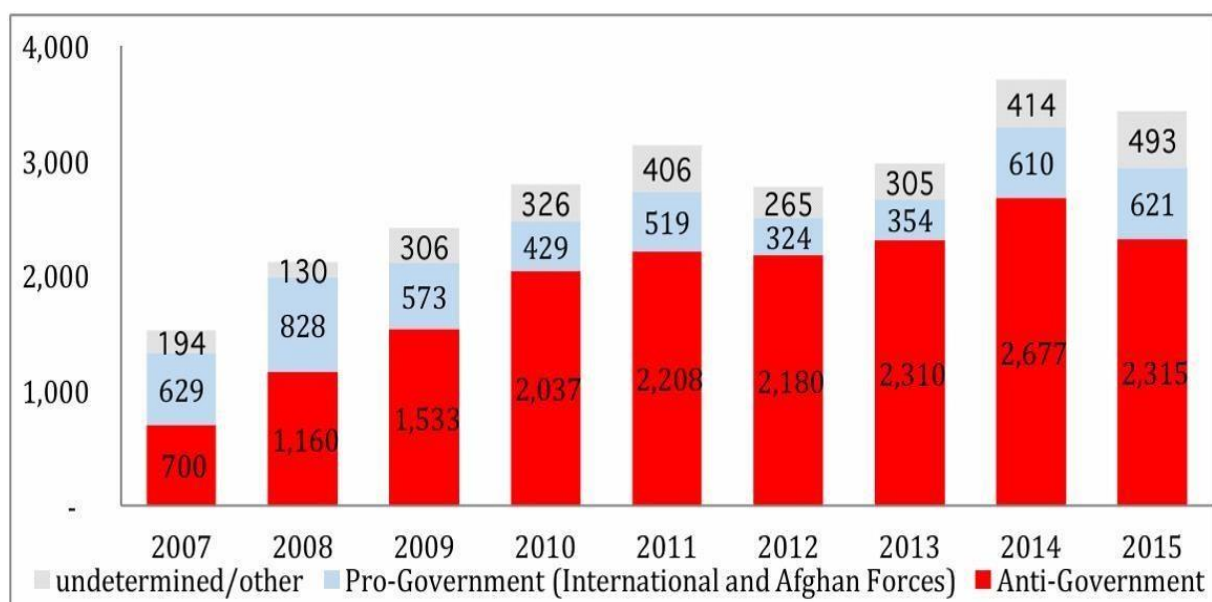
Operational realities further complicate the distinction between civilian and combatant populations, particularly in contexts where insurgent actors are embedded within civilian environments (UNAMA, 2019). This structural intermingling complicates the attribution of

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

legitimacy in the use of force and raises enduring questions regarding the classification of civilian harm as collateral damage. Such ambiguities place significant pressure on the ethical and legal justification of external military intervention.

From a normative and theological perspective, restraint from violent action in defence of civilians may, in certain interpretations, constitute a higher moral imperative than the pursuit of retaliatory force. Kaldor (2013) argues that a central analytical failure in the conflict has been the marginalisation of civil society actors, including students, women, and tribal elders, whose social positioning is central to Afghanistan's political fabric. A more embedded understanding of ethnic and tribal structures might have altered the epistemic foundations of intelligence production, moving away from an approach that treated the conflict through predominantly instrumental or strategic logics (Bird & Marshall, 2011).

Figure 5.2. UNAMA Attribution of Civilian Death from 2007-2015



Source: UNAMA. (2008-2015). Afghanistan Annual Report: Protection of Civilians in Armed Conflict.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

The figure titled “*UNAMA Attribution of Civilian Deaths from 2007-2015*” provides a disaggregated account of civilian fatalities in Afghanistan according to perpetrator categories, distinguishing between Anti-Government Elements (red), Pro-Government Forces (blue), and Undetermined/Other Actors (grey). Compiled by the United Nations Assistance Mission in Afghanistan (UNAMA), the dataset covers a period that overlaps substantially with Barack Obama's presidency (2009-2017), thereby enabling an empirical reading of conflict dynamics during a phase of intensified international military engagement.

Across the period 2008-2015, total civilian deaths exhibit a sustained increase, rising from 2,118 in 2008 to a peak of 3,701 in 2014, followed by a marginal decline to 3,429 in 2015. This escalation unfolds despite strategic recalibrations introduced by the Obama administration, including troop surges, revised rules of engagement, and subsequent force reductions. Within this broader trajectory, Anti-Government Elements remain the dominant source of civilian fatalities, with attributed deaths increasing from 1,160 in 2008 to 2,677 in 2014. This pattern reflects the continued intensity of insurgent activity and the centrality of non-state armed groups in producing civilian harm.

Pro-Government Forces, comprising U.S., NATO, and Afghan security personnel, account for a comparatively smaller proportion of civilian deaths, yet their contribution remains operationally and normatively significant. Recorded fatalities attributed to these actors fluctuate from 828 in 2008 to 621 in 2015. The gradual decline over time corresponds with procedural adjustments in military engagement, the refinement of targeting protocols, and the phased withdrawal of U.S. forces beginning around 2011-2012. Nevertheless, the persistence of civilian casualties linked to Pro-Government operations continued to generate scrutiny from humanitarian and legal observers, particularly in relation to compliance with proportionality and distinction principles.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

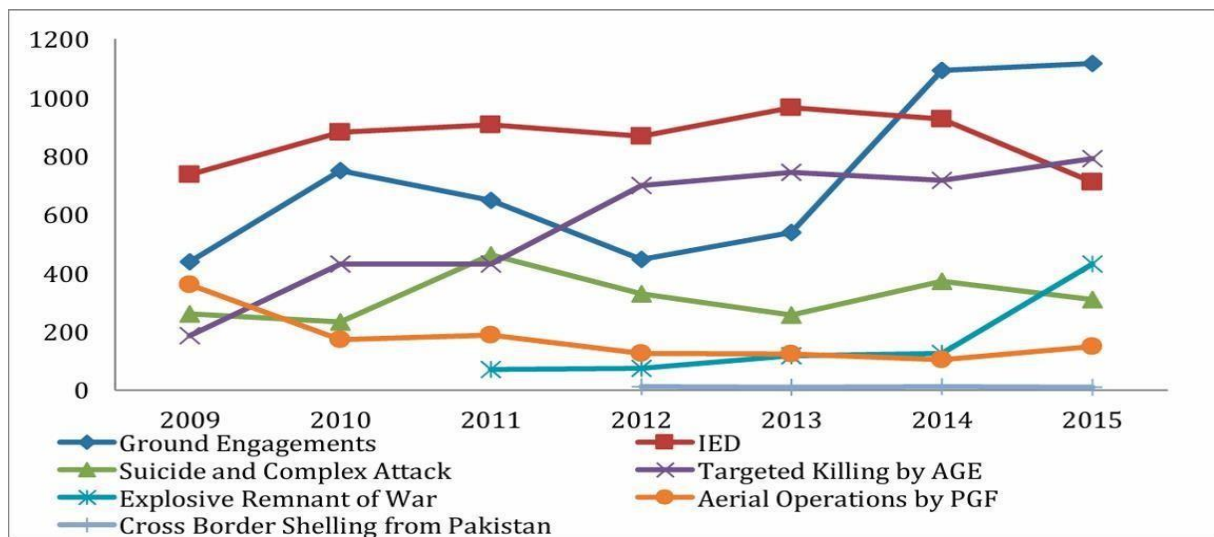
The category of Undetermined/Other Actors also shows a gradual increase, rising from 130 fatalities in 2008 to 493 in 2015. This expansion reflects the evidentiary and logistical constraints inherent in conflict environments, where attribution of responsibility is frequently complicated by fragmented command structures, overlapping operational theatres, and limited access to verifiable information. As such, this category demonstrates the epistemic opacity of contemporary warfare, in which responsibility for civilian harm is not always readily assignable.

Several structural patterns emerge from the dataset. The period of troop escalation between 2009 and 2011 coincides with heightened levels of civilian mortality attributable to both insurgent and pro-government actors, suggesting that intensified military activity did not translate into reduced civilian exposure to violence. Similarly, the subsequent drawdown of foreign forces after 2011 does not correspond with a proportionate decline in civilian casualties, challenging linear assumptions that reduced international military presence necessarily improves civilian security outcomes.

In aggregate, the figure captures the persistence of lethal violence throughout the Obama administration's engagement in Afghanistan. Rather than producing a stabilising effect, shifts in military strategy appear to have been accompanied by continued volatility in civilian harm, reflecting the structural complexity of a conflict in which multiple actors, overlapping forms of violence, and contested attribution converge within a single operational environment.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

Figure 5.3: Patterns of Civilian Killing in Afghanistan, 2009-2015



Source: UNAMA. (2008-2015). Afghanistan Annual Report: Protection of Civilians in Armed Conflict.

The figure titled “*Patterns of Civilian Killing in Afghanistan, 2009-2015*” provides a granular account of civilian mortality during the war on terror under President Barack Obama’s administration, mapping the heterogeneous modalities through which non-combatants were killed. Rather than presenting a uniform pattern of violence, the data reveals a fragmented conflict environment shaped by overlapping forms of lethal force, including ground engagements, aerial operations, and post-conflict hazards. In analytical terms, the figure complicates official narratives of precision warfare and civilian protection by exposing persistent divergences between strategic intent and operational outcomes.

Within the temporal span under consideration, a marked escalation in civilian fatalities is observable between 2013 and 2014, culminating in a peak exceeding 1,000 deaths by 2015. This upward trajectory coincides with the continuation of the U.S.-led troop surge and the progressive transfer of combat responsibilities to Afghan security forces. Rather than producing a stabilising effect, this transition period corresponds with intensified exposure of civilians to kinetic violence during joint operations. Claims of increased precision and tighter rules of

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

engagement are difficult to reconcile with the sustained lethality of ground combat, where civilians remained recurrently vulnerable to operational spillover.

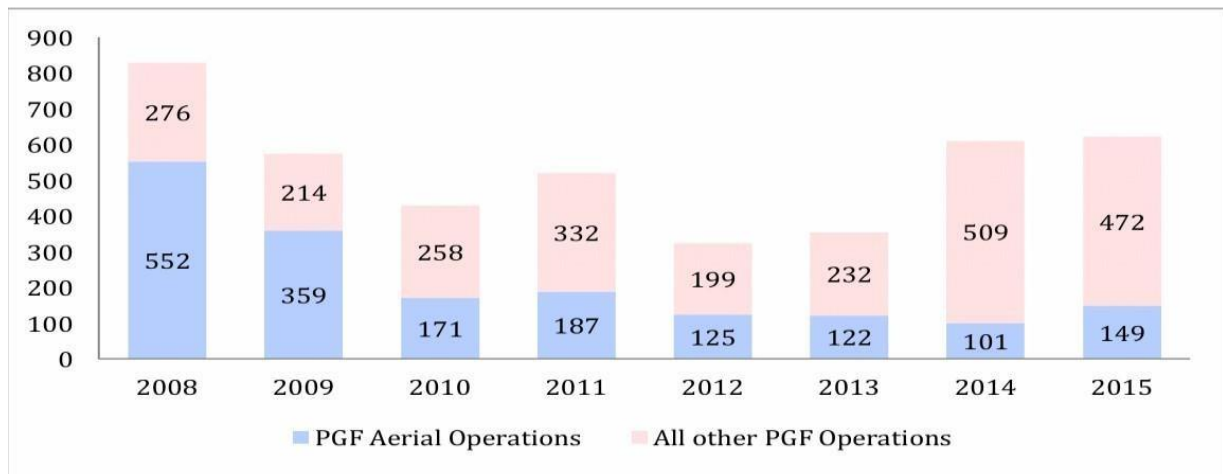
Aerial operations conducted by pro-government forces exhibit a relatively stable pattern of civilian harm across the period. While not subject to the same sharp fluctuations as ground-based fatalities, the persistence of casualties associated with airpower indicates a continuous risk profile embedded within aerial targeting practices. Despite being framed as a more precise alternative to conventional warfare, airstrikes consistently generated civilian casualties, demonstrating the structural limitations of technological mediation in reducing harm within complex insurgent environments.

A particularly significant development is the rise in fatalities attributable to Explosive Remnants of War, which by 2015 surpassed deaths caused by aerial operations and approached 400 recorded incidents. This category reflects the enduring material afterlife of armed conflict, encompassing landmines, unexploded ordnance, and abandoned munitions. The increasing toll associated with these devices indicates that civilian vulnerability persisted independently of active combat operations, extending violence temporally beyond formal military engagements. It also points to deficiencies in post-conflict remediation, particularly in demining capacity and hazard mitigation strategies, which remained insufficient relative to the scale of contamination.

In short, the figure demonstrates that civilian exposure to lethal harm in Afghanistan was not confined to discrete phases of combat but persisted across multiple operational domains and temporal stages of the conflict. The coexistence of active combat casualties and post-conflict fatalities reflects the layered structure of violence characteristic of protracted counter-insurgency warfare. Within this framework, even technologically advanced military systems and evolving tactical doctrines did not translate into consistent reductions in civilian harm, revealing the limits of militarised approaches to counter-terrorism in environments marked by diffuse and enduring insecurity.

Chapter Five: The Cost and Consequences of Barack Obama’s War on Terror

Figure 5.4: Afghan Civilian Deaths Due to Aerial Operations and All Other Pro-Government Operations



Source: UNAMA. (2008-2015). Afghanistan Annual Report: Protection of Civilians in Armed Conflict.

The figure titled “*Afghan Civilian Deaths Due to Aerial Operations and All Other PGF Operations, 2008-2015*” provides a disaggregated account of civilian fatalities attributable to pro-government forces during the period corresponding largely to the Obama administration (2009-2015). By separating aerial operations from other pro-government force (PGF) activities, the dataset enables a more differentiated reading of how distinct operational modalities contributed to civilian harm within the broader counter-insurgency campaign.

In 2009, the first full year of the Obama presidency, total civilian deaths linked to PGF operations stood at 573, comprising 359 fatalities from aerial operations and 214 from other military activities. This figure represented a decline from the 2008 peak of 828, suggesting an initial reduction in overall harm following the transition in administration. However, this downward movement proved temporary, as civilian fatalities stabilised and subsequently increased after 2012, reaching 610 in 2014 and 621 in 2015. The persistence of elevated casualty levels during the later phase of the intervention indicates that shifts in strategy and force posture did not translate into sustained reductions in civilian vulnerability.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

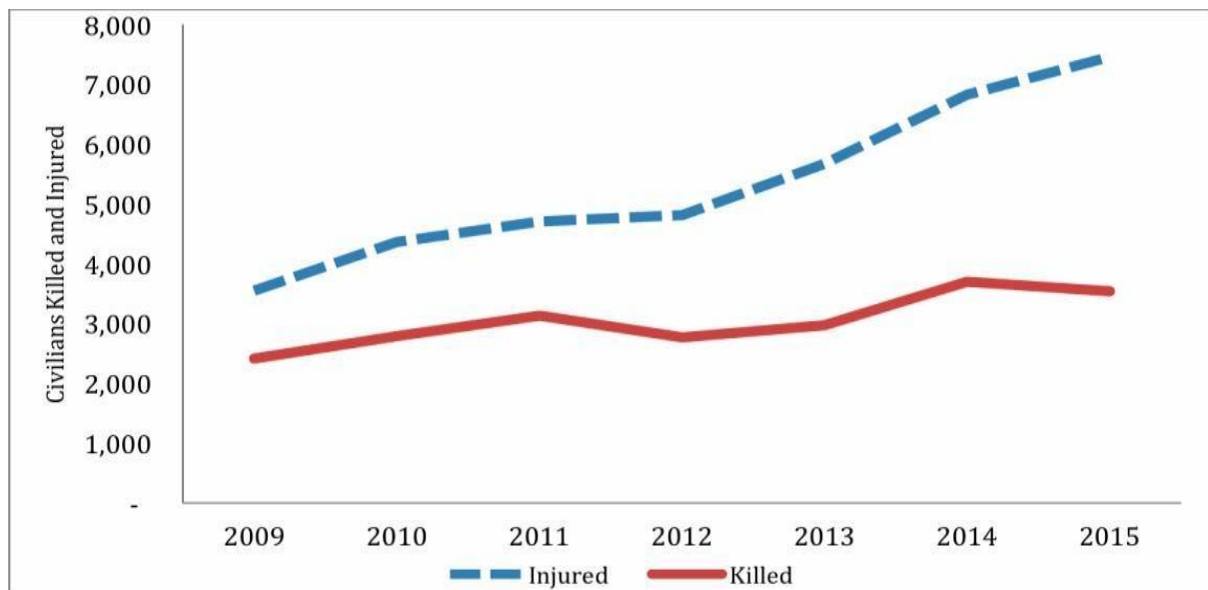
Aerial operations display a comparatively declining trajectory over the period, falling from 359 deaths in 2009 to 101 in 2014, before rising modestly to 149 in 2015. This pattern corresponds with the increasing emphasis on precision targeting and the gradual reduction of large-scale kinetic air campaigns. While the decline suggests some operational recalibration, the continued occurrence of civilian fatalities demonstrates that airpower remained an enduring source of collateral harm despite its framing as a highly discriminating form of warfare.

In contrast, civilian deaths associated with other PGF operations exhibit a marked increase, particularly from 2011 onwards. These fatalities increased sharply to 509 in 2014 and remain elevated at 472 in 2015. The timing of this escalation coincides with the drawdown of U.S. forces and the growing reliance on Afghan National Security Forces to conduct ground operations. Within this context, operational responsibility shifted increasingly toward local actors whose command structures, training capacity, and accountability mechanisms were comparatively uneven. Reports of weak oversight, reliance on contested intelligence, and disproportionate use of force suggest that this transition may have altered the operational character of ground engagements in ways that intensified civilian exposure to harm.

The divergence between declining aerial casualties and rising ground-operation fatalities complicates the narrative of a progressively more restrained and civilian-sensitive military strategy. While aerial warfare became less lethal over time, this reduction was offset by increasing harm generated through other pro-government operations, particularly during the period of Afghan-led security responsibility. The dataset therefore reflects a redistribution rather than a reduction of civilian risk, raising critical questions about the effectiveness of strategy shifts in producing meaningful improvements in civilian protection under the counter-terrorism framework.

Chapter Five: The Cost and Consequences of Barack Obama’s War on Terror

Figure 5.5: Afghan Civilians Killed and Injured from 2009-2015



Source: UNAMA data for 2009-2015 from UNAMA (2016, February). Afghanistan Annual Report 2015: Protection of Civilians in Armed Conflict

The figure titled “*Afghan Civilians Killed and Injured from 2009-2015*” maps the trajectory of civilian harm during the Obama administration, distinguishing between fatalities (solid red line) and injuries (dashed blue line) across seven years of sustained conflict. The dataset captures both dimensions of civilian suffering, revealing not only mortality trends but also the broader burden of non-fatal harm associated with prolonged military engagement.

Civilian deaths began at over 2,500 in 2009 and rose steadily through the early phase of the Obama presidency, reaching a peak of approximately 3,200-3,300 in 2011. A modest decline in 2012 suggests a temporary adjustment in operational tempo or tactical approach, yet this reduction is short-lived. From 2013 onwards, fatalities increased again, culminating in nearly 3,700 deaths in 2014 before a slight decline in 2015. This oscillating pattern indicates that variations in strategy did not produce a stable or sustained reduction in civilian mortality.

Civilian injuries follow a more pronounced upward trajectory. Beginning at approximately 3,700-3,800 in 2009, injuries increased each year consistently, reaching a peak of over 7,000 in 2015. The widening divergence between fatalities and injuries suggests a shift in the intensity

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

and survivability of violence, where a growing proportion of incidents result in non-fatal but severe harm. This pattern is consistent with environments characterised by repeated exposure to explosive force, aerial bombardment, and high-intensity ground engagements.

The broader trajectory challenges claims that the Obama administration's reliance on drone warfare and precision targeting resulted in a more contained form of conflict with fewer civilian casualties. While such technologies were frequently framed as mechanisms for limiting collateral damage, the aggregate data indicate continued escalation in both deaths and injuries. Rather than producing a linear reduction in civilian exposure, the conflict appears marked by sustained and expanding harm across multiple modalities of violence.

One interpretive dimension of the rising injury rate is its possible association with cycles of retaliatory violence, including insurgent responses to drone strikes and targeted operations. In this sense, civilian harm may reflect not only direct military action but also the broader dynamics of escalation embedded within counter-terrorism strategy. The increasing scale of injuries, in particular, suggests prolonged exposure of civilian populations to repeated episodes of violence, with cumulative physical and psychological consequences.

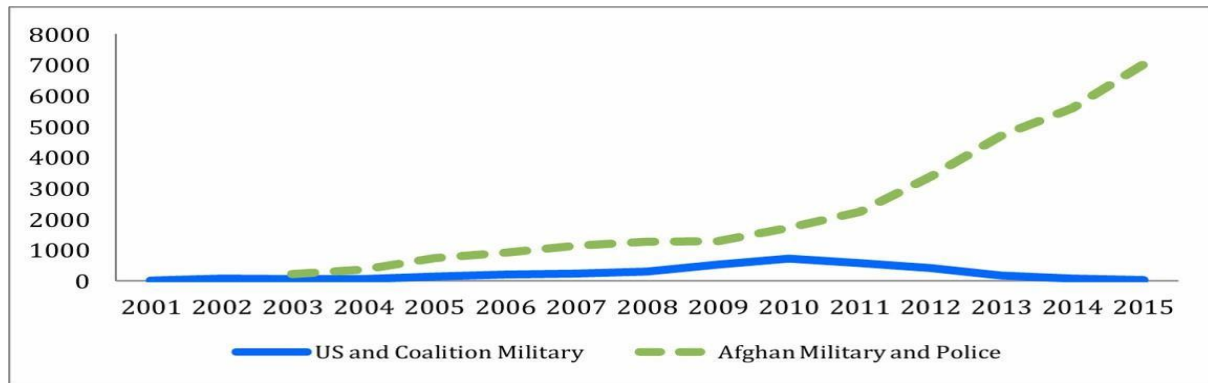
From a strategic standpoint, the persistence of high civilian casualty levels complicates assumptions about operational effectiveness. Tactical gains achieved through the removal of high-value targets coexist with deteriorating civilian security conditions, raising questions about the extent to which military outcomes translated into broader stabilisation. The continued rise in civilian harm may also have contributed to counterproductive political effects, including strengthened insurgent recruitment narratives, intensified anti-American sentiment, and increased institutional fragility within the Afghan state.

To sum up, the figure situates civilian harm as a structural feature of the conflict rather than an incidental by-product of isolated incidents. It also raises enduring normative concerns regarding proportionality and distinction, particularly in the context of a war increasingly

Chapter Five: The Cost and Consequences of Barack Obama’s War on Terror

characterised by covert operations, remote warfare, and reliance on special forces activity in complex civilian environments.

Figure 5.6: Coalition Military and Afghan Security Force Deaths, 2001-2015



Sources: Defense Casualty Analysis System. (2016). Overseas Contingency Operations.

The figure titled “*Coalition Military and Afghan Security Force Deaths, 2001-2015*” presents the differentiated human cost of the conflict across two distinct categories: Coalition military personnel (solid blue line) and Afghan military and police forces (dashed green line). Focusing on the period corresponding to Barack Obama’s presidency (2009-2015), the dataset captures the effects of strategic recalibration, including the troop surge, subsequent drawdown, and the gradual transfer of security responsibilities to Afghan institutions.

Coalition fatalities reached their highest level in 2010, at approximately 700-800 deaths, reflecting the intensity of combat operations during the peak of the U.S. surge strategy. Following the announcement in 2011 of a phased withdrawal of U.S. forces, Coalition deaths entered a sustained downward trajectory, falling to fewer than 200 annually by 2015. This decline corresponds with reduced direct exposure of U.S. and NATO personnel to frontline combat as operational responsibility was progressively transferred away from international forces.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

In contrast, Afghan security force casualties display a steep and continuous increase over the same period. From just over 2,000 deaths in 2009, fatalities rose dramatically to approximately 7,000 by 2015, with acceleration becoming particularly pronounced after 2012. This escalation aligns with the policy of 'Afghanization,' through which Afghan National Army and police units assumed primary responsibility for combat operations and internal security functions previously conducted by Coalition forces. The resulting casualty distribution reflects a structural shift in burden-sharing, wherein domestic forces absorbed a growing share of direct combat risk.

In addition to these battlefield dynamics, drone warfare emerges as a significant factor shaping the broader security environment, particularly in Pakistan. Data from the New America Foundation records 334 drone strikes conducted between June 2004 and October 2012, with 288 of these strikes (approximately 86 per cent) occurring between January 2009 and October 2012 under the Obama administration (New America Foundation, n.d.). This period coincides with a marked intensification of remote-targeting operations and an expanded reliance on unmanned aerial systems as a core instrument of counter-terrorism strategy.

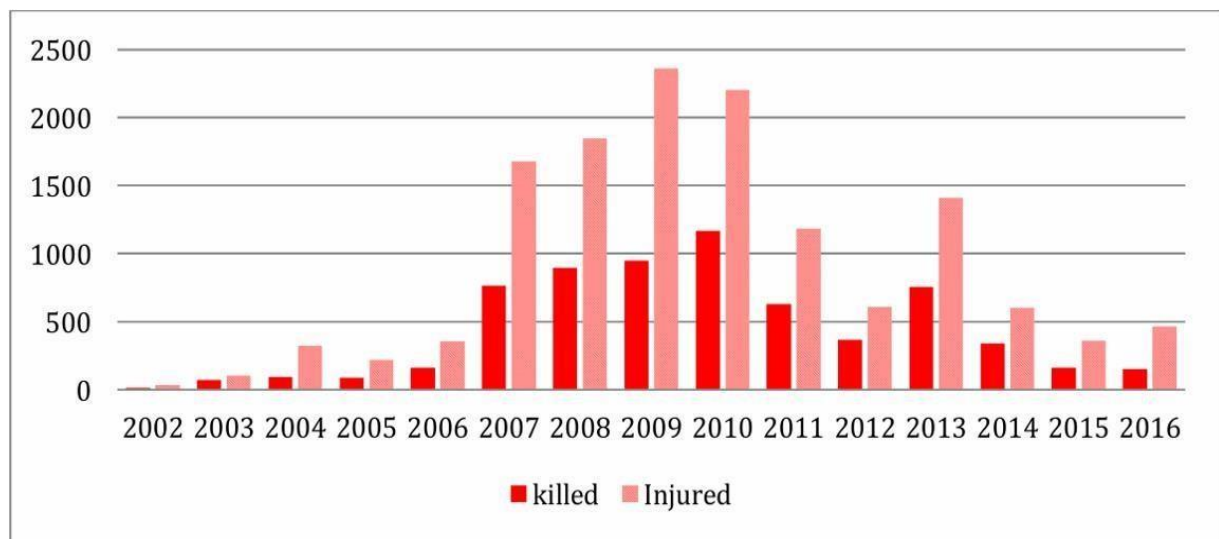
The temporal overlap between increased drone activity and spikes in suicide attack casualties in Pakistan, particularly during 2009-2010, suggests a broader pattern of cyclical escalation. While drone strikes were directed at militant actors, their expansion corresponded with retaliatory violence in the form of suicide bombings and insurgent attacks, contributing to a heightened security volatility within the region. This interaction reflects the complex feedback loops embedded in asymmetric warfare, where tactical strikes may generate secondary effects that extend beyond immediate operational objectives.

All in all, the figure illustrates a redistribution of wartime fatalities rather than a reduction in general violence. While Coalition casualties decline due to withdrawal and reduced exposure, Afghan security forces experience sharply rising losses as they assume frontline

Chapter Five: The Cost and Consequences of Barack Obama’s War on Terror

responsibilities. The intensification of drone operations contributes to broader regional instability, reinforcing patterns of reciprocal violence that complicate claims of strategic containment.

Figure 5.7: Number of People Killed and Injured in Militant Suicide Attacks, in Pakistan, 2002- June 2016



Source: South Asia Terrorism Portal. (2016). Fidayeen (Suicide Squad) Attacks in Pakistan.

The figure titled “*Number of People Killed and Injured in Militant Suicide Attacks in Pakistan, 2002-June 2016*” provides an empirical entry point into the evolving security landscape of Pakistan during the Obama administration, particularly between 2009 and 2016, a period characterised by intensified counter-terrorism coordination between the United States and Pakistan, expanded drone warfare, and sustained military operations in the Federally Administered Tribal Areas. The dataset captures both fatalities and injuries, allowing for a differentiated reading of the intensity and diffusion of violence over time.

The most severe escalation occurred in 2009 and 2010, when annual fatalities approached approximately 1,000, and injuries exceeded 2,000. This period aligns with the expansion of U.S. drone operations in Pakistan’s tribal regions, primarily targeting senior figures within Al-

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

Qaeda and the Pakistani Taliban. Rather than producing containment, this phase corresponds with a broader cycle of retaliatory violence, including suicide attacks across major urban centres in Pakistan. Between 2011 and 2013, casualty figures declined moderately, suggesting a temporary reduction in operational intensity or adaptive responses by militant networks. A renewed fluctuation appears in 2013, driven in part by sectarian violence, before a more sustained decline emerges from 2014 onwards. By 2015 and 2016, casualties from suicide bombings returned to levels comparable with the pre-2007 period. The temporal distribution indicates a non-linear relationship between counter-terrorism escalation and violence reduction, where tactical intensification coexists with episodic destabilisation.

Within this trajectory, drone warfare constitutes a central operational variable. Data from Yemen indicates between 40 and 50 confirmed U.S. drone strikes between 2002 and September 2012, resulting in approximately 357 to 1,026 deaths (The Bureau of Investigative Journalism, 2012). In Somalia, recorded strikes range from three to nine, with fatalities estimated between 58 and 170. Aggregated datasets suggest that approximately 85 per cent of individuals killed in drone strikes between 2004 and 2012 are classified as militants (New America Foundation, n.d.), though these classifications remain contested due to methodological opacity and definitional elasticity. Civilian casualty estimates vary across theatres, ranging from 18 to 26 per cent in Pakistan, approximately 16 per cent in Yemen, and between 7 and 33.5 per cent in Somalia (The Bureau of Investigative Journalism, 2012). These variations reflect both operational differences and persistent difficulties in verifying combatant status in remote conflict zones.

From a doctrinal perspective, U.S. counter-terrorism strategy under Obama placed considerable emphasis on the elimination of High-Value Targets (HVTs), particularly senior leadership within Al-Qaeda and affiliated organisations. This approach was consistently articulated in political discourse and operational justification, framing targeted killing as a

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

mechanism for degrading organisational capacity (Boyle, 2013). However, empirical outcomes indicate a disproportionate concentration of casualties among lower-level operatives and civilians. Peter Bergen's analysis suggests that only 49 high-ranking militant leaders were killed in drone operations since 2004, representing approximately 2 per cent of total drone-related fatalities, while the remaining 98 per cent comprised lower-tier actors and non-combatants (Bergen, 2012; Brooks, 2012). This distribution indicates a structural divergence between strategic intent and operational output.

Despite the significant expansion of drone strikes under the Obama administration, the number of successfully eliminated high-value targets did not increase proportionally (Miller, 2011). This discrepancy prompted critical reflections from within militant networks, including accounts suggesting that targeting practices extended beyond leadership decapitation toward broader patterns of lethality (Perlez & Shah, 2010). The operational widening of targeting criteria, encompassing lower-ranking fighters and individuals with indirect affiliations, represents a notable expansion in the scope of lethal engagement under U.S. policy (Boyle, 2013).

Beyond immediate tactical outcomes, drone warfare has also contributed to shifts in militant organisation and recruitment dynamics. In Yemen, intensified aerial strikes have been associated with increased mobilisation into Al-Qaeda in the Arabian Peninsula and related factions, driven in part by local grievances and perceptions of collective punishment (Swift, 2012). In Pakistan, while pressure on Al-Qaeda structures increased, organisational fragmentation facilitated the emergence of alternative militant actors, particularly Tehrik-i-Taliban Pakistan (TTP), which subsequently posed a more immediate threat to the Pakistani state (Fair, 2011). The diffusion of militant activity is further evidenced by incidents such as the attempted Times Square bombing by Faisal Shahzad, linked to TTP networks, and the 2009 attack on Camp Chapman, claimed by TTP and potentially coordinated with Al-Qaeda elements

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

(Mazzetti & Shane, 2010). These developments illustrate how targeted pressure on one organisation may coincide with the reconfiguration rather than the elimination of militant threats.

At the level of domestic governance, the Obama administration's stated aspiration to transition toward a more law enforcement-oriented counter-terrorism model remained constrained by entrenched institutional and political logics. Terrorism continued to be framed as an exceptional and existential threat, sustaining the expansion of security architectures established in the post-9/11 period. As De Groot and Regilme (2020) argue, this framing reproduced the institutional foundations of the war on terror rather than displacing them.

The expansion of the security state is evident in structural transformations across federal law enforcement and intelligence agencies. Following 9/11, institutions such as the FBI underwent functional realignment toward counter-terrorism priorities, supported by increased federal funding and legislative instruments such as the Patriot Act, which expanded surveillance capacities, including warrantless data collection (Lustick, 2005). The intelligence apparatus expanded correspondingly, with approximately 1,271 government organisations and 1,931 private contractors engaged in intelligence and counter-terrorism functions (Priest & Arkin, 2011). Nearly 900,000 individuals held top-secret clearances, with operations distributed across approximately 10,000 sites within the United States, indicating extensive bureaucratic institutionalisation of counter-terrorism activity.

Within this framework, threat perception became increasingly operationalised through precautionary logics such as the 'One Percent Doctrine,' which legitimised action based on low-probability threat assessments (Lustick, 2005). This orientation contributed to a substantial rise in counter-terrorism prosecutions, although empirical outcomes reveal a persistent gap between investigative activity and evidentiary sufficiency. Between 2005 and 2009, federal prosecutors declined to pursue charges in 67 per cent of terrorism-related cases, indicating a

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

divergence between perceived threat volume and prosecutable criminal conduct (Lustick, 2005).

The expansion of counter-terrorism enforcement also produced institutional self-reinforcement effects, in which elevated activity levels justified continued funding, organisational growth, and political investment. As Lustick (2005) notes, this dynamic extended beyond state institutions to encompass private sector actors, non-governmental organisations, and academic entities, all of which became structurally embedded in the counter-terrorism economy. Jackson (2011) observes that actors challenging dominant counter-terrorism narratives often encounter significant professional and institutional constraints, reflecting the consolidation of a policy environment resistant to fundamental revision.

These developments indicate that the war on terror under Obama operated through a dual structure: Externally, through expanded drone warfare and counter-insurgency operations abroad, and internally, through the consolidation of a security apparatus that embedded terrorism as a persistent organising principle of governance.

As the consequences of these policies became increasingly visible, they provoked widespread debate and criticism, generating strong reactions from the international community, human rights organizations, and segments of the American public.

5.4 Public and Global Reaction

The war on terror was formally framed around regime transformation, governance reform, conflict reduction, and post-war reconstruction. In practice, it generated protracted asymmetric warfare, extensive civilian harm, systemic human rights violations, entrenched corruption, and long-term military entanglement, which collectively weakened confidence in the international order (Connah, 2021). The intervention in Afghanistan was primarily justified as a preventive measure designed to ensure that the country would not function as a sanctuary for transnational terrorism, with the 9/11 attacks serving as the central legitimising reference point (Ledwidge,

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

2013). Within Western discourse, this was presented through the doctrine of self-defence, widely recognised in international law as a permissible basis for the use of force (Cortright, 2011). In much of the Muslim world, however, the intervention was interpreted less as a defensive necessity and more as an assault on Islamic identity and sovereignty (Misra, 2004).

Although early military operations succeeded in displacing the Taliban regime and disrupting Al-Qaeda's operational presence, they did not translate into the formation of a stable or self-sustaining political order (Carati, 2015). The invocation of self-defence as a justificatory framework was progressively weakened by the scale of destruction and civilian loss, which far exceeded the fatalities associated with the 9/11 attacks themselves (Reader, 2014). Within critical scholarship, this disparity has been used to question the proportionality and legitimacy of the intervention, particularly in light of its long-term humanitarian and political consequences (Connah, 2021).

In Iraq, the occupation came to be associated with strategic miscalculation, institutional fragmentation, and the inability to construct a functioning post-invasion state. A comparable pattern emerged in Afghanistan, where the Obama administration's troop surge did not resolve underlying governance deficits. Military and diplomatic personnel frequently operated with a limited understanding of local linguistic, tribal, and cultural contexts, reproducing earlier structural errors observed in Iraq. The reliance on warlords and local power brokers further entrenched patronage networks and corruption, weakening the legitimacy of the central state and contributing to insurgent recruitment dynamics (Filkins, 2019). Although Obama sought to recalibrate U.S. engagement toward more constrained uses of force, the Afghan state continued to depend heavily on external assistance and remained deficient in internal legitimacy and institutional coherence (Filkins, 2019).

The 2011 NATO intervention in Libya generated further criticism regarding the coherence and limits of humanitarian justification in practice. Initially authorised under a United Nations

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

mandate for civilian protection, the operation expanded into de facto regime change. Military actions extended beyond protective objectives to include strikes against state infrastructure, accelerating regime collapse. Following the fall of Muammar Qaddafi, the absence of a structured post-intervention political framework contributed to institutional disintegration and civil war, creating conditions for militia fragmentation and the expansion of extremist groups. Obama later characterised the intervention as his most significant policy error, with subsequent instability reinforcing concerns about unintended consequences in externally driven regime change operations (Filkins, 2019).

In Syria, the cautious posture adopted by the Obama administration further reflected tensions between strategic restraint and deterrence credibility. Despite repeated chemical attacks attributed to the Assad regime, the administration refrained from enforcing its declared 'red line,' a decision widely interpreted as weakening deterrence signalling. While the pursuit of congressional approval reflected procedural caution, it also conveyed strategic hesitation in a highly volatile conflict environment (Filkins, 2019). Limited initiatives, including the failed Pentagon programme to train and equip moderate opposition forces, demonstrated the absence of a coherent and sustainable engagement strategy, leaving civilians exposed to prolonged conflict dynamics without effective external protection (Filkins, 2019).

Domestic political discourse in the United States increasingly reflected contestation over the direction of foreign policy. The 2012 presidential campaign, shaped in part by the killing of U.S. diplomatic personnel in Libya, intensified scrutiny of the administration's Middle East strategy. Mitt Romney's criticisms centred on perceived diplomatic ambiguity and withdrawal from assertive engagement, particularly in Syria and Afghanistan (Gerges, 2012). However, despite rhetorical divergence, Obama's approach remained broadly aligned with centrist strands of the Republican foreign policy establishment, privileging diplomatic containment and calibrated restraint over large-scale military intervention (Gerges, 2012).

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

As regional conditions deteriorated, pressure mounted for a more structured and adaptive foreign policy framework capable of responding to shifting political realities in the Middle East. The administration's preference for de-escalation and limited engagement increasingly appeared misaligned with the evolving fragmentation and militarisation of the region (Biddle et al., 2011). This disjuncture contributed to perceptions of strategic ambiguity, where avoidance of large-scale intervention coexisted with episodic, targeted military actions lacking a unified long-term design.

At the domestic level, revelations concerning surveillance practices further intensified debates on governance, civil liberties, and state authority. The administration defended intelligence-gathering programmes as necessary instruments of national security, particularly in relation to metadata collection and counter-terrorism monitoring. However, disclosures regarding the scale and scope of surveillance generated sustained criticism concerning privacy rights, transparency, and institutional accountability (Greenwald & Ackerman, 2013). The tension between security rationales and constitutional protections became a persistent feature of public and legal discourse in this period.

More broadly, the war on terror contributed to a significant deterioration in the moral authority of Western interventionism. As civilian casualties accumulated and strategic objectives remained partially unmet, public support for sustained military engagement declined, particularly in relation to Afghanistan (Newport, 2014). The visibility of civilian harm and the persistence of conflict undermined the credibility of long-term intervention narratives, reinforcing scepticism regarding the efficacy of military solutions to political violence (Connah, 2021).

The continued reliance on drone strikes and targeted killings further entrenched cycles of violence, rather than resolving underlying structural conditions of insurgency and instability. Within critical analyses, these practices are increasingly interpreted as inconsistent with

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

established principles of just war and humanitarian intervention, particularly in relation to proportionality and distinction (Kaldor, 2013). The persistence of violence across multiple theatres suggests that military force alone proved insufficient to address the political, social, and historical conditions underpinning terrorism, thereby reinforcing arguments for a fundamental reconsideration of prevailing counter-terrorism paradigms (Misra, 2004).

The growing criticism surrounding Obama's counter-terrorism policies contributed to broader scholarly and political debates regarding whether his administration truly marked a departure from the Bush era or instead represented a continuation of the same strategic framework.

5.5 Obama's War on Terror: *A Continuation Rather than a Change*

By 2008, rising public fatigue with the protracted 'War on Terror' created political space for Barack Obama to reposition terrorism within a law enforcement frame rather than an exclusively military one. His administration sought to differentiate itself from George W. Bush by advancing a counter-terrorism discourse that appeared more restrained, targeted, and normatively defensible (McCracken, 2011). Despite this rhetorical recalibration, operational practice remained closely aligned with the preceding administration, particularly in the continuation of high-value targeting, exemplified by the operation against Osama bin Laden (McCracken, 2011). Drone warfare also became a central instrument of counter-terrorism across Pakistan, Somalia, and Yemen, indicating continuity in coercive strategy rather than structural departure (Boyle, 2013). Jackson (2011) similarly reads these developments as incremental adjustments within an unchanged strategic architecture of the war on terror.

Although Obama's electoral campaign generated expectations of a decisive break from militarized counter-terrorism, terrorism continued to be treated as an exceptional threat requiring extraordinary state response (De Groot & Regilme, 2020). The institutional and political environment shaped after 9/11 entrenched this orientation, limiting the scope for substantive policy reconfiguration. Bush-era framing equated national security leadership with

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

military assertiveness, a logic that remained difficult to dislodge under conditions of bureaucratic continuity and electoral risk (De Groot & Regilme, 2020). Concern over perceptions of weakness reinforced reliance on kinetic tools, even where Obama sought to project restraint, with drone strikes functioning as a politically viable mechanism for sustaining intervention while reducing U.S. troop exposure (De Groot & Regilme, 2020).

Within this framework, targeted killings via drones were presented as a calibrated alternative to large-scale ground operations in Iraq and Afghanistan and to the detention practices associated with Guantanamo Bay. While these shifts were framed as efforts to reduce the most visible human rights controversies of earlier policies, they did not alter the underlying reliance on lethal force as a central pillar of counter-terrorism (De Groot & Regilme, 2020). The broader security architecture established after 9/11 remained largely intact, constraining the feasibility of meaningful demilitarization even where political will might have existed.

The AUMF provided the legal foundation for this continuity by construing Al-Qaeda and affiliated groups as enduring threats to U.S. national security (Deeks, 2016). By situating the September 11 attacks within a paradigm of armed conflict, it enabled the expansion of executive authority to pursue military operations beyond traditional battlefields. This juridical framing transformed counter-terrorism into a globalized war paradigm, normalizing military response as the default instrument of state action (Bentley in De Groot & Regilme, 2020). Leadership legitimacy became increasingly associated with wartime decisiveness, reinforcing the political durability of militarized policy.

Empirical indicators of public opinion further reinforced this trajectory. Polling data from the Pew Research Center indicated sustained domestic support for drone strikes during Obama's presidency, with a February 2013 survey recording 56% approval and 26% opposition (Drake in De Groot & Regilme, 2020). This broad acceptance reduced political incentives to depart from established practices and strengthened the perceived legitimacy of remote warfare.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

Institutional inertia also shaped policy continuity. The post-9/11 expansion of intelligence, surveillance, and counter-terrorism bureaucracies generated a dense security ecosystem that became increasingly self-reinforcing (Lustick, 2005). Within this environment, policy reversal carried significant political and administrative costs. The classification regime surrounding detainees at Guantanamo Bay, particularly their designation as 'unlawful enemy combatants,' further complicated any transition away from the war framework by suspending conventional legal categories and due process protections (De Groot & Regilme, 2020). Efforts to close the facility encountered structural barriers, including evidentiary constraints and the legal consequences of intelligence obtained through coercive interrogation practices (Klaidman, 2012).

Even when the administration formally abandoned the term 'War on Terror,' its operational logic persisted. The 2010 National Security Strategy simultaneously rejected the terminology while continuing to describe counter-terrorism in battlefield terms, sustaining the conceptual architecture of a global conflict (Bentley in De Groot & Regilme, 2020). The result was a discursive shift without corresponding institutional rupture.

Across both administrations, inflated threat perceptions contributed to the normalization of exceptional measures in domestic and international policy. The persistence of this security imaginary reinforced a governance model in which military tools remained central to counter-terrorism, and in which political legitimacy was tied to visible demonstrations of force (De Groot & Regilme, 2020). In this context, Obama's counter-terrorism strategy functioned less as a departure from the war on terror than as its recalibration within existing institutional and ideological constraints.

Among the clearest examples of continuity between the two administrations was the expanded reliance on drone warfare, which became one of the defining characteristics of Obama's counter-terrorism strategy.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

5.5.1 Drone Attacks

During Barack Obama's presidency, investigative reporting indicates that the scale of airstrikes within the covert war on terror increased substantially, reaching levels estimated at roughly ten times those recorded under George W. Bush. These operations were conducted across multiple theatres, including Iraq, Afghanistan, Yemen, Somalia, and Pakistan (Purkiss & Serle, 2017). The administration's counter-terrorism architecture increasingly relied on drone strikes as the preferred modality of targeted killing, framed as a technologically refined method for eliminating suspected militants at a distance. However, the expansion of this programme complicates narratives portraying a reduction in U.S. militarized engagement under Obama, as it signals continuity and intensification rather than retrenchment (De Groot & Regilme, 2020).

Early in his presidency, Obama announced a phased withdrawal from Iraq, coupled with a strategic refocusing on Afghanistan, which was redefined as the principal theatre of counter-terrorism operations (McCracken, 2011). This recalibration included a troop surge and an extension of operational reach beyond formally designated war zones, particularly into Pakistan's border regions, which were framed as sanctuary spaces for Al-Qaeda and affiliated groups. In his West Point address, Obama explicitly linked operations in Afghanistan to the necessity of disrupting militant safe havens across the border (Obama in De Groot & Regilme, 2020). The strategic objective centred on the disruption, dismantlement, and defeat of Al-Qaeda and associated networks, with military force occupying the central position in achieving these aims.

Obama's earlier political positioning as a critic of the Iraq War reflected a selective opposition rather than a rejection of military intervention per se. His reference to Iraq as "a dumb war" (Sunday Independent, 2012, p. 5) distinguished between justified and unjustified uses of force rather than rejecting war as an instrument of policy. This distinction persisted into his presidency, including in his Nobel Peace Prize address in 2009, where he articulated a

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

conditional justification for the use of military force under international and ethical constraints (Sunday Independent, 2012). This justificatory framework informed interventions in Libya, Iraq, Afghanistan, and other theatres.

Within this strategic orientation, drone warfare expanded significantly. McCrisken (2011) notes that during Obama's first year in office, 51 drone strikes were conducted in Pakistan, exceeding the total number carried out under the entirety of the Bush administration, with operations rising to 118 by 2010. This escalation occurred alongside the emergence of Al-Qaeda in the Arabian Peninsula in Yemen and intensified links with Al-Shabaab in Somalia, prompting the extension of counter-terrorism operations into these regions (Klaidman, 2012). Rather than deploying large-scale ground forces, the administration relied on drones as the principal instrument of engagement, particularly in jurisdictions outside formal war zones.

Drone strikes were publicly framed as precise and intelligence-driven interventions intended to minimise civilian harm while targeting specific individuals (Purkiss & Serle, 2017). Jenkins (2016) observes that Obama's approach reorganised counter-terrorism strategy by expanding drone usage while consolidating executive authority over targeting decisions within the White House. Final approval of strikes was centralised at the presidential level, based on intelligence assessments and military recommendations. This concentration of decision-making authority reinforced the political and operational centrality of remote warfare, with Obama himself characterising his role in starkly lethal terms, stating, "I am pretty good at killing people" (De Groot & Regilme, 2020).

The technological framing of drones as precise instruments aligned with efforts to reduce U.S. troop exposure while sustaining operational pressure on militant networks. Yet investigative accounts by Jeremy Scahill document the outsourcing of aspects of covert operations to private military contractors such as Blackwater, particularly in high-risk theatres. This outsourcing created layers of institutional separation between execution and

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

accountability, enabling the diffusion of responsibility in cases of operational failure or civilian harm (Boggs, 2011). Within this structure, drone warfare functioned both as a military instrument and as a mechanism of legal and political insulation.

Although the administration sought to present drone strikes as a more restrained alternative to large-scale occupation, the empirical record indicates sustained civilian casualties alongside limited transparency and weak oversight mechanisms (De Groot & Regilme, 2020). By the third year of Obama's presidency, the number of individuals targeted through drone strikes had surpassed the total number detained at Guantanamo Bay, illustrating the shift from incarceration to remote lethality as a dominant counter-terrorism modality (Klaidman, 2012).

Efforts to institutionalise greater transparency in drone governance remained limited and inconsistently implemented. Critics within the policy establishment, including Anne-Marie Slaughter, warned that the expansion of targeted killing practices (particularly those involving U.S. citizens) was occurring without the development of a coherent legal framework or durable accountability structures. Slaughter cautioned that such practices risked undermining broader governance legitimacy (De Groot & Regilme, 2020).

In aggregate, the Obama administration presided over a dramatic expansion of drone warfare, with strike frequency increasing nearly tenfold relative to the Bush era. While framed as a strategy of precision and restraint, drone operations in Pakistan, Yemen, and Somalia became the central instrument of counter-terrorism policy. This expansion produced significant civilian harm, entrenched reliance on private contractors, and maintained limited institutional transparency. By 2010, drone activity in Pakistan alone had already surpassed levels recorded during the entirety of the previous administration, reinforcing the extent to which targeted killing became a defining feature of Obama-era counter-terrorism policy.

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

5.5 Conclusion

The Obama administration reconfigured rather than dismantled the operational and institutional foundations of the post-9/11 War on Terror. Although the administration adopted a discourse centred on legality, precision, and multilateral engagement, the underlying reliance on militarised counter-terrorism, executive discretion, and intelligence-driven warfare remained largely intact. The transition from large-scale military occupations to remote and technologically mediated forms of violence altered the visibility and management of warfare without resolving the structural tensions surrounding accountability, civilian protection, and the limits of state power.

The analysis indicates that practices such as drone strikes, surveillance expansion, night raids, and targeted killings became embedded within a broader security framework sustained by legal authorisations, bureaucratic continuity, and persistent threat perceptions. In this context, exceptional measures increasingly assumed a routine character, blurring distinctions between wartime and peacetime governance, combatant and civilian, and military and law-enforcement functions. The empirical evidence presented through figures and operational data illustrates that civilian casualties and patterns of instability persisted across multiple theatres despite claims of precision and strategic restraint.

The chapter also reveals that the durability of the War on Terror cannot be explained solely through presidential decision-making, but must be understood in relation to institutional structures, technological systems, intelligence networks, and political narratives that collectively reinforced the logic of permanent counter-terrorism. Rather than marking a clear break with the Bush era, the Obama administration consolidated and refined many of the mechanisms through which post-9/11 security governance operated.

Consequently, the findings suggest that the evolution of U.S. counter-terrorism policy under Obama reflected the adaptation of the War on Terror to new operational realities rather than its

Chapter Five: The Cost and Consequences of Barack Obama's War on Terror

substantive transformation. The persistence of these practices illustrates how emergency security frameworks, once institutionalised, become increasingly difficult to reverse, carrying enduring implications for international law, state sovereignty, civilian protection, and the global human rights regime.

Chapter Six:

Findings and Data Interpretation: A

Comparative Discussion

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

6.1 Introduction

This chapter investigates the evolution of the United States counter-terrorism policies under the administrations of President George W. Bush and President Barack Obama in the post-9/11 era. Unlike the previous presentation, this chapter explicitly distinguishes between findings and interpretation, applying a structured comparative analytical framework to assess continuity and change in counter-terrorism governance. The Bush administration established the foundations of the War on Terror through military intervention, pre-emptive warfare, indefinite detention, and enhanced security measures. The Obama administration, while rhetorically emphasizing legality, multilateralism, and restraint, largely maintained the structural architecture of the post-9/11 security state. This analysis directly addresses the research objective of evaluating the extent to which counter-terrorism policies shifted from exceptionalist security governance (Bush era) toward institutionalized and legalized continuity (Obama era), particularly in relation to international human rights frameworks (ICCPR, ECHR, UDHR).

This chapter adopts a qualitative, comparative historical research design based on analytical, interpretivist, and critical approaches across international relations, security studies, and human rights scholarship. The comparative historical framework enables an examination of both continuity and transformation in counter-terrorism practices across the Bush and Obama administrations, while situating these developments within broader geopolitical and institutional processes. Particular attention is given to the extent to which counter-terrorism measures complied with international human rights frameworks previously discussed in the first chapter (especially the ICCPR, the ECHR, and the UDHR) or departed from them.

Methodologically, the chapter relies on qualitative document analysis, comparative political analysis, and discourse analysis. Primary sources include presidential speeches, executive orders, national security strategies, congressional reports, Department of Defense

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

documents, legal memoranda, and official White House statements related to detention policies, military intervention, extraordinary rendition, enhanced interrogation techniques, drone warfare, and targeted killing operations. These materials are examined alongside secondary academic literature drawn from international relations theory, international law, critical security studies, and human rights scholarship. Discourse analysis is employed to examine how concepts such as terrorism, democracy promotion, humanitarian intervention, multilateralism, and national security were constructed within official political rhetoric and used to legitimize exceptional security practices. Through this methodological framework, the chapter seeks to provide a historically grounded and critical analysis of how the War on Terror reshaped American state power, international legitimacy, and the relationship between security imperatives and human rights protections in the post-9/11 era.

6.2 Comparative Doctrine Analysis

Following the George W. Bush administration, a period marked by unilateral interventionism, extensive military engagements, and severe economic instability, Barack Obama assumed office with the intention of redefining the direction of American foreign policy. His administration sought to distance itself from the ideological assertiveness that had characterized the post-9/11 period and instead advanced an approach grounded in pragmatism, restraint, and strategic realism. Often referred to as the ‘Obama Doctrine,’ this framework rested on the recognition of the limits of American power, the restoration of diplomatic partnerships, and the privileging of soft power and negotiated engagement over large-scale military intervention (Zakaria, 2012).

6.2.1 Unilateralism vs Multilateralism

Bush’s doctrine emphasized pre-emptive unilateral intervention, while Obama adopted a strategy of coalition-based legitimacy. One of the clearest distinctions between the Bush and Obama administrations emerged in their respective approaches to multilateralism. The Bush

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

administration's response to the attacks of 11 September 2001, particularly the 2003 invasion of Iraq, reflected a doctrine of pre-emptive action rooted in American exceptionalism and a willingness to act independently of international consensus. International institutions and allied reservations were frequently treated as constraints on the rapid pursuit of strategic objectives. Obama, by contrast, pursued the restoration of diplomatic relations with allies and attempted to rehabilitate the international image of the United States through renewed engagement with global institutions and cooperative frameworks. His foreign policy rested on the premise that American influence could not rely solely on military supremacy, but also required legitimacy, credibility, and sustained international cooperation.

Obama's embrace of multilateralism did not entail a rejection of American leadership; rather, it represented an effort to redefine the manner in which such leadership was exercised. Leadership was conceived through consultation, coalition-building, and adherence to international norms rather than through coercive unilateral action. This orientation was reflected in Obama's public rhetoric. During the 2007 Democratic debate, he emphasized the complexity and fluidity of international politics and argued in favor of flexible doctrines capable of adapting to changing circumstances. Such pragmatism contrasted sharply with the ideological certainties associated with the Bush Doctrine, which frequently framed global politics through binary distinctions between 'good' and 'evil.'

This multilateral orientation became particularly visible during the 2011 intervention in Libya. The operation was presented as a humanitarian mission authorized by the United Nations Security Council and implemented through NATO cooperation. Unlike earlier American military interventions, the United States deliberately limited its direct operational role and encouraged allied burden-sharing. This strategy provided the intervention with greater international legitimacy while simultaneously reducing the military and financial costs borne by the United States, thereby limiting domestic political resistance. From a realist standpoint,

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

the intervention sought to preserve American strategic interests, including regional stability and the credibility of international institutions, without committing the United States to another prolonged military occupation.

Nevertheless, the Libyan intervention also exposed persistent tensions within Obama's foreign policy. Critics contended that the absence of a coherent post-conflict reconstruction strategy contributed significantly to Libya's fragmentation and eventual collapse into prolonged instability. The case demonstrated the difficulties inherent in attempting to reconcile limited intervention with the long-term political demands of state reconstruction. Obama's preference for diplomacy, coalition-building, and restrained military engagement often encountered limitations when confronted with complex political environments requiring sustained commitment beyond the initial intervention phase.

In this sense, Obama's multilateral approach reflected an attempt to adapt American foreign policy to a changing international order characterized by interconnected crises, constrained resources, and declining tolerance for prolonged wars. Through renewed engagement with allies, support for international institutions, and greater reliance on diplomacy, his administration sought to recalibrate the global role of the United States while balancing aspirations of international leadership against the practical constraints imposed by contemporary geopolitical realities. However, this shift should not be interpreted as a structural rupture. Rather, it represents a change in operational style rather than strategic substance, as both administrations preserved the centrality of U.S. military dominance in global security governance.

6.2.2 Soft Power and Strategic Legitimacy

Obama's emphasis on soft power sought to restore international legitimacy. During the presidency of George W. Bush, the United States increasingly came to be perceived as operating beyond the boundaries of international legitimacy, particularly following the invasion of Iraq

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

and the revelations of torture and abuse at Abu Ghraib prison and Guantanamo Bay detention camp. These developments weakened the international credibility of the United States and diminished its claim to moral leadership. In response, Barack Obama approached foreign policy from the premise that America's global influence depended not only on military supremacy but also on the restoration of legitimacy and international trust. Through a more conciliatory and cooperative diplomatic posture, Obama sought to rebuild the credibility that had eroded during the Bush administration and reposition the United States as a respected international actor.

This effort extended beyond relations with allies and included engagement with adversarial states. Obama departed from the rigid posture associated with the Bush administration, particularly the refusal to 'negotiate with evil.' Drawing upon John F. Kennedy's principle that states should 'never fear to negotiate,' Obama framed diplomacy as an instrument of strategic statecraft rather than a sign of weakness (CNN Democratic presidential debate, 2008). His willingness to engage adversaries reflected a broader commitment to strategic patience and dialogue as mechanisms for advancing American interests while renewing U.S. leadership in international affairs.

Obama's emphasis on diplomacy formed part of a wider reliance on soft power, articulated prominently during his inaugural address. He invoked earlier periods in American history in which global challenges had been confronted through alliances, shared principles, and enduring international commitments rather than unilateral coercion (Office of the Press Secretary, 2009). Throughout his presidency, Obama maintained that American influence should derive from example, cooperation, and legitimacy rather than from the exclusive use of military force. This perspective rested on the belief that the capacity of the United States to shape international outcomes depended upon adherence to international law, respect for human rights, and recognition of mutual interests within the international system.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

Nevertheless, the practical implementation of this vision exposed significant tensions between rhetoric and policy. Although Obama consistently advocated diplomacy, multilateral engagement, and moral leadership, several dimensions of his foreign policy diverged from these principles. One of the most notable examples was his 2009 speech in Cairo, where he called for a ‘new beginning’ between the United States and the Muslim world based on dialogue, mutual respect, and shared interests. The speech symbolized an attempt to distance his administration from the unilateral and coercive practices associated with the Bush era. Yet, this conciliatory rhetoric was complicated by the substantial expansion of drone warfare under Obama’s presidency.

The Obama administration dramatically increased the use of targeted drone strikes in countries such as Pakistan, Yemen, and Somalia, frequently beyond formally recognized war zones and often without explicit congressional authorization. While the administration presented these operations as precise and strategically effective, critics argued that they produced civilian casualties, generated legal ambiguities, and damaged the international image of the United States. Such practices appeared difficult to reconcile with the administration’s stated commitment to international norms and human rights protections.

The 2011 NATO-led intervention in Libya further complicated Obama’s soft power discourse. Although initially justified on humanitarian grounds as an effort to prevent mass atrocities, the intervention culminated in regime change and contributed to Libya’s political fragmentation and instability. Critics contended that the operation resembled the type of militarized interventionism that Obama had previously criticized during the Bush years, particularly because of the absence of effective post-conflict planning and the destabilizing consequences that followed the collapse of the Libyan state.

Questions regarding the coherence of Obama’s soft power vision also emerged through the continuation of the American military presence in Afghanistan and the expansion of special

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

operations activities across multiple regions. Although Obama reduced troop levels in Iraq and avoided launching large-scale conventional wars, the sustained reliance on covert operations, targeted killings, and technologically mediated forms of warfare revealed a foreign policy that remained deeply dependent on military instruments. Consequently, while Obama articulated a vision of American leadership grounded in diplomacy, cooperation, and moral legitimacy, the operational realities of his administration frequently reflected a more pragmatic and militarized approach. The divergence between discourse and practice illustrates the structural difficulties of sustaining a foreign policy centred on soft power within a context shaped by national security pressures, geopolitical instability, and the enduring strategic commitments of the United States. However, empirical evidence suggests a persistent contradiction between normative diplomacy and expanded covert military operations, particularly drone warfare and special operations expansion.

6.2.3 Bush Doctrine Critique

Obama's rejection of preventive war and regime change reflects rhetorical distancing from Bush-era ideology. Barack Obama consistently criticized the foreign policy orientation associated with George W. Bush, particularly its reliance on pre-emptive warfare, unilateral intervention, and regime change as instruments of American global leadership. At the same time, Obama maintained a commitment to the promotion of democracy and human rights abroad, principles that occupied a central place within his political identity. This produced a persistent tension within his foreign policy discourse, as the normative commitment to democratic values frequently conflicted with the practical realities of American interventionism during his presidency.

Obama's opposition to the invasion of Iraq became one of the defining elements of his emergence as a national political figure. His critique of the Bush Doctrine rested on the argument that durable international leadership required diplomacy, multilateral cooperation,

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

and respect for the sovereignty of other states rather than attempts to impose political systems through military force. He rejected the logic of preventive war and challenged the ideological assumptions embedded within the Bush administration's 'freedom agenda,' which framed democratic transformation as a strategic justification for intervention. This position was articulated most clearly during his 2009 speech in Cairo, where he declared that no nation should impose its political system on another. The statement reflected his broader interpretation of the wars in Iraq and Afghanistan as examples of unsuccessful interventionist projects aimed at reshaping foreign societies through military power.

Yet, the continuation of interventionist practices under humanitarian justification demonstrates that doctrinal rejection did not translate into operational discontinuity. Despite his rhetorical rejection of the Bush Doctrine, Obama authorized several operations that involved substantial American involvement in the domestic affairs of sovereign states. The 2011 intervention in Libya represented the clearest example of this contradiction. Although the intervention was justified as a humanitarian effort intended to prevent mass atrocities in Benghazi, the campaign ultimately contributed to the collapse of the Libyan state and the emergence of prolonged political instability. In this respect, the Libyan case appeared to conflict with Obama's earlier skepticism toward regime change and externally driven political transformation.

Obama's approach to sovereignty and humanitarian intervention, therefore, remained characterized by significant internal tensions. On one hand, he advocated respect for state sovereignty, support for democratic institutions, and the prioritization of diplomacy as the preferred mechanism for international engagement. On the other hand, policies pursued by his administration, including the intervention in Libya and the continuation of drone strikes in Pakistan, Yemen, and Somalia, raised questions concerning the consistency of these principles in practice. Although Obama rejected the explicit imposition of American political systems

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

abroad, he continued to justify intervention under humanitarian and security rationales, particularly when civilian protection or counterterrorism objectives were invoked.

This produced a paradox at the centre of Obama's foreign policy doctrine. While condemning regime change and external political imposition as defining features of the Bush era, his administration simultaneously authorized military actions that weakened state sovereignty and contributed to political upheaval in several regions. The Libyan intervention, in particular, exposed the limitations of humanitarian intervention when not accompanied by a sustained strategy for post-conflict reconstruction and political stabilization, a deficiency that Obama himself later acknowledged.

Obama's foreign policy trajectory, therefore, reflected an attempt to move the United States away from the large-scale interventionism associated with the Bush administration toward a more restrained and diplomatically oriented framework. Nevertheless, the continuation of military operations in Libya and other regions demonstrated the difficulty of reconciling humanitarian objectives, strategic interests, and respect for national sovereignty within the broader structure of American global power.

6.2.4 International Coalitions

The contrast between the foreign policy doctrines of George W. Bush and Barack Obama became particularly visible in the management of international coalitions and the role accorded to multilateral institutions. Whereas the Bush Doctrine privileged unilateral preemption and regime change as instruments of strategic policy, Obama's intervention in Libya was presented within a multilateral legal and institutional framework grounded in cooperation with allied states and authorization from the United Nations Security Council through Resolution 1973. This distinction played an important role in shaping both the domestic and international legitimacy of the intervention. Seeking to distance his administration from the interventionist

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

image associated with the Bush era, Obama framed the operation primarily as a humanitarian response intended to protect civilians rather than as a campaign aimed at regime change.

As the Libyan crisis intensified, NATO emerged as the central operational actor in the intervention. Obama made clear that the United States would not assume the dominant military role that had characterized earlier American-led wars. Instead, his administration pursued a strategy designed to transfer operational responsibility to NATO and encourage allied participation in the maintenance of international security. By March 21, 2011, NATO had formally assumed command of the military operation, thereby reducing the visibility of direct American military involvement in Libya. This transfer of authority reflected Obama's broader strategic preference for burden-sharing and coalition-based intervention, both of which were intended to preserve American influence while limiting the political, financial, and military costs borne by the United States.

The reliance on NATO leadership also strengthened the intervention's international legitimacy by embedding military action within an institutional and collective framework rather than presenting it as a unilateral assertion of American power. In this respect, Obama's handling of the Libyan intervention represented an attempt to reconcile humanitarian objectives with multilateral diplomacy and legal authorization. The operation was therefore portrayed as consistent with international norms governing civilian protection and collective security rather than as an extension of the expansive interventionism associated with the Bush administration.

Despite these efforts, the intervention gradually evolved beyond its original humanitarian mandate. What began as an operation justified by the need to prevent an imminent massacre in Benghazi increasingly developed into a *de facto* campaign for regime change as NATO airstrikes expanded to target Libyan government forces on a broader scale. Within months, the regime of Muammar Gaddafi collapsed, plunging Libya into prolonged instability and political fragmentation. Although the removal of Gaddafi was initially welcomed by many Western

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

governments, the aftermath of the intervention generated profound concerns regarding the consequences of military action undertaken without a coherent strategy for post-conflict governance and reconstruction.

The collapse of central authority in Libya contributed to the emergence of civil conflict, warlordism, and the expansion of extremist networks across the region. For critics, these developments illustrated the dangers of interventionist policies that prioritize immediate military objectives without establishing viable political structures capable of sustaining stability after the cessation of hostilities. The Libyan case, therefore, became emblematic of the broader contradictions within Obama's foreign policy: A commitment to multilateral restraint and humanitarian protection that nevertheless culminated in regime collapse and state disintegration. Obama himself later referred to the absence of effective planning for 'the day after' as the greatest mistake of his presidency, acknowledging that the failure lay less in the intervention itself than in the inability to manage its long-term political consequences.

Libya represents a key case of NATO-based multilateral intervention. Libya represents a key case of NATO-based multilateral intervention. Although framed as collective security enforcement under UN authorization, the operation gradually shifted toward regime change, revealing structural ambiguity in humanitarian intervention mandates.

6.3 Continuities in Counter-Terrorism Policy

The presidencies of George W. Bush and Barack Obama reflected distinct approaches to national security and foreign policy, yet their administrations also revealed substantial continuities in the management of counter-terrorism and civil liberties in the post-September 11 attacks era. Although the two presidents differed in rhetoric, diplomatic style, and the legal framing of security policy, both administrations contributed to the consolidation of an expansive national security apparatus that prioritized the prevention of terrorism while generating persistent concerns regarding constitutional rights, privacy, and executive power.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

In the aftermath of 9/11, the Bush administration adopted an approach centred on exceptional executive authority and the rapid expansion of state surveillance capacities. This orientation was institutionalized through measures such as the USA PATRIOT Act, the creation of the Department of Homeland Security, and the warrantless surveillance activities conducted by the National Security Agency. These policies concentrated authority within the executive branch, broadened the powers of intelligence and law enforcement agencies, and elevated national security concerns above traditional protections associated with privacy and civil liberties. Critics argued that such measures weakened constitutional safeguards, facilitated discriminatory practices directed particularly toward minority communities, and generated systemic deficiencies in accountability and intelligence oversight.

By contrast, Obama entered office promising a departure from the interventionist and securitized atmosphere that had characterized the Bush years. His foreign policy discourse emphasized realism, multilateralism, and the need to move beyond what he described as the ‘9/11 wars.’ The 2010 National Security Strategy reflected this recalibration by placing greater emphasis on domestic renewal, economic resilience, and emerging geopolitical challenges, particularly the strategic significance of the Asia-Pacific region. Nevertheless, despite these rhetorical and strategic shifts, Obama’s administration maintained many of the surveillance mechanisms established during the Bush presidency. Programs administered by the National Security Agency continued to collect large quantities of email and internet metadata, albeit under the supervision of the Foreign Intelligence Surveillance Court framework. Although the bulk metadata program was formally discontinued in 2011, extensive surveillance practices persisted, sustaining concerns regarding privacy rights, state monitoring, and the expansion of governmental authority.

The distinction between the Bush and Obama administrations, therefore, rested less in the substance of national security policy than in its justification, presentation, and legal

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

institutionalization. Bush defended extraordinary counter-terrorism measures as immediate and necessary responses to an existential threat, frequently operating through emergency powers that circumvented established legislative and judicial constraints. Obama, by comparison, sought to situate counter-terrorism policy within a more legalistic and procedurally regulated framework, emphasizing transparency, constitutional legitimacy, and international cooperation while preserving many of the operational structures inherited from his predecessor.

In this respect, the Bush administration may be understood as establishing the foundations of the contemporary American security state through exceptional measures adopted during a period of crisis, whereas the Obama administration contributed to the normalization and institutional consolidation of those same mechanisms through judicial oversight and bureaucratic regulation. Thus, the policies of both administrations reveal the enduring tension within post-9/11 American governance between the imperatives of national security and the preservation of civil liberties, a tension that continued to shape debates surrounding executive authority, surveillance, and democratic accountability.

6.4 Military Actions

Both Bush and Obama relied on military force as the primary instrument of counter-terrorism, albeit through different operational modalities. Their strategies in Afghanistan, Iraq, Pakistan, and other theatres of conflict reveal both significant continuities and notable differences in the evolution of the American-led War on Terror. Although the two administrations adopted contrasting methods and rhetorical frameworks, both relied extensively on military force as a central instrument of counter-terrorism policy. Their approaches differed primarily in scale, operational design, and strategic justification rather than in the broader objective of preserving American security and geopolitical influence.

The Bush administration responded to the September 11 attacks through large-scale conventional warfare grounded in the principles of the Bush Doctrine. This doctrine justified

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

pre-emptive military action against states considered potential threats and promoted the use of force to facilitate democratic transformation in strategically significant regions. Operation Enduring Freedom in Afghanistan led to the removal of the Taliban regime, while Operation Iraqi Freedom resulted in the overthrow of Saddam Hussein. Despite the rapid military success of both campaigns, the long-term consequences included political instability, insurgency, sectarian conflict, and sustained regional disorder. In Pakistan, the Bush administration maintained a strategic alliance with the Pakistani government, providing extensive financial and military assistance while simultaneously conducting unilateral drone strikes that generated domestic unrest and strained bilateral relations. Bush's strategic outlook treated authoritarian governments suspected of supporting terrorism as inseparable from the terrorist networks themselves, thereby linking counter-terrorism directly to regime change and military intervention.

Obama inherited these ongoing conflicts and sought to recalibrate American military strategy rather than abandon it. During his presidential campaign, he criticized the war in Iraq as a strategic diversion and redirected attention toward Afghanistan, which he described as a 'war of necessity.' His administration adopted an integrated 'AfPak' framework that combined counterinsurgency operations with development assistance and efforts to strengthen Afghan and Pakistani state institutions. As part of this strategy, Obama authorized the deployment of approximately 21,000 additional troops to Afghanistan while simultaneously expanding the use of drone warfare in Pakistan and later in Yemen. This approach reflected a transition from large-scale invasions toward targeted counter-terrorism operations centred on precision strikes, intelligence coordination, and special operations forces.

Yemen became particularly significant within Obama's counter-terrorism strategy. Rather than pursuing military occupation through conventional ground forces, the administration relied heavily on drone strikes and special operations missions targeting Al-Qaeda in the Arabian

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

Peninsula. This operational model illustrated Obama's preference for technologically mediated warfare designed to minimize American casualties and avoid the political and financial burdens associated with prolonged occupations. In contrast to the Bush administration's expansive regime-change agenda, Obama also differentiated between irreconcilable extremist elements and Taliban factions considered potentially open to negotiation, attempting to weaken insurgencies through diplomacy, political incentives, and selective engagement alongside military pressure.

Despite these strategic adjustments, both administrations remained deeply dependent on the use of military force. Bush pursued extensive interventionist wars rooted in pre-emptive action and democratization, whereas Obama sought to narrow American objectives by reducing direct military occupations while intensifying targeted strikes and regional stabilization initiatives. The consequences of these approaches continue to generate substantial debate. Bush's military campaigns were widely criticized for their immense human, economic, and geopolitical costs, with many observers regarding them as forms of strategic overreach that destabilized entire regions. Obama's reliance on drones and targeted killings reduced the scale of American troop deployments and lowered U.S. military casualties, yet it also generated controversy concerning civilian deaths, legal accountability, violations of sovereignty, and the normalization of remote warfare as a permanent instrument of foreign policy.

The transition from Bush to Obama, therefore, did not represent a complete rupture in the conduct of the War on Terror but rather a transformation in its operational character. Bush defined the conflict through occupation, regime change, and large-scale military intervention, while Obama reshaped it into a more flexible and technologically driven campaign reliant on surveillance, drones, and limited military footprints. Although this recalibration reduced the visibility of American warfare abroad, it intensified debates regarding the legality, morality, and long-term strategic consequences of contemporary counter-terrorism practices.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

This shift represents a transformation from territorial warfare to network-based warfare, rather than a reduction in militarization.

6.5 Rights Violations

Although the administrations of George W. Bush and Barack Obama differed significantly in rhetoric, diplomatic posture, and legal framing, their counter-terrorism policies reveal important continuities in the use of practices that generated serious human rights concerns. Rather than eliminating the coercive mechanisms established after the September 11 attacks, the Obama administration reconfigured and institutionalized many of them within more formalized legal and procedural structures. The comparison between the two presidencies, therefore, illustrates how counter-terrorism policies in the post-9/11 era evolved across changing political contexts while continuing to produce tensions between national security objectives and international human rights obligations.

6.5.1 Bush's Indiscriminate Attacks

The use of indiscriminate force during the Bush administration, particularly through the expansion of drone warfare, constituted one of the most controversial dimensions of American counter-terrorism policy and raised profound concerns under both international human rights law and international humanitarian law (IHL). Under IHL, all parties engaged in armed conflict are required to distinguish at all times between combatants and civilians. As reiterated in United Nations Fact Sheet No. 32, only combatants or civilians directly participating in hostilities may lawfully be targeted. Similarly, Article 1, paragraph 1 of the ECHR framework affirms that states may not derogate from jus cogens norms, including the protection of civilians during armed conflict, even within the context of counter-terrorism operations.

Although these legal constraints existed, the Bush administration significantly broadened the criteria for identifying legitimate targets, frequently categorizing individuals as combatants based on association, geographic proximity, or suspected affiliation rather than direct

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

participation in hostilities. This erosion of the principle of distinction became evident in the October 30, 2006, drone strike on a religious school in Chennajai village. The strike was conducted on the assumption that the site was being used by militants, yet it resulted in the deaths of up to eighty-three individuals, the majority of whom were reportedly young students with no demonstrated involvement in armed activities. Such operations constituted serious violations of the principle of distinction because the victims were neither permanent members of an organized armed group nor civilians directly participating in hostilities.

Under international humanitarian law, attacks of this nature may be classified as indiscriminate because they fail to distinguish adequately between military objectives and civilian populations while inflicting civilian harm disproportionate to the anticipated military advantage. According to United Nations Fact Sheet No. 32 (p. 11), indiscriminate attacks are expressly prohibited under international law. The expansion of drone warfare under the Bush administration, therefore, reflected not merely tactical adaptation but also a significant reinterpretation of legal categories governing the use of force.

Particularly controversial were so-called ‘double-tap’ or ‘double-click’ drone strikes, in which a second missile strike targeted the same location shortly after the initial attack. These operations frequently struck rescuers, medical personnel, or civilians attempting to assist the wounded. The drone strike carried out on May 16, 2009, in Khaisor resulted in more than twenty-nine deaths, including civilians responding to the aftermath of the first strike. Such tactics not only disregarded the obligation to minimize civilian casualties but also generated widespread fear among local populations. Under IHL, practices intended to intimidate civilian communities or punish populations collectively are prohibited, a principle reaffirmed in United Nations Fact Sheet No. 32 (p. 12).

One of the most consequential aspects of the Bush administration’s drone policy was the expansive redefinition of the term ‘combatant.’ As argued by Badalich (2019) and Philip Alston

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

(2010), individuals were often designated as lawful targets based on indirect support to armed groups, including the provision of shelter, food, or political sympathy, even where no evidence existed of direct participation in hostilities. This broad and ambiguous interpretation substantially weakened established legal protections for civilians and created conditions in which the use of lethal force could be justified through highly elastic definitions of threat and affiliation.

The authorization of drone strikes resulting in extensive civilian casualties also implicated the Bush administration in violations of fundamental human rights protections, particularly the right to life guaranteed under Article 6 of the ICCPR. These operations frequently involved arbitrary deprivation of life, extrajudicial killings, and the denial of due process protections. Individuals were targeted and killed without judicial proceedings, public evidence, or meaningful mechanisms of accountability, thereby undermining foundational principles of justice and legality. Such practices represented not only failures in military ethics but also serious breaches of binding international obligations, especially given that many of these operations occurred outside conventional battlefields and within sovereign states that were not formally at war with the United States.

6.5.2 Obama's Indiscriminate Attacks

The expansion of drone warfare under the administration of Barack Obama exposed profound tensions between the rhetoric of precision counter-terrorism and the realities of civilian harm on the ground. Although drone strikes were presented as technologically advanced operations capable of minimizing collateral damage, their implementation revealed significant departures from the principles of distinction and proportionality embedded in IHL. Civilian casualties were frequently underreported or misclassified due to both the secrecy surrounding drone operations and to controversial casualty-counting methodologies employed by the United States government. One of the most criticized practices involved the automatic

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

categorization of all ‘military-age males’ within strike zones as militants unless posthumous evidence demonstrated otherwise. Such presumptions effectively reversed the burden of proof, inflating militant casualty figures while depriving civilians of the legal protections guaranteed under international law. Individuals killed in drone strikes could therefore be classified as combatants merely because of age, gender, or geographic proximity, even where they were family members, bystanders, or participants in local governance structures, as occurred in the case of the Datta Khel jirga.

The extensive reliance on ‘signature strikes’ further intensified the indiscriminate character of drone warfare during the Obama presidency. Unlike personality strikes directed at identified individuals, signature strikes targeted persons based on patterns of behavior interpreted as suspicious rather than on confirmed identities. This method substantially increased the likelihood of false identification and blurred the distinction between combatants and civilians. The targeting of funerals, tribal assemblies, and rescue operations demonstrated the extent to which civilian social practices became incorporated into military targeting calculations. Such actions not only produced immediate civilian casualties, including women and children, but also generated broader political consequences by fueling anti-American sentiment, facilitating insurgent recruitment, and undermining the legitimacy of allied governments in Pakistan, Yemen, and Afghanistan. The repeated targeting of rescue efforts through ‘double-tap’ strikes also created a climate of fear that discouraged humanitarian assistance and left wounded individuals without medical care. In this context, drone warfare increasingly resembled a form of collective punishment in which entire communities suffered because of suspected associations with militant actors.

The normalization of strikes outside formally recognized battlefields further weakened established international legal norms governing the use of force. By expanding the category of lawful targets and institutionalizing extraterritorial targeted killings, the United States

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

contributed to the erosion of distinctions between war zones and civilian spaces while legitimizing practices associated with extrajudicial execution. This transformation raised broader concerns regarding the future of international humanitarian law and the potential normalization of remote warfare as a routine instrument of global security policy.

Among the most controversial dimensions of Obama-era drone warfare were ‘double-tap’ strikes and the growing reliance on metadata-driven targeting. The 2010 strike in Danda Darpa Khel demonstrated how follow-up strikes magnified civilian vulnerability. After the initial attack injured several individuals, a second strike targeted persons attempting to assist, killing both residents and armed actors present at the scene. Such operations fundamentally complicated the distinction between civilians and combatants because the short interval between strikes prevented operators from determining whether those entering the area were legitimate military targets or civilians responding to humanitarian need. Beyond the immediate loss of life, these tactics generated fear within affected communities and discouraged rescue and medical intervention, thereby compounding civilian suffering.

These risks were intensified by the increasing dependence on signals intelligence and metadata analysis as the principal basis for targeting decisions. Social network analysis techniques mapped individuals’ communications and associations through call records, SIM card tracking, and patterns of digital interaction. However, in the absence of reliable human intelligence, such methods proved highly vulnerable to error and misinterpretation. The September 2010 strike in Takhar province illustrated these dangers when Zabet Amanullah, a former Taliban member who had returned to civilian life, was mistaken for a senior insurgent figure because of flawed metadata analysis. The use of communication patterns as evidence of militant affiliation ignored the social and political complexities of conflict environments, where civilians often maintained pragmatic or unavoidable contact with armed groups. The targeting of telephones rather than verified identities further undermined accountability because mobile

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

devices frequently changed hands, creating the possibility that entirely uninvolved civilians could become targets.

The combination of double-tap tactics and metadata-based targeting revealed structural deficiencies within the drone warfare system itself. These practices reflected a prioritization of technological efficiency and operational speed over legal safeguards and ethical restraint. As a consequence, drone operations frequently violated the core IHL principles of distinction and proportionality while simultaneously producing strategic consequences that undermined the broader objectives of counter-terrorism policy by intensifying anti-American sentiment and weakening local trust in allied governments.

Civilian casualties associated with drone warfare were also deeply connected to the technological limitations of the systems employed and to the interpretive biases of drone operators. Despite claims regarding precision warfare, poor image resolution and restricted situational awareness often prevented operators from reliably distinguishing combatants from civilians or even identifying friendly forces accurately. The so-called ‘soda straw effect’ narrowed the visual field available to drone operators, reducing their capacity to perceive broader contextual information surrounding potential targets. In one documented incident, two boys riding bicycles were killed alongside suspected militants because operators failed to recognize their civilian status before authorizing the strike. Such limitations substantially weakened the argument that drone warfare constituted a uniquely precise or humane form of military engagement.

Flawed intelligence processes compounded technological deficiencies. In both Afghanistan and Pakistan, tribal leaders, local power brokers, and warlords exploited American reliance on informants to manipulate targeting decisions for personal or political gain. Rival groups provided false intelligence in order to eliminate opponents, while some individuals fabricated information in exchange for financial rewards. This structural dependence on local informants

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

rendered drone operations highly susceptible to corruption, misinformation, and personal vendettas, thereby increasing the likelihood of civilian casualties.

Equally significant was the role of cognitive bias within drone operations. During the February 2010 strike in Uruzgan, drone operators reportedly disregarded evidence inconsistent with their assumptions, including indications of the presence of children, while exaggerating ambiguous signs interpreted as evidence of hostile activity. Blurred visual data were repeatedly interpreted in ways that confirmed pre-existing expectations regarding insurgent presence, and communications among crew members revealed an eagerness to authorize lethal action despite uncertainty. These patterns suggest that civilian casualties were not merely the consequence of isolated operational mistakes but reflected deeper institutional tendencies to interpret ambiguity in ways that favored the use of force rather than restraint.

Technological limitations, unreliable intelligence networks, and operator bias constituted a structural pattern that helps explain why drone warfare repeatedly produced indiscriminate civilian harm despite its rhetoric of precision. Weak visual data combined with operational pressure and aggressive targeting practices created conditions in which civilians were routinely vulnerable to misidentification as combatants. Civilian casualties, therefore, emerged not simply as accidental by-products of counter-terrorism operations but as foreseeable consequences of the operational logic underpinning drone warfare itself. In this sense, the Obama administration's drone campaign raised profound questions regarding both the ethical legitimacy and the legal compatibility of contemporary remote warfare with the principles of international humanitarian law.

6.5.3 Bush and Obama's Indiscriminate Attacks

Both the administrations of George W. Bush and Barack Obama faced sustained criticism for drone strikes and other lethal counter-terrorism operations that failed to comply with the core IHL principles of distinction and proportionality. Although both administrations relied

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

extensively on remote warfare as a central instrument of counter-terrorism strategy, the nature and operational logic of their approaches differed in significant ways. Bush-era policies were frequently associated with expansive targeting standards, weak intelligence, and visibly disproportionate uses of force, whereas Obama's administration institutionalized more bureaucratically sophisticated forms of targeting that embedded ambiguity and civilian vulnerability within the structure of counter-terrorism operations themselves.

Under the Bush administration, indiscriminate attacks largely resulted from the broad expansion of categories defining legitimate military objectives and from operational practices that frequently relied upon unreliable intelligence. Individuals who would traditionally have been protected under IHL as civilians were often treated as lawful targets because of alleged association, geographic proximity, or indirect support for militant organizations. The 2006 strike on the madrasa in Chennajai village demonstrated the consequences of this expansive interpretation of combatancy. Conducted under the assumption that the location housed members of Al-Qaeda, the strike killed dozens of children while failing to eliminate its intended target. The incident illustrated the extent to which the principle of distinction had been weakened through the conflation of civilians with suspected militants.

The Bush-era 'double-tap' strikes further revealed the administration's disregard for civilian protection. By targeting rescuers, bystanders, and individuals responding to the aftermath of initial attacks, these operations violated the obligation under IHL to minimize civilian harm and protect humanitarian activity. Such tactics blurred the line between combatants and non-combatants and generated conditions that many legal scholars and human rights organizations characterized as forms of collective punishment. The cumulative effect of these practices was the normalization of civilian deaths as an acceptable consequence of counter-terrorism operations, thereby eroding established humanitarian protections within conflict zones.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

Although Obama inherited the drone warfare infrastructure developed during the Bush years, his administration expanded and institutionalized many of these practices through more formalized legal and bureaucratic mechanisms. One of the most controversial aspects of Obama's targeting policy was the adoption of casualty-counting procedures that automatically categorized all military-age males within strike zones as militants unless posthumous evidence demonstrated otherwise. This presumption significantly reduced officially reported civilian casualty figures while simultaneously weakening the legal distinction between civilians and combatants. Unlike the more visible intelligence failures associated with the Bush administration, Obama-era indiscriminate attacks frequently emerged from structural targeting policies embedded within the operational design of the drone program itself.

The increasing reliance on 'signature strikes,' metadata analysis, and behavior-based targeting intensified the risk of civilian misidentification. Rather than targeting individuals whose identities had been conclusively established, these operations focused on patterns of activity interpreted as suspicious. As a consequence, civilians attending funerals, participating in tribal meetings, visiting mosques, or maintaining contact with relatives linked to insurgent groups could be classified as legitimate targets. The 2011 strike on the Datta Khel jirga in Pakistan, which killed dozens of tribal elders and civilians, illustrated the dangers inherent in this guilt-by-association framework. Such operations demonstrated how the logic of preventive targeting increasingly displaced the evidentiary standards traditionally required under international humanitarian law.

The comparison between the two administrations, therefore, reveals both continuity and transformation in the conduct of American counter-terrorism operations. Bush's indiscriminate attacks were frequently characterized by overt operational recklessness, inadequate intelligence verification, and disproportionate applications of military force, making their unlawfulness comparatively visible and politically contentious. Obama, by contrast, embedded ambiguity

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

within institutional procedures themselves. Through expansive definitions of combatancy, vague targeting criteria, and data-driven models of suspicion, his administration constructed a self-validating system in which civilian casualties could be minimized statistically while the operational scope of drone warfare expanded significantly.

This bureaucratized framework proved particularly consequential because it normalized and legitimized practices that subsequent administrations could readily inherit and continue. Whereas Bush's approach generated criticism primarily because of the immediate destructiveness of its operations, Obama's policies contributed to the institutional consolidation of remote warfare as a routine instrument of American foreign policy. In this respect, the long-term implications of Obama's drone strategy extended beyond individual strikes to the transformation of legal and ethical norms governing the use of force. Civilian harm became increasingly obscured through administrative classifications and technological mediation, allowing indiscriminate violence to be incorporated into counter-terrorism policy under the language of precision, legality, and restraint.

6.5.4 Bush's Arbitrary Detention

The principle of non-discrimination constitutes a foundational norm of international law, requiring equal protection before the law irrespective of personal characteristics such as race, religion, sex, or other status. This obligation is codified in Article 26 of the ICCPR, which affirms that all individuals are entitled to equal legal protection without unjustified differentiation. Despite these binding standards, detention practices conducted during U.S. military operations in the context of the post-September 11 attacks 'war on terror,' particularly in Afghanistan, demonstrated systematic departures from these principles. Multiple reports indicate that individuals were frequently detained on the basis of broad demographic or contextual indicators, such as sex, age, or geographic presence, rather than individualized suspicion supported by concrete evidence. Clearance operations commonly involved cordoning

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

off entire villages and detaining all men of military age for interrogation, a practice that raises serious concerns under both the prohibition of collective punishment and the principle of individualized criminal responsibility.

Such mass detention practices effectively bypassed individualized assessment and resulted in violations of protections guaranteed under both the ICCPR . The criteria used to justify detention were often arbitrary and operationally expedient, including physical appearance, proximity to conflict zones, or incidental possession of items interpreted as suspicious. In numerous cases, individuals were detained solely because they were located near sites of insurgent activity or weapons caches, regardless of any direct involvement. One illustrative case concerns an individual identified as Gul Ali, who was detained after bomb-making materials were discovered in a neighboring property, despite the absence of evidence linking him to any unlawful conduct. Such practices reflect a systemic departure from the evidentiary standards required under international legal norms.

Further violations arose from the widespread detention of civilians in possession of firearms, a common practice in rural Afghanistan for purposes of self-defense, which was nonetheless frequently interpreted as indicative of insurgent affiliation. Compounding these issues were persistent failures in intelligence verification and identity determination. The absence of a reliable national identification system, combined with the prevalence of single-name identification practices, created significant challenges in distinguishing between individuals. In addition, reliance on local informants introduced further distortions, as such actors occasionally provided deliberately misleading information to settle personal disputes or secure material advantage. These structural deficiencies contributed to wrongful arrests and prolonged detentions based on erroneous or unverified intelligence.

International human rights law places strict obligations on states regarding detention practices, emphasizing the protection of liberty, due process, and humane treatment.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

Instruments such as ICCPR and the UDHR affirm that no individual shall be subjected to arbitrary arrest or detention, and that all detainees must be promptly informed of the reasons for their detention and allowed to challenge its legality before an independent judicial authority. The ECHR framework further reinforces the right to a fair trial, including access to legal representation, the presumption of innocence, and the right to an impartial tribunal. These safeguards apply even in contexts involving national security and counter-terrorism.

However, detention practices under the Bush administration in post-9/11 Afghanistan frequently failed to meet these standards. Many detainees were held for extended periods without formal charges or meaningful access to judicial review. Administrative mechanisms such as Detainee Review Boards and Enemy Combatant Review processes lacked both independence and authority to order release, thereby undermining the requirement of judicial oversight under Article 9, paragraph 4 of the ICCPR. Individuals were often denied access to the evidence against them, as well as the ability to challenge their detention through legal counsel or witness testimony, particularly in cases involving classified or undisclosed information.

The case of Muhammad Gul, who repeatedly sought information regarding the detention of his brother Abdullah Khan, illustrates these systemic deficiencies. Despite tribal endorsements and formal petitions, U.S. authorities failed to provide adequate justification or procedural transparency regarding the detention. Such cases demonstrate the broader absence of due process guarantees and the denial of meaningful legal recourse for detainees.

Empirical data further indicate the scale of arbitrary detention during this period. Between 2002 and 2009, thousands of individuals were held in facilities such as the Bagram detention centre, with a substantial proportion eventually released without charge. The issuance of clearance letters confirming the innocence of released detainees reveals the extent to which detention decisions were frequently made without sufficient evidentiary basis. Collectively,

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

these practices reflect systemic deficiencies in legal oversight, transparency, and procedural fairness.

In sum, detention policies under the Bush administration constituted a sustained departure from international legal standards governing arbitrary detention and due process. The absence of judicial review, reliance on broad and often unverified intelligence, and use of collective detention measures collectively undermined obligations under both international human rights law and customary international law. These practices illustrate how counter-terrorism imperatives, when insufficiently constrained by legal safeguards, can generate structural violations of fundamental protections against arbitrary deprivation of liberty.

6.5.5 Obama's Kill-or-Capture Missions

The 'kill-or-capture' strategy employed under the administration of Barack Obama, particularly through night raids in Afghanistan, illustrates the tension between counterinsurgency efficiency and the erosion of core protections under IHL. Framed as a precision-oriented approach to dismantling Taliban and Al-Qaeda networks, these operations were designed to deliver rapid tactical outcomes through targeted raids on suspected militant locations. However, their implementation frequently generated serious humanitarian and legal concerns, as the distinction between combatants and civilians became increasingly unstable in practice. Civilian casualties, destruction of private property, and the psychological trauma inflicted on households, particularly in rural communities, contributed to sustained resentment and weakened the perceived legitimacy of foreign military presence. Rather than functioning as a stabilizing mechanism, night raids often reinforced local opposition and intensified anti-American sentiment.

A central structural weakness of these operations lay in their reliance on unreliable intelligence and highly vulnerable targeting processes. Local informants played a decisive role in identifying targets, yet their reports were frequently shaped by financial incentives, inter-

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

tribal rivalries, or personal disputes. As documented in provincial contexts such as Paktika province, Paktia province, and Khost province, the manipulation of intelligence by local actors significantly increased the likelihood of misidentification. In numerous instances, U.S. forces conducted raids on incorrect compounds due to faulty or deliberately distorted information, resulting in the death or detention of civilians with no involvement in insurgent activity. These dynamics exposed the fragility of the intelligence architecture underpinning night raids and demonstrate the structural risks inherent in outsourcing targeting decisions to local intermediaries.

Equally significant was the recurring misinterpretation of civilian conduct as hostile intent during raid operations. In many cases, Afghan civilians responding to nocturnal intrusions (by defending their homes, firing warning shots, or attempting to protect family members) were subsequently classified as insurgents. Such interpretations frequently led to lethal force being used against individuals whose actions reflected self-preservation rather than participation in hostilities. The 2010 raid on the Kashkaki family home exemplifies this dynamic, in which defensive reactions were interpreted as aggression, resulting in the deaths of civilians, including minors. Similarly, the widespread possession of firearms, a common practice in Afghan households for protection, was often treated as evidence of insurgent affiliation, despite lacking evidentiary value under international legal standards.

Further cases, including incidents involving guests of Commander Daoud in 2010 and the Khan family incident, demonstrate how non-threatening behaviour (such as attempting to flee or exiting a dwelling during a raid) was frequently interpreted as indicative of hostile intent. This expansive interpretation of threat significantly broadened the operational discretion of U.S. forces, effectively lowering the threshold for the use of lethal force and increasing the probability of civilian harm. The resulting rules of engagement, while intended to facilitate force protection, contributed to an elastic and highly subjective framework in which the

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

classification of individuals as combatants could be rapidly inferred under conditions of uncertainty.

The cumulative consequences of these operational practices indicate that night raids, rather than functioning as narrowly targeted counterinsurgency tools, systematically exposed civilian populations to elevated levels of risk. The interaction between unreliable intelligence, ambiguous behavioural interpretation, and permissive engagement rules produced a context in which civilian casualties were not merely incidental but structurally embedded within the logic of operations. Even attempts to regulate conduct through tactical directives, including those associated with General McChrystal, which acknowledged the right of Afghan civilians to defend their households, were insufficient to resolve the underlying issues. The persistence of civilian harm revealed a deeper contradiction within the counterinsurgency framework: Operations designed to enhance security frequently generated insecurity, undermined local trust, and complicated the legal and moral justification of military engagement in Afghanistan.

6.5.6 Bush and Obama's Detention

The denial of effective legal representation to detainees under both the administrations of George W. Bush and Barack Obama constitutes a persistent breach of due process guarantees and fair trial protections as articulated in international legal frameworks. While international humanitarian law and human rights treaties do not always explicitly detail the modalities of defence counsel in contexts of administrative or security detention, a consistent body of soft law and jurisprudence affirms that access to legal assistance is essential for safeguarding individuals against arbitrary deprivation of liberty. In particular, the United Nations 'Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment' (1988) recognises legal counsel as a core safeguard against abuse and illegitimate confinement. During the post-September 11 attacks counter-terrorism framework, however, this safeguard was systematically weakened across successive administrations.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

Under the Bush administration, detainees held at facilities such as Guantanamo Bay were effectively denied access to independent legal counsel for extended periods. This denial reinforced a detention regime oriented less toward adjudication of guilt than toward incapacitation and intelligence extraction, as documented by scholars such as Bovarnick (2010). Legal representation was either absent or severely restricted, contributing to a system in which detainees were unable to meaningfully challenge the basis of their confinement. The absence of adversarial proceedings further entrenched executive discretion over detention decisions, limiting judicial scrutiny and weakening procedural safeguards that are normally central to criminal justice systems governed by the rule of law.

The Obama administration introduced limited procedural reforms intended to address some of these deficiencies, yet these adjustments did not substantially align detention practices with international due process standards. One such reform involved the introduction of ‘personal representatives’ in Detainee Review Board proceedings. While presented as a measure to enhance procedural fairness, these representatives were not legal professionals but rather military officers with restricted training, typically comprising approximately 35 hours of instruction supplemented by occasional refresher sessions (Bovarnick, 2010; HRF, 2011). They lacked legal expertise, linguistic competence in many relevant contexts, and the institutional independence necessary to function as effective advocates. Their role was largely consultative, with limited capacity to contest evidentiary claims, summon witnesses, or introduce exculpatory material, thereby leaving detainees without substantive legal defence.

This model illustrates a structural reliance on procedural substitution rather than genuine adversarial justice. The system replicated the appearance of legal review while withholding the essential components of meaningful representation. Consequently, both administrations converged in practice despite differing rhetorical orientations: Neither fully recognised detainees’ entitlement to independent legal counsel capable of challenging the legality and

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

evidentiary basis of detention. The result was the persistence of indefinite detention regimes in which judicial accountability remained severely constrained, reinforcing scholarly critiques describing the emergence of ‘procedural mimicry,’ whereby formal processes mask the absence of substantive rights protection.

A broader comparison of detention policies across both administrations reveals both divergence in institutional design and continuity in outcome. The Bush administration institutionalised expansive forms of arbitrary detention through large-scale raids, secret detention sites commonly referred to as CIA black sites, and administrative review mechanisms that excluded meaningful participation by detainees. These structures operated with minimal transparency and frequently relied on classified or untested intelligence, limiting opportunities for legal challenge or evidentiary scrutiny. In contrast, the Obama administration sought to reframe detention within a more formalised legal architecture grounded in the Authorization for Use of Military Force and the Military Commissions Act of 2009, introducing procedural adjustments such as restrictions on hearsay evidence and prohibitions on the use of evidence obtained through torture.

Despite these reforms, structural reliance on indefinite detention persisted. Although the Obama administration issued early executive commitments to close Guantanamo Bay, detention authority was ultimately preserved through subsequent legislative measures, including provisions within the 2012 National Defense Authorization Act, which reinforced the legality of continued military detention in certain counter-terrorism contexts. As a result, detainees remained subject to prolonged confinement without access to fully independent judicial processes or effective legal representation.

In comparative terms, the Bush administration’s detention framework was characterised by opacity, discretionary power, and systematic exclusion of legal rights, whereas the Obama administration pursued a strategy of procedural formalisation that sought to legitimise

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

continued detention through legal restructuring. The distinction lies primarily in institutional form rather than substantive outcome. Both administrations sustained systems in which indefinite detention was preserved, and in which access to meaningful legal defence remained limited. The continuity between them lies in the persistence of detention practices that fell short of international standards governing liberty, due process, and the right to a fair hearing, even as the methods of justification evolved from overt exceptionalism to proceduralised legality.

6.5.7 Bush's Torture and Enhanced Interrogation Techniques

The prohibition of torture and cruel, inhuman, or degrading treatment constitutes a peremptory norm of international law, binding under all circumstances without exception. Instruments such as the UDHR, the ICCPR, and the Convention Against Torture establish an absolute legal prohibition on torture, including in contexts of armed conflict, counter-terrorism, or national emergency. These instruments define torture as the intentional infliction of severe physical or psychological suffering for purposes such as extracting information, punishment, coercion, or intimidation, and they further prohibit non-consensual medical or scientific experimentation. Although the clarity of these norms, the post-September 11 attacks counter-terrorism framework under the administration of George W. Bush introduced interrogation practices that directly conflicted with these obligations.

Under the designation of 'enhanced interrogation techniques,' methods such as waterboarding, prolonged sleep deprivation, stress positions, and sensory deprivation were authorized and implemented within detention facilities. These techniques, widely regarded in international legal and medical scholarship as forms of torture, were justified through internal legal interpretations that sought to narrow the definition of torture and expand executive authority in matters of national security. Their authorization at senior levels of government placed them within an institutional framework that extended beyond isolated misconduct,

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

implicating policy-level decision-making in practices that contravened both domestic legal standards and obligations under the Geneva Conventions.

A central site of these practices was Guantanamo Bay, where detainees were classified as ‘enemy combatants,’ a designation that effectively excluded them from protections under both the Geneva Conventions and constitutional safeguards. This classification produced a condition often described as legal limbo, in which individuals were denied prisoner-of-war status as well as the procedural rights ordinarily afforded to criminal suspects. The establishment of military commissions outside the regular judicial system, combined with initial restrictions on habeas corpus claims, further entrenched a parallel legal architecture. Although subsequent judicial rulings such as *Hamdi v. Rumsfeld* and *Rasul v. Bush* affirmed certain due process rights, legislative responses, including the Detainee Treatment Act of 2005, sought to limit judicial oversight and preserve executive discretion over detention and interrogation policy.

International legal standards governing detention require that individuals be informed of charges, brought promptly before a competent judicial authority, and treated in accordance with humane standards. These guarantees were substantially weakened in practice. The Combatant Status Review Tribunals introduced in response to legal and political pressure provided only limited procedural safeguards and failed to meet established standards of judicial independence or evidentiary transparency. In several cases, detainees remained in custody even after being cleared of security concerns, indicating a structural disjunction between administrative review processes and substantive legal accountability.

The abuses at Abu Ghraib prison in Iraq represent one of the most widely documented manifestations of these systemic failures. Following the emergence of photographic evidence in 2004 depicting detainee abuse, an internal investigation led by Maj. Gen. Antonio Taguba confirmed extensive violations, including physical violence, sexual humiliation, psychological coercion, and degrading treatment. These acts included the use of dogs to intimidate detainees,

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

forced nudity, exposure to extreme stress conditions, and staged photographic humiliation, all of which constituted clear breaches of the Geneva Conventions.

The Taguba Report further indicated that these abuses were not merely the result of individual misconduct but reflected broader institutional practices involving coordination between military intelligence personnel and detention staff. Instructions to ‘set conditions’ for interrogations blurred the boundary between intelligence gathering and custodial abuse, contributing to a system in which coercive treatment was normalized as an operational tool. Responsibility was further diffused across command structures, with oversight failures at multiple levels contributing to sustained patterns of abuse.

Legal and policy-level dimensions of these practices were shaped by internal executive branch memoranda, including those produced by the Office of Legal Counsel, which sought to redefine the legal threshold for torture and provide authorization for ‘enhanced’ interrogation techniques. These interpretations enabled the use of coercive methods while attempting to insulate personnel from legal liability. As a result, accountability was unevenly distributed, with disciplinary consequences largely directed toward lower-ranking personnel, while higher-level policy actors remained largely shielded from prosecution.

The broader detention framework also conflicted with international standards governing liberty and due process, including those articulated in the UDHR and the ICCPR . The denial of timely judicial review, the absence of formal charges in many cases, and the use of non-transparent administrative processes collectively undermined the right to liberty and security of person. The resulting system operated as a legal order in which ordinary protections were suspended under the logic of counter-terrorism.

The global impact of these practices was significant. The dissemination of images from Abu Ghraib, including widely circulated photographs involving U.S. personnel such as Private Lynndie England, generated widespread international condemnation and contributed to a

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

substantial decline in the perceived legitimacy of U.S. counter-terrorism policy. The scandal also had broader socio-political consequences, particularly in regions where the symbolic dimensions of humiliation and bodily violation intensified anti-American sentiment and reinforced narratives of occupation and abuse.

Within this broader framework, cases such as that of John Walker Lindh illustrated early tensions between national security objectives and legal safeguards. His interrogation without access to counsel, despite ethical objections raised within the Department of Justice, reflected an emerging pattern in which procedural protections were subordinated to intelligence priorities. Subsequent legal memoranda authored by John Yoo and Robert Delahunty further advanced the position that certain detainees fell outside the scope of the Geneva Conventions, thereby excluding them from prisoner-of-war protections.

The interrogation of Abu Zubaydah marked a pivotal operational moment in the institutionalization of coercive interrogation practices. Legal opinions commonly referred to as the ‘torture memos,’ drafted within the Office of Legal Counsel, narrowly defined torture in terms that excluded many forms of coercive treatment unless they resulted in severe physical harm such as organ failure or death. This interpretive framework facilitated the use of methods including waterboarding, confinement in restricted spaces, and extended sleep deprivation. Subsequent investigations, including findings by the United States Senate Intelligence Committee, later challenged both the reliability of intelligence obtained and the legal reasoning underpinning these practices.

Internal dissent within U.S. institutions further illustrates the contested nature of these policies. Federal Bureau of Investigation personnel, including Ali Soufan, objected to coercive interrogation methods, arguing that non-coercive techniques were more effective and legally defensible. Nevertheless, CIA-led programs proceeded under the authorization framework established by executive legal interpretations. Reports by the International Committee of the

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

Red Cross also documented patterns of abuse consistent with torture and cruel treatment, reinforcing concerns regarding systemic violations of international law.

Although certain legal memoranda were later withdrawn or revised, the structural legacy of these early policy decisions persisted throughout subsequent phases of the counter-terrorism framework. The institutionalisation of coercive interrogation practices, combined with expansive interpretations of executive authority, contributed to enduring tensions between national security policy and the prohibition of torture under international law, raising sustained questions regarding accountability, legality, and the limits of state power in anti-terrorism contexts.

6.5.8 Bush's Extraordinary Rendition: *A Hidden Form of Torture*

The prohibition of extradition or transfer of individuals to jurisdictions where they face a real risk of torture, inhuman treatment, or the death penalty constitutes a well-established principle of international human rights law. This safeguard is embedded in instruments such as the ECHR, which requires states to refrain from removing individuals to contexts where such violations are foreseeable, absent credible and binding assurances of humane treatment. It is also reinforced by broader norms under the Convention Against Torture, which prohibits the transfer of persons to states where substantial grounds exist for believing they would be subjected to torture. Despite these legal constraints, post-9/11 counterterrorism policy under the administration of George W. Bush operationalized a system of 'extraordinary rendition' that effectively circumvented these protections.

Extraordinary rendition refers to the extrajudicial transfer of terrorism suspects to third countries, often with documented records of human rights abuses, for the purpose of detention, interrogation, or intelligence extraction. Although formally justified through diplomatic assurances regarding humane treatment, extensive evidence indicates that such assurances were frequently unreliable or knowingly disregarded in practice. The process enabled the outsourcing

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

of coercive interrogation to foreign intelligence services, thereby distancing the United States from direct legal responsibility while maintaining operational control over intelligence objectives. In effect, this created a transnational system of custody in which individuals were removed from ordinary legal protections, frequently without formal charges, judicial oversight, or access to legal counsel.

High-profile cases such as those of Maher Arar and Khaled El-Masri illustrate the profound legal and human consequences of this practice. Arar, a Canadian-Syrian national, was detained and transferred to Syria, where he was subjected to prolonged torture and coerced into false confessions before eventually being released without charges. El-Masri was similarly abducted and transferred to detention facilities in Afghanistan after being mistakenly identified as a suspected militant, where he endured prolonged incommunicado detention and mistreatment. These cases underscore the structural risks inherent in a system that prioritised intelligence gathering over procedural safeguards and accuracy in target identification.

The policy was further enabled by legal interpretations that narrowed the definition of torture and expanded executive discretion in matters of national security. Internal memoranda, including those associated with the Office of Legal Counsel, contributed to a framework in which coercive practices could be justified or externalised while maintaining formal compliance with domestic legal standards. In practice, this facilitated a system of ‘rendition to torture,’ whereby states with known records of abuse were used as proxies for interrogation functions that would have been legally impermissible within the United States jurisdiction.

Critical assessments by organisations such as Amnesty International and the International Commission of Jurists have characterised extraordinary rendition as incompatible with binding international obligations, particularly the principle of non-refoulement under the Convention Against Torture. These critiques emphasise that diplomatic assurances cannot override the prohibition on transferring individuals to environments where torture is a foreseeable outcome.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

The practice therefore not only undermined legal norms but also contributed to the erosion of accountability mechanisms by dispersing responsibility across multiple jurisdictions.

Former CIA officer Robert Baer's observations provide further insight into the operational logic underpinning the rendition system. His characterization of differentiated destinations for interrogation, torture, or disappearance reveals the functional segmentation of detention practices across partner states. In this framework, countries such as Jordan were associated with coercive but controlled interrogation environments, Syria with systematic torture practices, and Egypt with enforced disappearance and prolonged detention without judicial process. This structure effectively externalised coercive practices while preserving plausible deniability for U.S. authorities.

Such arrangements enabled the United States to distance itself formally from acts that would otherwise constitute violations of international law, while still benefiting from the intelligence derived from them. However, this outsourcing of detention and interrogation responsibilities did not eliminate legal or moral accountability; rather, it redistributed complicity across a network of cooperating states. The result was a system that functioned as a mechanism for bypassing legal safeguards, particularly those enshrined in the Convention Against Torture, which explicitly prohibits the transfer of individuals to jurisdictions where torture is a foreseeable risk.

To conclude, the extraordinary rendition program represents a structural adaptation of counter-terrorism policy that reconfigured, rather than eliminated, exposure to torture and enforced disappearance. By dispersing coercive practices across transnational networks and relying on legal ambiguity and diplomatic assurances, the Bush administration constructed a system that operated at the margins of international legality while significantly undermining established norms of human rights protection and state accountability.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

6.5.9 Obama's Enhanced Interrogation Methods

The administration of Barack Obama adopted a markedly different formal position on interrogation practices compared to its predecessor, yet the broader policy landscape reveals persistent tensions between normative reform and institutional continuity. Shortly after taking office, Obama issued an executive order on 22 January 2009 prohibiting torture and requiring that all interrogation practices conform to the standards set out in the U.S. Army Field Manual. This measure was widely interpreted as an attempt to restore compliance with international legal obligations and re-establish normative alignment with frameworks such as the Convention Against Torture. Initial responses from human rights organisations, including Human Rights Watch, characterised the decision as a significant corrective to previous abuses. However, subsequent critiques, including those by Kenneth Roth, emphasised that procedural prohibition alone was insufficient in the absence of accountability mechanisms capable of addressing past violations.

A central limitation of the Obama administration's approach was its consistent reluctance to pursue criminal prosecutions, establish truth commissions, or provide judicial remedies for victims of unlawful interrogation. This reluctance effectively preserved legal and political immunity for officials involved in the design and implementation of coercive interrogation policies under the administration of George W. Bush. The absence of accountability mechanisms meant that structural impunity remained largely intact, raising concerns about the long-term durability of reform and the potential for policy reversal by future administrations.

The early transition period also illustrates the complexity of institutional change within the intelligence apparatus. In December 2008, prior to assuming office, Obama received briefings from CIA Director Michael Hayden concerning the post-2006 interrogation programme, which had already undergone partial modification following earlier legal and political controversies. Although waterboarding had been removed from authorised techniques, other coercive

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

practices, including sleep deprivation, remained in use under revised guidelines. While CIA leadership defended the programme on grounds of legality and operational effectiveness, the Obama administration ordered its termination and mandated compliance with the Army Field Manual as the exclusive framework for interrogations. This decision represented a formal break with prior practices, yet its reliance on executive authority rather than legislative codification or judicial enforcement rendered it institutionally vulnerable.

The issue of transparency further illustrates the ambivalent nature of reform. On 16 April 2009, the administration released several Office of Legal Counsel memoranda that had previously provided legal justification for interrogation practices. However, this disclosure occurred in response to litigation initiated by the American Civil Liberties Union rather than as part of a proactive transparency agenda. Although the executive order explicitly rejected torture ‘without exception or equivocation,’ the administration simultaneously resisted broader legal accountability measures, including opposition to the establishment of a formal truth commission. The prevailing policy orientation, articulated in the position that national security required moving forward rather than revisiting past conduct, effectively limited the scope of institutional reckoning and constrained avenues for redress.

Judicial and prosecutorial responses further reflected this constrained approach. A federal review examined a substantial number of CIA-related cases but resulted in only a minimal number of prosecutions, none of which implicated senior policymakers or senior intelligence officials. This outcome reinforced perceptions among human rights advocates that accountability mechanisms remained structurally limited and insufficient to address systemic violations.

At the operational level, elements of continuity persisted through the continued use of extraordinary rendition. Despite rhetorical commitments to reform, the CIA under Director Leon Panetta confirmed that transfers of detainees to third countries would continue, relying on

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

diplomatic assurances regarding humane treatment. Such assurances have been widely criticised in international human rights jurisprudence as unreliable safeguards against torture, particularly in contexts where receiving states have documented histories of abuse. Reports of detainee deaths and ongoing mistreatment in facilities associated with U.S. counter-terrorism operations further demonstrate the persistence of human rights concerns within the detention architecture, even after formal policy shifts.

In comparative terms, the Obama administration achieved a clear procedural departure from the explicit authorisation of coercive interrogation techniques that characterised the Bush era. The prohibition of torture and the reassertion of the Army Field Manual as the governing standard represented a formal realignment with international legal norms. However, the absence of accountability mechanisms, the continuation of rendition practices, and the reliance on executive rather than structural reforms limited the transformative scope of these changes. As a result, while overt institutional endorsement of torture was withdrawn, the underlying framework of counter-terrorism detention and interrogation remained largely intact, leaving unresolved the deeper legal and political conditions that had enabled prior abuses.

6.5.10 Bush and Obama's Torture

The interrogation policies associated with George W. Bush and Barack Obama illustrate a dual trajectory of divergence in formal doctrine alongside continuity in structural accountability deficits. While the former administration institutionalized coercive interrogation as an operational component of anti-terrorism strategy, the latter formally prohibited such practices while refraining from establishing mechanisms capable of assigning responsibility for their prior implementation. This juxtaposition exposes a broader tension between legal reform and political closure in the post-9/11 security framework.

Under the Bush administration, coercive interrogation was operationalised through the framework of so-called 'enhanced interrogation techniques,' which included methods such as

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

waterboarding, prolonged sleep deprivation, stress positioning, enforced isolation, and sensory disorientation. These practices were sustained through legal interpretations produced by the Office of Legal Counsel that substantially narrowed the definitional scope of torture, effectively limiting its applicability to acts causing severe physical injury or death. This interpretive strategy created a permissive legal environment in which coercive techniques could be justified as compliant with domestic law while remaining in tension with established international standards, including those articulated in the Convention Against Torture.

The operational reach of these policies extended across multiple detention environments, including Guantanamo Bay, Abu Ghraib Prison, and a network of covert CIA detention facilities commonly referred to as ‘black sites.’ Within these spaces, detainees were frequently placed outside conventional legal protections, producing what scholars have characterised as a condition of juridical suspension, in which access to due process, judicial review, and the protections of the Geneva Conventions was effectively withdrawn. The emergence of the Abu Ghraib scandal further demonstrated how permissive interrogation policies translated into operational practices that generated systemic abuses, undermining both legal norms and institutional discipline.

By contrast, the Obama administration adopted an explicit prohibition of torture upon taking office in 2009, issuing an executive order requiring that all interrogation practices conform to the U.S. Army Field Manual. This measure formally terminated the CIA’s independent interrogation programme and signalled a reorientation toward compliance with both domestic legal standards and international obligations. The administration also declassified several legal memoranda associated with earlier interrogation policies, thereby acknowledging the legal framework that had enabled their development. In formal terms, this represented a clear departure from the doctrinal permissiveness of the preceding administration.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

However, this normative shift was accompanied by a sustained reluctance to pursue retrospective accountability. The policy orientation encapsulated in the decision to ‘look forward, not backward’ limited the scope of judicial or institutional scrutiny over past conduct. As a result, proposed mechanisms such as criminal prosecutions, truth commissions, or comprehensive reparative processes were not pursued. Civil litigation initiated by victims of coercive interrogation was similarly constrained through legal interventions that preserved state secrecy and procedural immunity. This produced a situation in which formal prohibition of torture was decoupled from accountability for its prior institutionalisation.

Continuities also persisted at the level of broader counter-terrorism practice. While coercive interrogation was formally prohibited, practices such as extraordinary rendition remained operational, relying on diplomatic assurances regarding treatment in receiving states. These assurances have been widely contested within international human rights jurisprudence as insufficient safeguards against the risk of ill-treatment. Consequently, although the administration eliminated the explicit authorisation of torture, certain structural pathways that had previously facilitated coercive practices were not fully dismantled.

In comparative terms, the Bush administration normalised coercive interrogation through legal redefinition and institutional embedding, thereby integrating it into the architecture of counter-terrorism policy. The Obama administration, by contrast, formally repudiated such practices and restored alignment with established legal standards, yet refrained from constructing accountability mechanisms capable of addressing prior violations or preventing future reactivation under altered political conditions. The resulting outcome is one in which torture was removed from official doctrine but not fully resolved as a legal or institutional legacy, leaving its historical use insufficiently adjudicated within the broader framework of post-9/11 governance.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

6.6 Consequences and Criticism

The evolution of U.S. counter-terrorism policy under George W. Bush and Barack Obama demonstrates important shifts in strategic practice alongside significant continuity in political and security outcomes. Bush relied primarily on large-scale military intervention as the central mechanism of counter-terrorism, whereas Obama reoriented the same framework through selective military engagement, technologically mediated warfare, and expanded intelligence coordination. Despite these operational differences, both administrations generated comparable patterns of civilian casualties, regional destabilisation, and protracted security crises.

Under Bush, the War on Terror emerged as an expansive military project structured around the invasions of Afghanistan and Iraq. These interventions were justified through a doctrine centred on regime change and preventive warfare against perceived security threats. The campaigns produced extensive infrastructural destruction, mass displacement, and institutional collapse across several parts of South Asia and the Middle East. In Afghanistan and Iraq alike, the dismantling of state institutions created political vacuums that facilitated insurgent mobilisation and prolonged instability. Pakistan, although formally positioned as a strategic ally, experienced increasing internal destabilisation through a combination of military dependency and unilateral U.S. drone operations, circumstances that intensified domestic unrest and militant activity.

Obama inherited these conflicts and attempted to modify their strategic orientation rather than abandon the broader counter-terrorism framework. His administration prioritised counterinsurgency doctrine, limited troop surges, and the gradual transfer of security responsibilities to local actors, particularly in Afghanistan. This approach was presented as a more restrained alternative to prolonged occupation. In practice, however, civilian casualties continued, especially during intensified periods of military engagement such as the 2014 drawdown phase that followed earlier troop surges. At the same time, the expansion of drone

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

warfare in Pakistan, Yemen, and Somalia transformed the operational geography of the War on Terror. Although these operations were justified as precision strikes directed against high-value targets, they frequently resulted in the deaths of lower-level combatants and civilians, contributing to political backlash and the expansion of anti-American sentiment within affected societies.

Both administrations also reinforced domestic security structures in ways that institutionalised counter-terrorism governance within the American state apparatus. Surveillance systems, intelligence coordination mechanisms, and prosecutorial frameworks were expanded under both presidencies, embedding counter-terrorism logic within legal and administrative institutions. Although Obama's rhetoric emphasised legality, proportionality, and precision, his administration preserved many of the assumptions established during the Bush era concerning the exceptional character of terrorism and the legitimacy of extraordinary security measures.

The two presidencies, therefore, converged around a militarised conception of counter-terrorism, despite differences in strategic presentation. Bush extended U.S. interventionism through direct occupation and regime change, while Obama relied more heavily on covert operations, remote warfare, and institutionalised security practices. In both cases, force-based responses generated substantial civilian harm and contributed to cycles of instability that persisted beyond active combat operations. The destabilisation of Iraq and Afghanistan during the Bush administration created conditions that facilitated the emergence of organisations such as the Islamic State, whereas Obama-era drone campaigns and selective interventions contributed to fragmentation and radicalisation across multiple conflict zones.

Domestic and international reactions to these policies reflected sustained criticism of both administrations. Bush's counter-terrorism strategy generated extensive opposition focused on the legality of preventive war, indefinite detention, and coercive interrogation practices. The

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

failure to locate verified weapons of mass destruction in Iraq further weakened the legitimacy of the interventionist project and damaged U.S. credibility within international institutions. Detention facilities such as Guantanamo Bay detention camp and Bagram Air Base became associated with broader concerns surrounding extrajudicial detention and human rights violations.

Obama's presidency initially generated expectations of diplomatic reorientation and strategic restraint. Early international responses welcomed the withdrawal from Iraq and the formal rejection of torture. Nevertheless, continued reliance on drone warfare, expanded surveillance mechanisms, and selective military interventions, including the intervention in Libya, produced increasingly ambivalent evaluations of U.S. foreign policy. The collapse of post-intervention governance structures in Libya, together with the reorganisation of militant networks throughout the region, reinforced perceptions of strategic inconsistency and insufficient post-conflict planning.

Bush's War on Terror was therefore characterised by overt militarisation and large-scale territorial intervention, whereas Obama's approach relied more extensively on remote warfare, intelligence-based targeting, and the institutional normalisation of counter-terrorism practices. Despite these distinctions in operational form, both administrations produced similar consequences: Extensive civilian casualties, weakened state structures across multiple regions, and continuing challenges to U.S. legitimacy within international politics. The War on Terror consequently became entrenched as a defining framework of contemporary U.S. security policy, sustaining enduring debates concerning legality, proportionality, sovereignty, and political accountability. Over time, it evolved into a self-sustaining security paradigm in which military intervention became both a response to insecurity and a factor contributing to its continuation.

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

6.7 The Continuity of the U.S. War on Terror

The U.S. War on Terror, initiated under George W. Bush after the attacks of September 11, 2001, transformed both American foreign policy and domestic governance through military intervention, expanded surveillance systems, and controversial detention and interrogation practices. Constructed as a global campaign against terrorism, it justified the invasions of Afghanistan and Iraq, the expansion of executive authority through the USA PATRIOT Act, and the institutionalisation of extraordinary practices such as torture and indefinite detention. These developments contributed to the consolidation of a security-oriented state in which counter-terrorism priorities frequently superseded civil liberties and established legal constraints.

When Barack Obama entered office in 2009, he pledged to restore the rule of law, prohibit torture, and close the Guantanamo Bay detention camp, generating expectations of a substantial departure from Bush-era policy. In practice, however, his administration preserved much of the structural framework established after 9/11 while modifying its operational methods. Obama reduced reliance on prolonged military occupation in favour of drone warfare, special operations missions, and regional counter-terrorism partnerships. Although this shift reduced the scale of direct U.S. military deployments and lowered financial costs, it also normalised targeted killing as a routine instrument of foreign policy, raising continuing legal and ethical concerns while reinforcing the logic of permanent low-intensity warfare.

In the sphere of detention and interrogation policy, Obama formally prohibited torture by requiring adherence to the U.S. Army Field Manual, thereby dismantling the CIA's officially sanctioned enhanced interrogation programme. His administration nevertheless declined to pursue legal accountability for earlier abuses and continued practices such as extraordinary rendition, leaving significant legal ambiguities unresolved. Guantanamo Bay detention camp remained operational, and indefinite detention persisted under legislative frameworks such as

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

the 2012 National Defense Authorization Act, circumstances that revealed the limitations of reform in the absence of structural legal transformation.

Continuity was equally evident in the domain of surveillance policy. Bush-era warrantless surveillance programmes considerably expanded executive authority and weakened privacy protections, yet the Obama administration retained and further institutionalised many of these mechanisms within a more formalised and judicially framed discourse. This transition altered the public presentation of surveillance practices without dismantling the institutional architecture on which they depended.

Bush and Obama, therefore, pursued distinct strategic and rhetorical approaches to counter-terrorism. Bush relied on expansive military intervention and emergency executive powers, whereas Obama emphasised precision warfare, legal justification, and operational restraint. Despite these differences, both administrations shared common assumptions regarding the permanence of global terrorist threats, the centrality of military and intelligence-based solutions, and the acceptability of restricting civil liberties in the name of national security. Bush established the institutional foundations of the post-9/11 security state, while Obama consolidated and normalized these structures, ensuring their continuity across successive administrations. The relationship between the two presidencies thus reflects not a fundamental rupture in U.S. counter-terrorism policy, but rather the evolution and entrenchment of a durable security paradigm. Obama did not end the War on Terror; instead, he reconfigured it into a permanent low-intensity global security regime. This development confirms the extent to which counter-terrorism became institutionalized as a defining feature of U.S. foreign policy beyond individual presidencies.

6.8 Conclusion

Although there were differences in rhetoric, diplomatic orientation, and methods of implementation, the administrations of George W. Bush and Barack Obama both contributed

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

to the expansion and institutionalization of a post-9/11 security framework centered on executive authority, militarized counter-terrorism, and exceptional legal practices. The Bush administration established the principal foundations of the War on Terror through pre-emptive warfare, indefinite detention, extraordinary rendition, enhanced interrogation, and broad surveillance measures. These policies frequently relied on legal interpretations that weakened procedural guarantees and challenged established norms of international law. Although the Obama administration formally rejected certain practices, particularly torture, and promoted a discourse grounded in legality and multilateral cooperation, many central mechanisms of the Bush-era security structure remained intact. Drone warfare, targeted killing, surveillance programs, and detention policies continued under revised legal and technological frameworks, reflecting continuity rather than fundamental transformation.

The analysis further demonstrated that both administrations generated persistent tensions between counter-terrorism objectives and international human rights obligations. Principles relating to due process, proportionality, distinction, and the prohibition of torture and arbitrary detention were repeatedly constrained by security imperatives and the expansion of executive power. In this context, the post-9/11 era reveals not a clear rupture between two presidencies, but rather the consolidation of a broader and enduring counter-terrorism paradigm. The findings confirm that the U.S. War on Terror is best understood not as a succession of distinct policy regimes, but as a continuous security architecture characterized by adaptive transformation rather than structural rupture.

By employing qualitative document analysis, discourse analysis, and comparative historical interpretation, this study illustrated how political narratives surrounding terrorism and national security contributed to legitimizing exceptional measures within both domestic and international policy. The findings, therefore, suggest that the transformation of United States counter-terrorism policy after the September 11 attacks must be understood not solely through

Chapter Six : Findings and Data Interpretation : *A Comparative Discussion*

changes in presidential leadership, but also through deeper structural continuities embedded within American strategic and security doctrine. Ultimately, Obama did not terminate the War on Terror; rather, his administration reconfigured it into a permanent low-intensity global security regime, confirming the extent to which counter-terrorism became institutionalized as a defining feature of contemporary U.S. foreign policy.

General Conclusion

General Conclusion

The post-9/11 security environment reconfigured the relationship between state power and individual rights by situating counter-terrorism within an enduring framework of emergency governance. In this context, the administrations of George W. Bush and Barack Obama acted under a widely accepted premise of positive state obligation to prevent and respond to terrorist threats, including through preventive and repressive measures. However, the manner in which these measures were articulated and legitimized in political discourse reveals a consistent reliance on national security rationales that shaped both the scope and the perceived legality of exceptional practices.

The Bush administration constructed a discursive framework in which terrorism was represented as an existential and asymmetrical threat that transcended conventional criminality and required a corresponding expansion of executive authority. Within this narrative, measures such as indefinite detention, enhanced interrogation techniques, and expansive surveillance were not presented as deviations from legal norms but as necessary instruments of national survival. The language of urgency, pre-emption, and self-defence played a central role in reframing the legal and moral boundaries of state action, allowing exceptional practices to be normalised through reference to an ongoing state of emergency. This discourse effectively displaced established human rights constraints by prioritising security imperatives as the primary interpretive lens for policy justification.

The Obama administration did not abandon this security-centred discourse but rather recalibrated its articulation. Political rhetoric shifted towards legal justification, institutional oversight, and procedural legitimacy, with greater emphasis placed on targeted operations, judicial review mechanisms, and adherence to international legal norms. Nevertheless, the underlying justificatory logic remained anchored in national security imperatives. Practices such as targeted drone strikes and expanded surveillance programmes were sustained through arguments grounded in necessity, proportionality, and operational effectiveness. The rhetorical

General Conclusion

transformation thus reflected a change in tone and legal framing rather than a fundamental redefinition of the relationship between security and rights.

Across both administrations, national security discourse functioned as the primary justificatory structure through which counter-terrorism powers were expanded and institutionalised. While the Bush administration relied more explicitly on exceptionalist and emergency-based reasoning, the Obama administration embedded similar practices within a more legalistic and procedural vocabulary. Despite these differences in style, both approaches converged in their reliance on the assumption that extraordinary threats require extraordinary measures, thereby legitimising departures from ordinary peacetime standards of rights protection. This analysis demonstrates that the justification of anti-terrorism measures under both administrations was not episodic but structurally consistent, grounded in a shared discursive logic of security prioritisation. It therefore supports the hypothesis that both the Bush and Obama administrations employed national security discourse to legitimise expanded counter-terrorism powers and exceptional security measures, albeit through differing rhetorical and institutional registers.

The post-9/11 counter-terrorism framework in the United States has generated a sustained tension between the normative commitments of human rights and the operational imperatives of national security. While human rights are consistently invoked within U.S. political discourse as foundational to constitutional identity and foreign policy legitimacy, their practical application in the counter-terrorism domain has often been mediated through a logic of conditionality. Within this logic, rights protections are not treated as absolute constraints but as principles that may be recalibrated when positioned against security exigencies. This dynamic has been particularly visible in practices associated with detention regimes, surveillance architectures, interrogation techniques, and targeted military operations.

General Conclusion

The analysis indicates that post-9/11 security policies materially affected civil liberties and legal protections by expanding the scope of executive authority and reducing the operational reach of established safeguards. Measures such as indefinite detention, enhanced surveillance programmes, and coercive interrogation practices introduced forms of legal and administrative exceptionality that challenged core guarantees under both domestic constitutional law and international human rights law. In many instances, these practices were justified through an interpretive framework that relied on self-defence reasoning, both in its domestic articulation and its international projection, thereby repositioning restrictive measures as lawful responses to an exceptional threat environment.

Within this discursive and legal configuration, human rights norms were frequently subordinated to security rationales rather than operating as coequal constraints. The result was not the formal abandonment of rights discourse, but its selective activation, whereby rights were affirmed at the level of principle while simultaneously constrained in practice through emergency-oriented interpretations. This pattern produced a structural tension between normative commitments and policy implementation, particularly in contexts where judicial oversight and legislative scrutiny were limited or deferential to executive assessments of threat.

The empirical findings of this study demonstrate that the consequences of these policies extended beyond individual cases of rights restriction to broader institutional and normative effects. Civil liberties frameworks were recalibrated in ways that enabled expanded surveillance capacities and more flexible detention practices, while accountability mechanisms struggled to consistently constrain executive discretion in security matters. These developments were repeatedly identified by domestic civil liberties organisations and international human rights bodies, which pointed to a persistent gap between stated commitments and operational conduct. The analysis, therefore, responds directly to the second research question by showing that post-9/11 counter-terrorism policies significantly affected civil liberties and legal protections

General Conclusion

through the institutionalisation of security-driven exceptions within legal and political practice. It also supports the second hypothesis, insofar as it confirms that the implementation of counter-terrorism measures produced sustained tensions between security objectives and international human rights obligations, particularly in the domains of detention, surveillance, interrogation, and targeted military operations.

The post-9/11 counter-terrorism trajectory in the United States reveals a pattern in which security imperatives generated practices that, in several instances, conflicted with established international human rights and humanitarian law. Measures such as the use of enhanced interrogation techniques in CIA detention facilities, the operation of extrajudicial detention regimes at Guantanamo Bay, and the extensive deployment of targeted drone strikes collectively illustrate a security strategy that expanded beyond conventional criminal justice boundaries. These practices raised sustained legal and ethical concerns insofar as they engaged core prohibitions under international law, including protections against torture, guarantees of due process, and the requirement of judicial oversight in deprivation of liberty.

The continuation of such practices across both the Bush and Obama administrations indicates that the post-9/11 counter-terrorism framework was characterised less by institutional rupture than by adaptive continuity. While the Bush administration established the foundational legal and operational architecture through emergency-based reasoning and expansive interpretations of executive authority, the Obama administration largely retained this structure while refining its justificatory and procedural presentation. The shift in discourse towards legality, proportionality, and oversight mechanisms did not correspond to a systematic dismantling of the underlying operational framework. Instead, it coincided with the reconfiguration of certain practices within a more formalised legal vocabulary, particularly in relation to targeted killings and detention review processes.

General Conclusion

Drone warfare in Pakistan, Yemen, and Somalia further illustrates this continuity, as both administrations relied on similar legal rationales concerning self-defence, imminence, and transnational threat actors. Despite differences in operational transparency and rhetorical framing, the strategic use of remotely executed force remained a central feature of U.S. counter-terrorism policy. The resulting civilian casualties and the limited transparency surrounding targeting procedures contributed to sustained critiques regarding accountability, proportionality, and compliance with international humanitarian law standards. At the domestic level, the expansion of surveillance practices and the persistence of preventive detention frameworks contributed to a broader recalibration of civil liberties protections. These measures disproportionately affected Muslim and immigrant communities, reflecting the securitisation of specific social groups within counter-terrorism governance. The institutional durability of these practices suggests that they became embedded within the structural logic of U.S. security policy rather than remaining exceptional responses confined to the immediate post-9/11 context.

This analysis responds to the third research question by demonstrating that the Obama administration did not introduce fundamental structural transformations to the counter-terrorism framework established after 11 September 2001. Instead, it maintained substantial continuity with the Bush-era architecture, particularly in relation to detention policy, targeted killing operations, and surveillance practices, while modifying their legal articulation and administrative presentation. This finding supports the third hypothesis by showing that, despite differences in rhetorical style and diplomatic orientation, both administrations preserved core institutional and strategic elements of the War on Terror, resulting in a durable and evolving counter-terrorism regime rather than a discontinuous policy shift.

The post-9/11 ‘War on Terror’ inaugurated under President George W. Bush constituted a decisive reconfiguration of U.S. counter-terrorism practice, in which exceptional security logics

General Conclusion

were translated into concrete institutional and operational policies. In this context, counter-terrorism was frequently pursued through measures that generated sustained controversy under international human rights and humanitarian law, including expanded executive authority, militarised interventions, and detention and interrogation practices that operated at the limits of established legal constraints. Although these policies were framed as necessary responses to an unprecedented security threat, their implementation often produced outcomes that complicated the relationship between security objectives and legal obligations, particularly in relation to due process guarantees and the prohibition of ill-treatment.

The transition to the Obama administration did not constitute a fundamental break with this architecture. Despite a marked shift in rhetorical orientation and a sustained emphasis on legality, multilateralism, and institutional oversight, core components of the counter-terrorism framework remained intact. The reliance on targeted killings, including drone strikes conducted in non-traditional battlefields, alongside the continued use of expanded surveillance mechanisms, indicates a high degree of operational continuity. While procedural adjustments and increased reliance on legal review processes were introduced, these did not amount to a structural departure from the security paradigm established in the preceding administration.

Across both administrations, counter-terrorism policy can therefore be understood as operating within a shared strategic logic in which national security considerations functioned as the primary organising principle of action. The difference between the two presidencies lies less in the substance of security practices than in the mode of their justification and institutional presentation. Bush-era policies were more explicitly framed within an emergency and wartime discourse, whereas the Obama administration increasingly relied on technocratic, legalistic, and procedural forms of legitimation. However, both approaches converged in their reliance on the assumption that exceptional threats justify expanded security powers, even when such expansion places pressure on established human rights protections.

General Conclusion

The persistence of practices associated with detention without trial, targeted killing, and extensive surveillance across both administrations points to a structural continuity in the post-9/11 security paradigm. This continuity also generated enduring concerns regarding transparency, oversight, and accountability, particularly in relation to the externalisation of force and the classification of security operations. The resulting tensions between security governance and human rights obligations reflect not isolated policy failures but a broader systemic configuration in which emergency reasoning became embedded within ordinary governance practices.

The findings of this study indicate that the post-9/11 counter-terrorism framework in the United States has been characterised by a durable alignment between security imperatives and exceptional measures, with limited substantive disruption across successive administrations. The evolution from Bush to Obama thus reflects an adaptive continuity rather than a normative rupture. This pattern illustrates the difficulty of reconciling expansive counter-terrorism mandates with the full realisation of international human rights standards, particularly in contexts where security discourse structures the boundaries of permissible state action.

This study is subject to several limitations that affect both the scope of the analysis and the degree to which definitive conclusions can be reached. One significant limitation concerns restricted access to classified materials. Many aspects of U.S. counter-terrorism policy, including intelligence operations, internal legal memoranda, surveillance mechanisms, and operational decision-making processes, remain inaccessible to the public. The absence of full transparency limits the possibility of comprehensively assessing the extent of human rights violations and constrains independent verification of official claims concerning necessity, proportionality, and legality.

A further limitation relates to the nature of the available sources. Government reports, official statements, and media coverage frequently reflect institutional, political, or ideological

General Conclusion

assumptions that shape the representation of counter-terrorism policies and their consequences. This creates methodological challenges concerning source reliability, selectivity, and discursive framing. Although the study sought to address these concerns through comparative analysis and engagement with academic and human rights literature, the possibility of interpretive bias cannot be entirely eliminated.

The study also encounters difficulties in measuring the precise impact of counter-terrorism measures on civil liberties and human rights protections. Many security practices operate within partially classified environments where evidence remains fragmented or contested. As a result, the relationship between specific policies and their broader social, legal, and political consequences cannot always be empirically quantified with precision. This challenge is particularly evident in areas such as surveillance, intelligence cooperation, and covert military operations, where official data is limited and independent investigations are often restricted.

Temporal scope constitutes another limitation. The research focuses primarily on the administrations of George W. Bush and Barack Obama and therefore does not fully examine the longer-term evolution of post-9/11 counter-terrorism policies beyond these presidencies. While this delimitation was necessary to maintain analytical coherence within the comparative framework of the study, it inevitably restricts the ability to assess the enduring institutional and geopolitical consequences of the policies examined.

Future research may extend this analysis by investigating the continuity and transformation of U.S. counter-terrorism policy in the post-Obama period, particularly under the administrations of Donald Trump and Joe Biden. Such research could provide further insight into whether the security structures institutionalised after 11 September 2001 have been consolidated, reconfigured, or partially reversed. Another important area for future inquiry concerns the role of international law in shaping U.S. counter-terrorism practices, especially the extent to which frameworks such as the Geneva Conventions, international humanitarian

General Conclusion

law, and United Nations human rights instruments have constrained, legitimised, or failed to regulate contemporary security operations.

Further scholarly attention may also be directed toward the broader global implications of the U.S. counter-terrorism model, including its influence on allied states, international security governance, and the evolving relationship between emergency powers and democratic accountability. Such avenues of research would contribute to a deeper understanding of how counter-terrorism policies continue to reshape the legal and normative foundations of the international order.

A comparative analysis of counter-terrorism strategies can offer valuable insights by examining the approaches adopted by the United States with those of other countries, such as Israel. This comparative framework allows for a deeper understanding of policy implementation, oversight mechanisms, and legal justifications. Such an analysis can reveal patterns of human rights violations and contribute to a more informed critique of counter-terrorism practices on a global scale. Another crucial area of interest is media and the

Public perception of counter-terrorism policies, exploring how media narratives and public discourse have shaped or influenced national security decisions. Future research may also examine the effects of post-9/11 counter-terrorism policies on minority and immigrant communities within the United States, particularly in relation to racial profiling, surveillance practices, and restrictive immigration measures. Greater scholarly attention to the experiences of Muslim and immigrant populations would contribute to a more detailed understanding of how security policies intersect with questions of identity, citizenship, social inclusion, and institutional discrimination. Such research may further illuminate the extent to which counter-terrorism governance reshaped social relations and reinforced forms of securitised categorisation within domestic political life.

General Conclusion

Another important direction concerns the psychological and social consequences of prolonged counter-terrorism measures. The expansion of surveillance regimes, preventive security practices, and emergency-based political discourse may have broader implications for public trust, perceptions of state legitimacy, mental health, and civic participation. Examining these dimensions could provide a deeper understanding of how security-oriented governance affects democratic culture and the relationship between citizens and state institutions over extended periods of perceived threat.

Further investigation may also focus on the relationship between U.S. counter-terrorism practices and international human rights advocacy. The tension between the United States' declared commitment to human rights and the implementation of controversial security measures raises important questions concerning international credibility, normative authority, and diplomatic legitimacy. Research in this area could analyse how U.S. counter-terrorism policies have shaped global perceptions of American human rights discourse and influenced the conduct and justification strategies of other states engaged in counter-terrorism operations.

A more detailed examination of legal challenges to U.S. counter-terrorism measures would also provide valuable insight into the evolving relationship between executive power, judicial oversight, and constitutional accountability. Analysis of litigation concerning torture, indefinite detention, surveillance programmes, and targeted killings may reveal how domestic and international legal institutions have attempted to regulate or constrain security practices introduced after 11 September 2001. Such research could further clarify the extent to which judicial review functions as an effective mechanism of accountability in periods characterised by expanded executive authority and security exceptionalism. By engaging with these areas, future scholarship may contribute to a more comprehensive understanding of the complex relationship between national security policies, democratic governance, and the protection of human rights in the contemporary international system.

References

- Abbas, H. (2005). *Pakistan's drift into extremism: Allah, the army, and America's war on terror* (pp. 85–86). Pentagon Press.
- Ackerman, S., & Wintour, P. (2016, November 15). Obama will not restrict drone strike "playbook" before Trump takes office. *The Guardian*.
<https://www.theguardian.com/world/2016/nov/15/obama-administration-drone-strikes-donald-trump>
- ACLU. (2005). *Fact sheet: Extraordinary rendition*. <http://www.aclu.org/national-security/fact-sheet-extraordinary-rendition>
- Agamben, G. (2005). *State of exception*. University of Chicago Press.
- Ahmed, N. (2010). General Musharraf's Taliban policy 1999–2008. *The Dialogue*, 5(2), 111.
- Aksoy v. Turkey, 23 EHRR 553 (1996).
- Albany Law Review. (2002). *Extradition, human rights, and the death penalty*.
- Alessandri, E., Hassan, O., & Reinert, T. (2015, April 1). U.S. democracy promotion from Bush to Obama.
- Allam, H. (2011, June 25). U.S. fares poorly in first modern polling of Egyptian views. *McClatchy Newspapers*. <http://www.mcclatchydc.com/2011/06/25/v-print/116485/us-fares-poorly-in-first-modern.html>
- Allawi, A. A. (2007). *The occupation of Iraq: Winning the war, losing the peace* (pp. 156–160). Yale University Press.
- Al-Nashif v. Bulgaria, ECHR, Judgment of 20 June 2002, App. No. 50963/99.
- Al-Saadoon & Mufdhi v. United Kingdom, App. No. 61498/08, European Court of Human Rights (ECHR) (2010).
- Alston, P. (2009). *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Mission to Afghanistan*. United Nations Human Rights Council.
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/131/17/PDF/G0913117.pdf?OpenElement>
- Alston, P. (2010). *Report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions: Study on targeted killings*. United Nations Human Rights Council.
<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>
- American Civil Liberties Union. (2002). *District court approves ACLU settlement, orders improvements in Wisconsin's supermax*. <https://www.aclu.org/press-releases/district-court-approves-aclu-settlement-orders-improvements-wisconsin-supermax>

- American Civil Liberties Union. (2003). *Court finds no excuse for deplorable conditions on Mississippi's death row*. <https://www.aclu.org/press-releases/court-finds-no-excuse-deplorable-conditions-mississippi-death-row-orders-immediate>
- American Civil Liberties Union. (2012, January 9). *ACLU statement on ten years of Guantánamo*. <http://www.aclu.org/national-security/aclu-statement-ten-years-guantanamo>
- Amnesty International. (2001). *2002 UN Commission on Human Rights: Rights at risk* (AI Index: IOR 41/025/2001).
- Amnesty International. (2002a). *Afghanistan: Continuing need for protection and standards for return of Afghan refugees* (AI Index: ASA 11/014/2002).
- Amnesty International. (2002b). *Case of Tracy Housel*.
- Amnesty International. (2002c). *United Kingdom: Rights denied: The UK's response to 11 September 2001* (AI Index: EUR 45/016/2002).
- Amnesty International. (2002d, July). *Without distinction: Attacks on civilians by Palestinian armed groups* (AI Index: MDE 02/003/2002).
- Amnesty International. (2009). *USA: Detainees still held at Bagram without access to courts*. Amnesty International Publications.
- Armitage, D. (2002). The Declaration of Independence and international law. *The William and Mary Quarterly*, 59(1), 39–64.
- Arnesen, I. (2004, June 9). Detainees not covered by Geneva Conventions, report concluded. *CNN.com*.
- Ashcroft, J. (2001). *Never again: Securing America and restoring justice*. Regnery Publishing.
- Ashraf, M., et al. (Eds.). (2002). *Peace and security in South Asia: Report of the international conference held at the Institute of Strategic Studies, Islamabad*.
- Assembly, U. G. (1948). *Universal Declaration of Human Rights*. UN General Assembly.
- Associated Press. (2010, January 1). Pakistani Taliban say they carried out CIA attack.
- Atlas, T., & Gaouette, N. (2013, February 8). Kerry says U.S. evaluating Syria options after divide. *Bloomberg*.
- Aziz, R. (2018, May). Russia's alarming attempts to establish influence in Egypt. *The Washington Institute for Near East Policy*. <https://www.washingtoninstitute.org>
- Bacevich, A. J. (2002). *American empire: The realities and consequences of U.S. diplomacy*. Harvard University Press.

- Bacevich, A. J. (2013). *Breach of trust: How Americans failed their soldiers and their country*. Metropolitan Books.
- Badalič, V. (2019). *The war against civilians: Victims of the 'War on Terror' in Afghanistan and Pakistan*. Palgrave Macmillan.
- Baele, S. J., Lewis, D., Hoeffler, A., Sterck, O. C., & Slingeneyer, T. (2018). The ethics of security research: An ethics framework for contemporary security studies. *International Studies Perspectives*, 19(2), 105–127.
- Baker, P. (2001). *The politics of national security*. Washington Post.
- Baker, P. (2013, July). A coup? Or something else? \$1.5 billion in U.S. aid is on the line. *The New York Times*. <https://www.nytimes.com>
- Ballen, K. (2008). Bin Laden's soft support. *Washington Monthly*.
- Bankovic v. Belgium, App. No. 52207/99, ECHR Decision on Admissibility, 12 Dec. 2001, *International Legal Materials*, 41, 517.
- Barry, B. (2017). *Harsh lessons: Iraq, Afghanistan and the changing character of war*. Routledge.
- Basrur, R. M., & Rizvi, H. (2003, February). *Nuclear terrorism and South Asia* (Cooperative Monitoring Centre Occasional Paper/25). Sandia National Laboratories.
- Bateman, K. (2022, November 3). *In Afghanistan, was a loss better than peace?* United States Institute of Peace. <https://www.usip.org/publications/2022/11/afghanistan-was-loss-better-peace>
- Becker, J., & Shane, S. (2012, May 29). Secret 'kill list' proves a test of Obama's principles and will. *The New York Times*.
- Benson, P. (2012, May 3). Bin Laden documents: Fear of drones. *CNN.com*. <https://security.blogs.cnn.com/2012/05/03/bin-laden-documents-fear-of-drones/>
- Beresford, A. D. (2004). Homeland security as an American ideology: Implications for U.S. policy and action. *Journal of Homeland Security and Emergency Management*, 1(1), 1-22.
- Bergen, P. (2012). *Manhunt: The ten-year search for Bin Laden from 9/11 to Abbottabad*. Crown.
- Bergen, P., & Rowland, J. (2013). Drone wars. *The Washington Quarterly*, 36(3), 7-26. <https://doi.org/10.1080/0163660X.2013.825553>
- Bergen, P., & Tiedemann, K. (2011). Washington's phantom war: The effects of the U.S. drone program in Pakistan. *Foreign Affairs*, 90(4), 12–18.

- Berger, M. (2021, August 21). Afghanistan war neocons like George W. Bush would like you to know this isn't their fault. *NBC News*.
- Berman, J., & Flint, L. (2003). Guiding lights: Intelligence oversight and control for the challenge of terrorism. *Criminal Justice Ethics*, 22, 56–58.
- Berman, P. (2007). Global legal pluralism. *Southern California Law Review*, 80, 1155–1238.
- Biddle, S., Byman, D. L., Clark, W. K., Crow, A., Gardiner, N., Innocent, M., Joffe, J., & Pletka, D. (2011, March 29). Room for debate: Is there an Obama Doctrine? *The New York Times*. <http://www.nytimes.com/roomfordebate/2011/03/29/is-there-really-an-obama-doctrine>
- Bird, T., & Marshall, A. (2011). *Afghanistan: How the West lost its way*. Yale University Press.
- Blakeley, R. (2011). Dirty hands, clean conscience? The CIA inspector general's investigation of 'enhanced interrogation techniques' in the war on terror and the torture debate. *Journal of Human Rights*, 10(4).
- Blomdahl, M. (2018). Interacting interests: Explaining President Obama's Libyan decision. *European Journal of American Studies*, 13(2).
- Blomley, N. (2004). *Unsettling the city: Urban land and the politics of property*. Routledge.
- Boggs, C. (2011). *Empire versus democracy: The triumph of corporate and military power*. Routledge.
- Bolton, J. (2012, October 8). Ambassador John Bolton: Mitt Romney will return peace through strength. *Mitt Romney Press*. <http://www.mittromney.com/news/press/2012/10/amb-john-bolton-mitt-romney-will-return-peace-through-strength>
- Borger, E. M. (2004, September 16). Iraq war was illegal and breached the UN charter, says Annan. *The Guardian*.
- Bose, M. (2012). *Obama and the Middle East: The end of America's moment?* Routledge.
- Boumediene, L. (2011, January 7). My Guantánamo nightmare. *The New York Times*.
- Bovarnick, J. A. (2010). *Detainee review boards in Afghanistan: From strategic liability to legitimacy*. Judge Advocate General's Legal Center and School.
- Boyle, M. J. (2010). Do counterterrorism and counterinsurgency go together? *International Affairs*, 86(2), 333–353.
- Boyle, M. J. (2013). The costs and consequences of drone warfare. *International Affairs*, 89(1), 1–29.

- Boyle, M. J. (2015). The legal and ethical implications of drone warfare. *The International Journal of Human Rights*, 19(2), 105–126.
- Boyle, M. J. (2016). Drone wars: Transforming conflict, law, and policy. *International Affairs*, 92(1), 210–211.
- Bozano v. France, 9 EHRR 297 (1986).
- Brands, H. W. (2016). *Making the unipolar moment: U.S. foreign policy and the rise of the post-Cold War order*. Cornell University Press.
- Brinkley, A. (2011, November 3). Memories of the Bush administration. *The New York Times*. <http://www.nytimes.com/2011/11/06/books/review/books-from-donald-rumsfeld-and-dick-cheney.html>
- Brogan and Others v. United Kingdom, 11 EHRR 117 (1989).
- Brooks, D. J. (2010). What is security: Definition through knowledge categorization. *Security Journal*, 23(3), 225–239.
- Brown, C. (2003). *Lost liberties: Ashcroft and the assault on personal freedom*. The New Press.
- Brown, T., Nardin, T., & Rengger, N. (Eds.). (n.d.). *International relations in political thought: Texts and cases* (pp. 468–477). Cambridge University Press.
- Brown, W. (2006). *Regulating aversion: Tolerance in the age of identity and empire*. Princeton University Press.
- Bruno, G., & Bajoria, J. (2008, June 26). *U.S.-Pakistan military cooperation*. Council on Foreign Relations.
- Bujard, D. (1974). The Geneva Convention of 1864 and the Brussels Conference of 1874. *International Review of the Red Cross*, 14(163), 527–537.
- Bureau of Justice Statistics. (2003). *Capital punishment, 2002*.
- Bush, G. W. (2001, September 20). *Address to a joint session of Congress and the American people*. <https://georgewbush-whitehouse.archives.gov>
- Bush, G. W. (2002a, January 29). *State of the Union address*. <https://georgewbush-whitehouse.archives.gov>
- Bush, G. W. (2002b, June 1). Text of Bush's speech at West Point. *The New York Times*.
- Bush, G. W. (2002c, September 12). George Bush's speech to the UN General Assembly.
- Bush, G. W. (2003, January 28). President Bush's 2003 State of the Union address.
- Bush, G. W. (2010). *Decision points* (pp. 229–231). Crown Publishers.

- Bybee, J. S. (2002, August 1). *Memorandum for Alberto R. Gonzales, Counsel to the President: Re: Standards for interrogation under 18 U.S.C. §§ 2340–2340A*. <http://www.aclu.org/national-security/memo-regarding-torture-and-military-interrogation-alien-unlawful-combatants-held-o>
- Callinicos, A. (2001). *Against the third way: An anti-capitalist critique*. Polity Press.
- Cameron, I. (2003). *National security and the European Convention on Human Rights*. Kluwer Law International.
- Campbell and Fell v. United Kingdom, 7 EHRR 165 (1984).
- Carati, A. (2015). No easy way out: Origins of NATO's difficulties in Afghanistan. *Contemporary Security Policy*, 36(2), 200–218. <https://doi.org/10.1080/13523260.2015.1025634>
- Carey, H. (2002). Immigrants, terrorism, and counter-terrorism. *Peace Review*, 14, 395–402.
- Carothers, T. (2007, September 5). U.S. democracy promotion during and after Bush. Carnegie Endowment.
- Carter, S. L. (2018, February 9). Destroying a quote's history in order to save it. *Bloomberg Opinion*. <https://www.bloomberg.com/opinion/articles/2018-02-09/destroying-a-quote-s-history-in-order-to-save-it>
- Casey, P. M., & Rottman, D. B. (2005). Problem-solving courts: Models and trends. *Justice System Journal*, 26(1), 35–56.
- Cassese, A. (1990). *Human rights in a changing world*. Polity Press.
- CCPR/CO/73/UK, para. 6 (2001); CCPR/CO/75/MDA, para. 8 (2002); CCPR/CO/77/EST.
- Center for the Study of Human Rights in the Americas. (n.d.). *Combatant Status Review Tribunals*. University of California, Davis. http://humanrights.ucdavis.edu/projects/the-guantanamo-testimonials-project/testimonies/testimonies-of-the-defense-department/CSRT_new
- Chairman of the Joint Chiefs of Staff. (2005). *National military strategy of the United States of America*.
- Chamberlin, W. J. (2011, March 18). *Interview by author [Former U.S. Ambassador to Pakistan, President of the Middle East Institute]*. Washington, DC.
- Chahal v. United Kingdom, 23 EHRR 413 (1996).
- Cheng, C., & Brett, A. (2019). How cognitive frameworks shape the American approach to international relations and security studies. *Journal of Global Security Studies*, 4(3), 321–344.

- Cheney, D. (2003). *The vice presidency and national security*. American Enterprise Institute.
- Cheney, R. B. (2006, February 9). *Remarks by the Vice President on the 2006 agenda*. <http://www.whitehouse.gov/news/releases/2006/02/20060209-9.html>
- Chivvis, C. (2014). *Toppling Qaddafi: Libya and the limits of liberal intervention*. Cambridge University Press.
- Chomsky, N. (2003). *Hegemony or survival: America's quest for global dominance*. Henry Holt and Company.
- Chomsky, N. (2016). *Who rules the world?* Metropolitan Books.
- Clapham, A. (2007). *Human rights: A very short introduction*. Oxford University Press.
- Clark, K. (2011). The Layha: Calling the Taleban to account. Appendix 1: The Taleban codes of conduct in English. *Afghanistan Analyst Network*. http://www.afghanistan-analysts.org/wp-content/uploads/downloads/2012/10/Appendix_1_Code_in_English.pdf
- Clarke, A. W. (2009). A more regular process of irregular rendition. *Rutgers Law Review*, 62(1), 1–72.
- Clarke, R. A. (2011). *Cyber war: The next threat to national security and what to do about it*. Ecco.
- Clinton, H. R. (2014). *Hard choices*. Simon & Schuster.
- Cloud, D. S. (2010, May 5). CIA drones have broader list of targets. *Los Angeles Times*. <https://www.latimes.com>
- CNN Democratic presidential debate in Texas. (2008, February 21). *CNN*. <http://www.cnn.com/2008/POLITICS/02/21/debate.transcript/index.html>
- Cohen, M. A. (2016). *American maelstrom: The 1968 election and the politics of division*. Oxford University Press.
- Cole, D. (2003). *Enemy aliens: Double standards and constitutional freedoms in the war on terrorism*. New Press.
- Cole, D. (2009). *Torture memos: Rationalizing the unthinkable*. New Press.
- Cole, D., & Dempsey, J. X. (2006). *Terrorism and the Constitution: Sacrificing civil liberties in the name of national security* (3rd ed.). New Press.
- Columbia Law School Human Rights Clinic. (2012). *The civilian impact of drones: Unexamined costs, unanswered questions*. Columbia University.
- Congress. (2001). *Congressional Record. Public Law 107-40, 107th Congress, Joint Resolution*. GPO.

- Connah, L. (2021). US intervention in Afghanistan: Justifying the unjustifiable? *South Asia Research*, 41(1), 70–86.
- Conyers, J. (2009). *Reining in the imperial presidency: Lessons and recommendations relating to the presidency of George W. Bush*. Skyhorse Publishing.
- Cooper, H. (2011, September 21). Obama says Palestinians are using wrong forum. *The New York Times*. <http://www.nytimes.com/2011/09/22/world/obama-united-nations-speech.html>
- Cooper, H., & Shanker, T. (2009, January 28). Aides say Obama's Afghan aims elevate war over development. *The New York Times*.
- Cortright, D. (2011). *Ending Obama's war: Responsible military withdrawal from Afghanistan*. Paradigm.
- Council on Foreign Relations. (2011). U.S. war in Afghanistan. Council on Foreign Relations Publications.
- Cranston, M. (1973). *What are human rights?* Bodley Head.
- Crawford, N. C. (2003). Just war theory and the US counterterror war. *Perspectives on Politics*, 1(1), 5–25.
- Crawford, N. C. (2011, September). *Civilian death and injury in Afghanistan, 2001–2011*. Costs of War Project, Watson Institute, Brown University. <http://watson.brown.edu/costsofwar/files/cow/imce/papers/2011/Civilian%20Death%20and%20Injury%20in%20Afghanistan,%202001-2011.pdf>
- Crawford, N. C. (2021). *United States budgetary costs of the post-9/11 wars through FY2022*. Watson Institute, Brown University. <https://watson.brown.edu/costsofwar/>
- Cronin, A. K. (2009). *How terrorism ends: Understanding the decline and demise of terrorist campaigns*. Princeton University Press.
- Crotty, W. (2004). *The politics of terror: The U.S. response to 9/11*. Northeastern University Press.
- Crowley, M. (2016, January). "We caved": What happened when Barack Obama's idealistic rhetoric collided with the cold realities of war and dictatorship in the Middle East and beyond. *Politico*. <https://www.politico.com>
- Cuddehe, M. (2009, September 23). Fiasco. *The New Republic*.
- Curtis, L. (2007, October 11). *Testimony before the Armed Services Committee on "Security challenges involving Pakistan and policy repercussions for the Department of Defense."* U.S. House of Representatives.

- Cutler, L. (2010). Bush vs. Obama detainee policy post-9/11: An assessment. *Strategic Studies Quarterly*, 4(2), 63–87.
- Cyprus v. Turkey, ECHR (Judgment of 10 May 2001).
- D'Arcus, B. (2014). Extraordinary rendition, law and the spatial architecture of rights. *ACME: An International Journal for Critical Geographies*, 13(1), 79–99.
- Daalder, I. H., et al. (2003). *Protecting the American homeland: One year on*. Brookings Institution Press.
- Daalder, I., & Lindsay, J. (2018). The emptiness of Trump's "America First" foreign policy. *Foreign Affairs*, 97(2), 25–32.
- Dalton, J. G. (2005). What is war? Terrorism as war after 9/11. *ILSA Journal of International and Comparative Law*, 12, 523.
- Danner, M. (2009, March 12). U.S. torture: Voices from the black sites. *The New York Review of Books*. <http://www.nybooks.com/articles/archives/2009/apr/09/us-torture-voices-from-the-black-sites/?page=1>
- Danner, M. (2016). *Spiral: Trapped in the forever war*. Simon & Schuster.
- Davis, L. E., McNerney, M. J., & Greenberg, M. D. (2016). *Clarifying the rules for targeted killing: An analytical framework for policies involving long-range armed drones*. RAND Corporation. https://www.rand.org/pubs/research_reports/RR1610.html
- Davis, M. (2012, February 7). Guantánamo's deepening failure. *Salon*.
- De Groot, T., & Regilme, S. S., Jr. (2020). Drone warfare and the Obama administration's path-dependent struggles on human rights and counterterrorism. *Interdisciplinary Political Studies*, 6(1), 167–201.
- Deeks, A. (2016). Checks and balances from abroad. *The University of Chicago Law Review*. <https://chicagounbound.uchicago.edu/uclev>
- Defense Casualty Analysis System. (2016). *Overseas contingency operations (OEF, OIF, OND, OIR & OFS combined)*. U.S. Department of Defense. https://www.dmdc.osd.mil/dcas/pages/casualties_gwt_combined.xhtml
- Democratic presidential debate on NPR. (2007, December 4). *The New York Times*. <http://www.nytimes.com/2007/12/04/us/politics/04transcript-debate.html>
- Dentice, G. (2020, September). Shifting priorities: The evolution of Egypt's foreign policy. *Italian Institute for International Political Studies*. <https://www.ispionline.it>

- Desroches, F. (2013). The use of organized crime and conspiracy laws in the investigation and prosecution of criminal organizations. *Policing: A Journal of Policy and Practice*, 7(4), 401–410.
- DeYoung, K. (2013, February 27). U.S. moves toward providing direct aid to Syrian rebels. *The Washington Post*.
- Dick Marty. (2007). *Secret detentions and illegal transfers of detainees involving Council of Europe member states: Second report*. Council of Europe Publishing.
- Disability Rights Advocates. (2024). *Class action lawsuit challenges New York's unlawful use of solitary confinement on people with disabilities*. <https://dralegal.org/press/ny-solitary-confinement/>
- Domansky, K., Jensen, R., & Bryson, R. (2012). Canada and the Libya coalition. *Journal of Military and Strategic Studies*, 14(3), 1–29.
- Domke, D. (2004). *God willing? Political fundamentalism in the White House, the "War on Terror," and the echoing press*.
- Donnelly, J. (2013). *Universal human rights in theory and practice* (3rd ed.). Cornell University Press.
- Downes, A. B., & Monten, J. (2013). Forced to be free? Why foreign-imposed regime change rarely leads to democratization. *International Security*, 37(4), 90–131.
- Dreyfuss, R. (2012, November 14). Obama on Petraeus, Iran and Syria. *The Nation*. <http://www.thenation.com/blog/171264/obama-petraeus-iran-and-syria>
- Dryer, A. (2006, May 15). How the NSA does "social network analysis." *Slate*. http://www.slate.com/articles/news_and_politics/explainer/2006/05/how_the_nsa_does_social_network_analysis.html
- Durani, M. U., & Khan, A. (2009). Pakistan-Afghan relations: Historic mirror. *The Dialogue*, IV(1), 51–52.
- Durban Declaration Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. (2001, September 8). Paras 24–33.
- Dykman, K. (2012). On the origins of the United Nations: When and how did it begin. *Journal of International Organizations Studies*, 3(1), 79–84.
- El Deeb, S. (2012, January 11). US raises outreach to Egypt's Muslim Brotherhood. *Associated Press*.
- El-Masri v. Tenet, 437 F. Supp. 2d 530 (E.D. Va. 2006).

- El-Masri, K. (2005, December 6). *Statement*. American Civil Liberties Union.
<http://www.aclu.org/safefree/extraordinaryrendition/22201res20051206.html>
- Enemark, C. (2013). *Armed drones and the ethics of war: Military virtue in a post-heroic age*. Routledge.
- Epstein, S. B., & Kronstadt, K. A. (2013, July 1). *Pakistan: U.S. foreign assistance*. Congressional Research Service Report. Library of Congress.
- Esposito, J. L. (2003). *The Oxford dictionary of Islam* (2nd ed., pp. 88–89). Oxford University Press. <https://doi.org/10.1093/acref/9780195125580.001.0001>
- Etzioni, A. (2004). *How patriotic is the Patriot Act? Freedom versus security in the age of terrorism*. Routledge.
- European Court of Human Rights. (n.d.).
- European Parliamentary Research Service. (2019). *The death penalty and the EU's position worldwide*.
- Fair, C. C. (2011, January). The militant challenge in Pakistan. *Asia Policy*, 11, 121–132.
- Faist, T. (2002). "Extension du domaine de la lutte": International migration and security before and after September 11, 2001. *International Migration Review*, 36(1), 7–14.
- Falk, R. (2014). *Power shift: On the new global order*. Zed Books.
- Farooq, U., & Kakakhel, S. F. (2014, November 14). Obama's deadly informants: The drone spotters of Pakistan. *The Daily Beast*.
<http://www.thedailybeast.com/articles/2014/11/12/obama-s-deadly-informants-the-drone-spotters-of-pakistan.html>
- Federici, C. P. (2010). The Bush administration, human rights, and a culture of torture.
- Ferreira Pinto, M. C. P. (2012). Mapping the Obama administration's response to the Arab Spring. *Revista Brasileira de Política Internacional*, 55(2), 109–130.
<https://doi.org/10.1590/S0034-73292012000200007>
- Fiederlein, S., & Rzegocki, S. (2019, September 19). The human and financial costs of the explosive remnants of war in Afghanistan. *Costs of War*.
https://watson.brown.edu/costsofwar/files/cow/imce/papers/2019/Explosive%20Remnant%20of%20War%20in%20Afghanistan_Costs%20of%20War.pdf
- Filkins, D. (2010, May 30). Operators of drones are faulted in Afghan deaths. *The New York Times*. <https://www.nytimes.com/2010/05/30/world/asia/30drone.html>
- Filkins, D. (2019). The moral logic of humanitarian intervention. *The New Yorker*.

- Fisher, L. (2005). *Military tribunals and presidential power: American revolution to the war on terrorism*. University Press of Kansas.
- Fitzpatrick, J. (2003). Speaking law to power: The war against terrorism and human rights. *European Journal of International Law*, 14(2), 241–264.
- Fleischer, A. (2002, February 7). *White House press secretary announcement of President Bush's determination re legal status of Taliban and Al Qaeda detainees*. U.S. Department of State.
- Fly, J. M. (2012, September). Obama is unwilling to lead U.S. response to the Arab Spring.
- Foer, F., & Hughes, C. (2013, January 27). Barack Obama is not pleased: The president on his enemies, the media, and the future of football. *The New Republic*.
<http://www.newrepublic.com/article/112190/obama-interview-2013-sit-down-president>
- Foster, E. R. (1974). Petitions and the Petition of Right. *Journal of British Studies*, 14(1), 21–45.
- Foucault, M. (2003). *Society must be defended: Lectures at the Collège de France, 1975–1976*. Picador.
- Fox, Campbell & Hartley v. United Kingdom, 13 EHRR 157 (1990).
- Freeman, M. (2004). The problem of secularism in human rights theory. *Human Rights Quarterly*, 26(2), 375–400.
- Fricke, M., & Williams, A. (2010). *Human rights and the ethics of war*. Routledge.
- Gall, C., & Khan, I. (2006, November 10). American strike in January missed Al Qaeda's No. 2 by a few hours. *The New York Times*.
<http://www.nytimes.com/2006/11/10/world/asia/10pakistan.html?pagewanted=all>
- Garcia, M. J. (2009). *CRS Report RL32890: Renditions: Constraints imposed by laws on torture*.
- Gates, R. (2011, March 2). *Hearings before a subcommittee of the Committee on Appropriations House of Representatives*. Senate Armed Services Committee, 112th Congress.
- Gearty, C. (2006). *Can human rights survive? A symposium on the 2005 Hamlyn lectures*. Cambridge University Press.
- Gerges, F. A. (2012). The "Obama Doctrine" in the Middle East. *Institute for Social Policy and Understanding*, (October), 16.
- Gerges, F. A. (2016). *ISIS: A history*. Princeton University Press.
- Gerleman, D., Stevens, J., & Hildreth, S. (2001). *Operation Enduring Freedom: Foreign pledges of military and intelligence support*. Congressional Research Service Report for Congress.

- Getzler, J. (2018). Magna Carta chapters 4 and 5 and the origins of accountability.
- Gholiagha, S. (2015). Individualised and yet dehumanized. *Behemoth: A Journal of Civilisation*, 8(2), 128–153.
- Ghosh, P. R. (2012, October 5). I would order the air force to shoot down US drones: Pakistani opposition leader Imran Khan. *International Business Times*.
- Gibney, M. (2002). Security and the ethics of asylum after 11 September. *Forced Migration Review*, 13, 40–41.
- Glaser, J., & Mueller, J. (2019). Overcoming inertia: Why it's time to end the war in Afghanistan. *Cato Institute Policy Analysis*, (878).
- Glass, A. (2019, January 29). President Bush cites 'Axis of Evil'. *Politico*.
- Glennon, M. J. (2002). The fog of war: Self-defense, inherence, and incoherence in Article 51 of the United Nations Charter. *Harvard Journal of Law & Public Policy*, 25(2), 539–558.
- Goldberg, J. (2013, January 14). Obama: "Israel doesn't know what its best interests are." *Bloomberg*. <http://www.bloomberg.com/news/2013-01-14/what-obama-thinks-israelis-don-t-understand-.html>
- Golden, T. (2004, October 24). After terror, a secret rewriting of military law. *The New York Times*.
- Goldgeier, J. (2010). Making a difference? Evaluating the impact of President Barack Obama. *Revista UNISCI*, (22), 116–129.
- Goldsmith, J. (2007). *The terror presidency: Law and judgment inside the Bush administration*. W. W. Norton.
- Goodwin v. United Kingdom, App. No. 17488/90, European Court of Human Rights (2008).
- Goodwin, J. (2006). A theory of categorical terrorism. *Social Forces*, 84(4), 2027–2046.
- Gordon, M. (2001, September 17). After the attacks: The strategy; a new war and its scale. *The New York Times*.
- Gordon, M. R. (2013, February 13). Kerry says trip will focus on finding Syria solution. *The New York Times*. <http://www.nytimes.com/2013/02/14/us/politics/kerry-says-he-is-preparing-proposals-on-syria-crisis.html>
- Gordon, M. R., & Lander, M. (2013, February 7). Senate hearing draws out a rift in U.S. policy on Syria. *The New York Times*. <http://www.nytimes.com/2013/02/08/us/politics/panetta-speaks-to-senate-panel-on-benghazi-attack.html>

- Graff, P. (2010, March 5). McChrystal bans night raids without Afghan troops. *Reuters*.
<http://www.reuters.com/article/us-afghanistan-raids/mcchrystal-bans-night-raids-without-afghan-troops-idUSTRE6241Y420100305>
- Greenberg, K. J., & Dratel, J. L. (Eds.). (2005). *The torture papers: The road to Abu Ghraib*. Cambridge University Press.
- Greenburg, J. C., Rosenberg, H. L., & de Vogue, A. (2008, April 9). *Sources: Top Bush advisors approved 'enhanced interrogation'*. ABC News.
<http://abcnews.go.com/TheLaw/LawPolitics/story?id=4583256>
- Greenwald, G. (2014). *No place to hide: Edward Snowden, the NSA, and the U.S. surveillance state*. Metropolitan Books.
- Greenwald, G. (2017). *The surveillance state*. Columbia University Press.
- Greenwald, G., & Ackerman, S. (2013). NSA collected US email records in bulk for more than two years under Obama. *The Guardian*, 27.
- Grey, S. (2006). *Ghost plane: The true story of the CIA rendition and torture program*. St. Martin's Griffin.
- Griffiths, M. (2007). *International relations theory for the twenty-first century* (pp. 1–10). Routledge.
- Gross, A. (2001). Thwarting terrorist acts by attacking the perpetrators or their commanders as an act of self-defense: Human rights versus the state's duty to protect its citizens. *Temple International & Comparative Law Journal*, 15(1), 195–212.
- Grossman, M. (2001, December 18). *The Bush Administration's counterterrorism strategy*. Remarks to the International Institute for Strategic Studies, London. <https://2001-2009.state.gov>
- Guantánamo Review Task Force. (2010, January 22). *Final report*.
- Gül, A. (2011, April 20). The revolution's missing peace. *The New York Times*.
- Hagel, C., & Kerry, J. (2009, February). *Urgent needed: A comprehensive U.S. policy towards Pakistan* (p. 13). Atlantic Council of the U.S.
- Halper, S., & Clarke, J. (2004). *America alone: The neo-conservatives and the global order*.
- Harris, D. A. (2002). *Profiles in injustice: Why racial profiling cannot work*. The New Press.
- Hart, H. L. A. (1961). *The concept of law*. Oxford University Press.
- Hassan, O. (2012). *Constructing America's freedom agenda for the Middle East: Democracy or domination*. Routledge.

- Hathaway, R. M. (2008). Leverage and largesse: Pakistan's post-9/11 partnership with America. *Contemporary South Asia*, 16(1), 11.
- Hay, C. E. (2010). President Bush, the Iraq invasion, and "enhanced interrogation." *Inquiries Journal*, 2(06).
- Heller, K. J. (2013). "One hell of a killing machine": Signature strikes in international law. *Journal of International Criminal Justice*, 11(1), 89–119.
<https://doi.org/10.1093/jicj/mqs093>
- Henckaerts, J.-M., & Doswald-Beck, L. (2005). *Customary international humanitarian law: Volume 1: Rules*. Cambridge University Press.
- Henckaerts, J. M., Doswald-Beck, L., & Alvermann, H. (2005). ICRC study on customary international humanitarian law: Implications for national and international law. *International Review of the Red Cross*, 87(857), 175–212.
- Henkin, L. (1990). *The age of rights*. Columbia University Press.
- Herman, E. S., & Peterson, D. (2008). There is no "War on Terror." *Z Magazine*, January, 18.
- Hersh, S. M. (2004). Torture at Abu Ghraib. *The New Yorker*.
- Hersh, S. M. (2016). *The killing of Osama bin Laden*. Verso.
- Hilali, A. Z. (2005). *US-Pakistan relationship: Soviet invasion of Afghanistan*. Ashgate.
- Hiro, D. (2002). *War without end: The rise of Islamic terrorism and global response*. Routledge.
- Hoffman, B. (2006). *Inside terrorism* (2nd ed.). Columbia University Press.
- Homolar, A. (2010). Rebels without a conscience: The evolution of the rogue states narrative in US security policy. *European Journal of International Relations*, 17(4), 705–727.
- Honigsberg, P. (2009). *Our nation unhinged*. University of California Press.
- Hooks, G., & Mosher, C. (2005). Outrages against personal dignity: Rationalizing abuse and torture in the war on terror. *Social Forces*, 83(4), 627–645.
- Hubert & Weiss et al. v. Canada, Communication No. 118/1982, U.N. Doc. CCPR/C/OP/2 at 61 (2001). United Nations.
- Hughes, M. (2012, August 9). James Baker slams neocons, praises realists. *Examiner*.
- Human Rights First. (2008). *Arbitrary justice: Trials of Bagram and Guantánamo detainees in Afghanistan*. <https://www.humanrightsfirst.org/wp-content/uploads/pdf/USLS-080409-arbitrary-justice-report.pdf>
- Human Rights First. (2009). *Lawfare and the war on terror*.

- Human Rights First. (2011). *Accountability for drone strikes*.
- Human Rights Report. (2011). *U.S. targeted killings and the law*.
- Human Rights Watch. (1999). *No escape: Male rape in U.S. prisons*. Human Rights Watch.
- Human Rights Watch. (2002a). *United States efforts to undermine the International Criminal Court: Article 98(2) agreements*.
- Human Rights Watch. (2002b). *World Report 2002: United States*.
- Human Rights Watch. (2002c, September 12). *New U.N. human rights chief urged to speak out*. <https://www.hrw.org/press/2002/09/unhchr0912.htm>
- Human Rights Watch. (2004). "Enduring freedom": Abuses by US forces in Afghanistan. <https://www.hrw.org/sites/default/files/reports/afghanistan0304.pdf>
- Human Rights Watch. (2009, October 8). *US: New legislation on military commissions doesn't fix fundamental flaws*. <http://www.hrw.org/news/2009/10/08/us-new-legislation-military-commissions-doesn-t-fix-fundamental-flaws>
- Human Rights Watch. (2011a, July 12). *Getting away with torture*. <http://www.hrw.org/node/100263>
- Human Rights Watch. (2011b, December 14). *US: Refusal to veto detainee bill a historic tragedy for rights*. <http://www.hrw.org/news/2011/12/14/us-refusal-veto-detainee-bill-historic-tragedy-rights>
- Hussain, S. R. (2004). War against terrorism: Pakistani perspective. *IPRI Journal*, 4(1). <http://ipripak.org/journal/winter2004/waragainst.shtml>
- Hussain, T. (2005, August). *US-Pakistan engagement: The war on terrorism and beyond* (Special Report 145). U.S. Institute of Peace.
- Ikenberry, G. J. (2005). *Liberal order and imperial ambition*.
- Ikenberry, G. J. (2011). *Liberal leviathan: The origins, crisis, and transformation of the American world order*. Princeton University Press.
- Ilascu and Others v. Moldova and Russia, App. No. 48787/99, European Court of Human Rights (2004).
- Illinois Commission on Capital Punishment. (2002). *Report of the Governor's Commission on Capital Punishment*.
- Inter-American Commission on Human Rights. (2002). Decision on request for precautionary measures (Detainees at Guantanamo Bay, Cuba). *International Legal Materials*, 41, 532.

- International Council for Human Rights Policy. (2000). *Ends and means: Human rights approaches to armed groups*. International Council for Human Rights Policy.
- International Council for Human Rights Policy. (2002). *Human rights after September 11*.
- International Covenant on Civil and Political Rights. (1966). United Nations.
- International Crisis Group. (2003). *Kashmir: The view from Islamabad* (ICG Asia Report No. 68). International Crisis Group.
- International Human Rights and Conflict Resolution Clinic & Global Justice Clinic. (2012). *Living under drones: Death, injury, and trauma to civilians from U.S. drone practices in Pakistan*. Stanford/NYU Law Schools.
- International Human Rights Clinic, New York University School of Law. (2006, October). *Amicus brief submitted to the Inter-American Commission on Human Rights*.
- Iraq Survey Group. (2004, September 30). *Final report: Weapons of mass destruction*. GlobalSecurity.org.
- Ishay, M. (2004). What are human rights? Six historical controversies. *Journal of Human Rights*, 3(3), 359–371.
- Jabar Ahmed et al. v. United Kingdom, App. No. 3455/05, European Court of Human Rights (2010).
- Jackson, R. (2005). *Writing the war on terrorism: Language, politics and counter-terrorism*. Manchester University Press.
- Johnson, C. (2004). *The sorrows of empire: Militarism, secrecy, and the end of the republic*. Metropolitan Books.
- Johnson, R. (2009). Extraordinary rendition: A wrong without a right. *University of Richmond Law Review*, 43, 1135.
- Johnston, D., & Savage, C. (2009, January 11). Obama reluctant to look into Bush programs. *The New York Times*. <https://www.nytimes.com/2009/01/12/us/politics/12inquire.html>
- Jones, S. (2012). *Hunting in the shadows: The pursuit of Al Qa'ida since 9/11*. Norton.
- Jones, S. G. (2010). *In the graveyard of empires: America's war in Afghanistan* (pp. 210–215). W. W. Norton & Company.
- Kadhim, A. (2013). Iraqi security forces and the challenge of counterinsurgency. *Middle East Policy*, 20(2), 123–134.
- Kaldor, M. (2013). *New and old wars: Organized violence in a global era* (3rd ed.). Wiley.

- Kaneya, R. (2003, January). Immigrants swept up in security debate—2002 in review. *The Chicago Reporter*. <https://www.chicagoreporter.com>
- Kashan, S. (2009). The USA Patriot Act: Impact on freedoms and civil liberties. *ESSAI*, 7(28). <http://dc.cod.edu/essai/vol7/iss1/28>
- Katzman, K. (2011). Afghanistan: Post-Taliban governance, security, and U.S. policy. Congressional Research Service.
- Kay, S. (2004). Globalization, power, and security. *Security Dialogue*, 35(1), 9–22. <https://doi.org/10.1177/0967010604042533>
- Keller, B. (2012, August 12). The Romney package. *The New York Times*. <https://www.nytimes.com>
- Kelly, K., & Pearson, D. (2010, April 29). Atrocities against civilians in Afghanistan: A troubling timetable. *The Huffington Post*. http://www.huffingtonpost.com/kathy-kelly/atrocities-against-civili_b_562363.html
- Kennedy v. United Kingdom, App. No. 26839/05, European Court of Human Rights (n.d.).
- Khan, I. (2009, June 7). Stop smiling, each of us owes \$600. *The News*.
- Kilcullen, D., & Exum, A. M. (2009, May 16). Death from above, outrage down below. *New York Times*. <https://www.nytimes.com/2009/05/17/opinion/17exum.html>
- Klaidman, D. (2012). *Kill or capture: The war on terror and the soul of the Obama presidency*. Houghton Mifflin Harcourt.
- Klass and Others v. Germany, 2 EHRR 214 (1978).
- Kobek, M. L. P., & Rodríguez, M. G. (2013). The American way of war: Afghanistan and Iraq. *Revista Enfoques: Ciencia Política y Administración Pública*, 11(18), 77–101.
- Koh, H. H. (1994). America's offshore refugee camps. *Richmond Law Review*, 29, 139–141.
- Koh, H. H. (2016). The war powers and humanitarian intervention. *Houston Law Review*, 53(4), 971–1020.
- Krasner, S. D. (1995). Compromising Westphalia. *International Security*, 20(3), 115–151.
- Krauthammer, C. (1990). The unipolar moment. *Foreign Affairs*, 70(1), 23–33.
- Krauthammer, C. (2002). The unipolar moment revisited.
- Kris, D. (2010, June 10). Law enforcement as a counterterrorism tool. *Brookings Institution*. http://www.brookings.edu/2010/0511_law_enforcement.aspx
- Kronstadt, K. A. (2003). *Pakistan-U.S. relations*.

- Kronstadt, K. A. (2008, November 10). *Pakistan-U.S. relations*. Congressional Research Service Report. Library of Congress.
- Kronstadt, K. A., & Epstein, S. (2016, February 24). *Direct overt U.S. aid appropriations for and military reimbursement to Pakistan, FY2000–FY2017*. Congressional Research Service. <https://www.fas.org/sgp/crs/row/pakaid.pdf>
- Kumari, B. (2008, August 31). ISI upset with Indian influence in Afghanistan. *India Post Online*. <http://www.indiapost.com/article/perspective/3726/>
- Kumlin, L. (2006). Iraq oil: Reserves, production, and potential revenues. Congressional Research Service Report for Congress.
- Kurt v. Turkey, 27 EHRR 373 (1998).
- Lacayo, R. (2006). Has Bush gone too far? *Time Magazine*.
- Laqueur, W. (2001). *A history of terrorism*. Transaction Publishers.
- Ledwidge, F. (2013). *Investment in blood: The real cost of Britain's Afghan war*. Yale University Press.
- Lee, E. Y. (2022). Rethinking twenty years of American unilateralism in the Middle East: A critical evaluation of the War on Terror. *Journal of East Asia and International Law*, 15(1).
- Lewis, B. (1998). License to kill: Usama Bin Ladin's declaration of jihad. *Foreign Affairs*.
- Lewis, D. (2020). *Obama's foreign policy: Ending the war on terror*. Routledge.
- Lewis, N. (2004, November 30). Red Cross finds detainee abuse in Guantanamo. *The New York Times*.
- Lichtblau, E., & Shane, S. (2006). Bush is pressed over new report on surveillance. *The New York Times*.
- Linebaugh, H. (2013, December 29). I worked on the US drone program. The public should know what really goes on. *The Guardian*. <http://www.theguardian.com/commentisfree/2013/dec/29/drones-us-military>
- Little, D. (2016). *Us versus them: The United States, radical Islam, and the rise of the green threat* (p. 173). University of North Carolina Press.
- Litwak, R. S. (2000). *Rogue states and U.S. foreign policy: Containment after the Cold War* (pp. 45–50). Woodrow Wilson Center Press.
- Lizza, R. (2011, May 2). The consequentialist. *The New Yorker*. http://www.newyorker.com/reporting/2011/05/02/110502fa_fact_lizza

- Locke, J. (1988). *Two treatises of government* (P. Laslett, Ed.). Cambridge University Press. (Original work published 1689)
- Loizidou v. Turkey, ECHR (1995) Series A, No. 310.
- López Burgos v. Uruguay, Comm. No. 52/1979, 36 UN GAOR Supp. No. 40, at 182 para. 12.3, UN Doc. A/36/40 (1981).
- Luban, D. (1980). Just war and human rights. *Philosophy & Public Affairs*, 160–181.
- Luban, D. (2002). The war on terrorism and the end of human rights.
- Lunn, J., Taylor, C., & Youngs, T. (2007, September 13). *Pakistan's political and security challenges* (Research Paper 07/68). International Affairs and Defence Section, House of Commons Library.
- Lustick, I. S. (2005). *Defining violence: A plausibility probe using agent-based modeling*. Swiss Federal Institute of Technology Center for Comparative and International Studies.
- Lyons, M., & Rottman, D. (2002). The Inter-American mechanisms. In J. Fitzpatrick (Ed.), *Human rights protection for refugees, asylum-seekers, and internally displaced persons: A guide to international mechanisms and procedures* (pp. 439, 453).
- Mahajan, R. (2003). *Full spectrum dominance: U.S. power in Iraq and beyond*. Seven Stories Press.
- Maiese, M. (2003). Human rights violations. *Beyond Intractability*. https://www.beyondintractability.org/essay/human_rights_violations
- Malti-Douglas, F. (2002). The "P" word: Profiling. *Criminal Justice Ethics*, 21, 66–73.
- Manawalia, M. (2012). *The practice of extraordinary rendition: Increasing accountability and oversight* (Doctoral dissertation).
- Maraniss, D. (2012). *Barack Obama: The story*. Simon & Schuster.
- Marsh, K. (2014a). "Leading from behind": Neoclassical realism and Operation Odyssey Dawn. *Defense and Security Analysis*, 30(2), 120–132. <https://doi.org/10.1080/14751798.2014.902395>
- Marsh, K. (2014b). Breaking Miles' Law: The curious case of Hillary Clinton the hawk. *Foreign Policy Analysis*. <https://doi.org/10.1111/fpa.12052>
- Marshall, S. (2015, April). The Egyptian armed forces and the remaking of an economic empire. *Carnegie Middle East Center*. <https://carnegie-mec.org>
- Marty, D. (2007). *Secret detentions and illegal transfers of detainees involving Council of Europe member states: Second report*. Council of Europe.

- Marx, K. (1978). *The Marx-Engels reader* (R. C. Tucker, Ed.). W. W. Norton & Company. (Original work published 1844)
- Matheson, S. (2009). *Presidential constitutionalism in perilous times*. Harvard University Press.
- Mayer, J. (2007, August 13). The black sites: A rare look inside the C.I.A.'s secret interrogation program. *The New Yorker*.
http://www.newyorker.com/reporting/2007/08/13/070813fa_fact_mayer
- Mayer, J. (2008). *The dark side: The inside story of how the war on terror turned into a war on American ideals*. Doubleday.
- Mayer, J. (2009, October 19). The predator war: What are the risks of the C.I.A.'s covert drone program? *The New Yorker*. <https://www.newyorker.com/magazine/2009/10/26/the-predator-war>
- Mazzetti, M. (2013). *The way of the knife: The CIA, secret armies, and the war at the ends of the earth* (pp. 150–165). Penguin Press.
- Mazzetti, M., & Shane, S. (2010, May 5). Evidence mounts for Taliban role in bomb plot. *New York Times*.
- Mazzetti, M., Kulish, N., Drew, C., Kovalski, S. F., Naylor, S. D., & Ismay, J. (2015, June 6). SEAL Team 6: A secret history of quiet killings and blurred lines. *The New York Times*.
- Mbembe, A. (2003). Necropolitics. *Public Culture*, 15(1), 11–40.
- McClellan, S. (2008). *What happened: Inside the Bush White House and Washington's culture of deception*.
- McCracken, T. (2011). Ten years on: Obama's war on terrorism. *International Affairs*, 87(4), 781–801.
- McGreal, C. (2008, May 27). Egypt: Bread shortages, hunger, and unrest. *The Guardian*.
<http://www.guardian.co.uk/environment/2008/may/27/food.egypt>
- McNeilly, K. (2022). Documents and time in international human rights law monitoring: Artefacts, objects, things. In *The times and temporalities of international human rights law*. Hart.
- McVeigh, O'Neill & Evans v. United Kingdom, App. Nos. 8022/77, 8025/77, and 8027/77, European Court of Human Rights (1982).
- Medeiros, C. P. (2013). Neither legal nor justiciable: Targeted killings and de facto immunity within the War on Terror. *Global Societies Journal*, 1(1), 24–43.
- Mégret, F. (2002). "War"? Legal semantics and the move to violence. *European Journal of International Law*, 13(2), 361–399. <https://doi.org/10.1093/ejil/13.2.361>

- Melzer, N. (2009). *Targeted killing and international law*. Oxford University Press.
- Mendell, D. (2007). *Obama: From promise to power*. Amistad.
- Meron, T. (1995). Extraterritoriality of human rights treaties. *American Journal of International Law*, 89, 78–81.
- Michaels, J. D. (2008). All the president's spies: Private-public intelligence partnerships in the war on terror. *California Law Review*, 96(4), 901–932.
- Mikkelsen, R. (2009, March 14). Guantanamo inmates no longer enemy combatants. *Reuters*. <http://www.reuters.com/article/2009/03/14/us-obama-security-combatant-idUSTRE52C59220090314>
- Miller, E. (2016, January). Five years on: Egypt's international relations. *Atlantic Council*. <https://www.atlanticcouncil.org>
- Miller, G. (2011a, February 21). Increased US drone strikes in Pakistan killing few high value militants. *Washington Post*.
- Miller, G. (2011b, July 21). US officials believe Al Qaeda on the brink of collapse. *Washington Post*.
- Miller, S. (2014). The ethics of targeted killing: Osama bin Laden, drones, and counter-terrorism. *Public Affairs Quarterly*, 28(4), 317–340.
- Miller, Z. (2012). The Obama doctrine. *Time*.
- Misra, A. (2004). Afghanistan: The politics of post-war reconstruction. *Conflict, Security and Development*, 2(3), 5–27.
- Molavi, A. (2020, December). China's economic impact in the Arab world has soared since the Arab Spring but jobs haven't. *Quartz Africa*. <https://qz.com/africa>
- Monten, R., & Gisselquist, J. (2014). Intervention and state-building: Comparative lessons from Japan, Iraq, and Afghanistan. *The Annals of the American Academy of Political and Social Science*, 656(1), 173–191. <https://doi.org/10.1177/0002716214540415>
- Morey, D. S., Ochs, H. L., & Gossett, C. W. (2012). Leader, follower, or spectator? The role of President Obama in the Arab Spring uprisings. *Social Science Quarterly*, 93(5), 1185–1201. <https://doi.org/10.1111/j.1540-6237.2012.00889.x>
- Moustafa, T. (2018). *Constituting religion: Islam, liberal rights, and the Malaysian state*. Cambridge University Press.
- Moyn, S. (2014). The Universal Declaration of Human Rights of 1948 in the history of cosmopolitanism. *Critical Inquiry*, 40(4), 365–384.

- Murphy, C. N. (2001). *Global governance: Power, authority and the global political economy*. Routledge.
- Murphy, C., & Purdum, T. S. (2009, February). Farewell to all that: An oral history of the Bush White House. *Vanity Fair*, 582.
- Murphy, S. D. (2004). U.S. abuse of Iraqi detainees at Abu Ghraib Prison. *American Journal of International Law*, 98(July), 592.
- Musarrat, R. (2007). US war on terrorism and its impact on South Asia. *Journal of Political Science*, 11, 10.
- Musharraf, P. (2006). *In the line of fire: A memoir*. Simon & Schuster.
- Myers, S. L., & Lander, M. (2011, September 3). U.S. is appealing to Palestinians to stall U.N. vote. *The New York Times*.
- Nada, S. H. (2020, May 29). Iraq timeline: Since the 2003 War. United States Institute of Peace.
- National Commission on Terrorist Attacks Upon the United States. (2004). *The 9/11 Commission Report: Final report of the National Commission on Terrorist Attacks Upon the United States*. W. W. Norton & Company.
- New America Foundation. (n.d.). The year of the drone. *New America*.
<http://counterterrorism.newamerica.net/drones>
- Newport, F. (2014, February 19). More Americans now view Afghanistan war as a mistake. *Gallup*. <https://news.gallup.com/poll/167471/americans-view-afghanistan-war-mistake.aspx>
- Nickel, J. (2019). *Making sense of human rights* (2nd ed.). Wiley-Blackwell.
- Norton, A. R. (2016). *Hezbollah: A short history* (2nd ed.). Princeton University Press.
- Obama, B. (2006). *The audacity of hope: Thoughts on reclaiming the American dream*. Crown Publishers.
- Obama, B. (2009, March 27). Remarks by the President on a new strategy for Afghanistan and Pakistan. The White House. <https://obamawhitehouse.archives.gov/the-press-office/remarks-president-barack-obama-a-new-strategy-afghanistan-and-pakistan>
- Obama, B. (2011a, February 23). President Obama speaks on the turmoil in Libya: "This violence must stop." The White House. <https://obamawhitehouse.archives.gov/the-press-office/2011/02/23/remarks-president-obama-situation-libya>
- Obama, B. (2011b, March 21). Letter from the President regarding the commencement of operations in Libya. The White House. <https://obamawhitehouse.archives.gov/the-press-office/2011/03/21/letter-president-regarding-commencement-operations-libya>

- Obama, B. (2011c, March 28). Speech given at the National Defense University. The White House. <http://www.whitehouse.gov/the-press-office/2011/03/28/remarks-president-address-nation-libya>
- Obama, B. (2016). *United States national security strategy*. The White House. <https://obamawhitehouse.archives.gov/the-press-office/2016/02/16/fact-sheet-national-security-strategy-2016>
- O'Connor, M. P., & Rumann, C. M. (2009). The rule of law & the global war on terrorism: Detainees, interrogations, and military commissions symposium. *Washburn Law Journal*, 48, 633–666.
- Office of the Press Secretary, The White House. (2009, January 21). *President Barack Obama's inaugural address*. <https://www.whitehouse.gov/blog/inaugural-address/>
- Office of the United Nations High Commissioner for Human Rights. (2008). *Human rights, terrorism and counter-terrorism* (Fact Sheet No. 32). United Nations. <https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet32EN.pdf>
- Office on Genocide Prevention, United Nations. (2021). Genocide.
- OSF & TLO. (2011). *The cost of kill/capture: Impact of the night raid surge on Afghan civilians*. Open Society Foundations & The Liaison Office. <https://www.opensocietyfoundations.org/sites/default/files/Night-Raids-Report-FINAL-092011.pdf>
- Otterman, M. (2007). *American torture*. Pluto Press.
- Packer, G. (2005). *The assassins' gate: America in Iraq*. Farrar, Straus and Giroux.
- Pakistan Body Count. (2015). *Pakistan Body Count*. <http://www.pakistanbodycount.org/>
- Part 3 of CNN Democratic presidential debate. (2008, January 21). *CNN*. <http://www.cnn.com/2008/POLITICS/01/21/debate.transcript3/index.html>
- Paust, J. J. (2003). Judicial power to determine the status and rights of persons detained without trial. *Harvard International Law Journal*, 44(2), 503–532.
- Paust, J. J., Bassiouni, M. C., Scharf, M. P., & Williams, J. E. (2001). *International criminal law: Cases and materials* (2nd ed.). Carolina Academic Press.
- Pearlstein, D. N. (2010, June 22). Ratcheting back: International law as a constraint on executive power. *Constitutional Commentary*.
- Pejic, J. (2005). Procedural principles and safeguards for internment/administrative detention in armed conflict and other situations of violence. *International Review of Human Rights Law*, 87(858), 375–391.

- Perlez, J., & Shah, P. Z. (2010, April 4). Drones batter Al Qaeda and its allies in Pakistan. *New York Times*.
- Piersack v. Belgium, 5 EHRR 169 (2003).
- Pillar, P. R. (2011). *Intelligence and US foreign policy: Iraq, 9/11, Afghanistan and Pakistan, the White House, and misguided reform*. Columbia University Press.
- Porges, M. L. (2010, February 19). What happens after Guantánamo? *The Christian Science Monitor*. <https://www.csmonitor.com/Commentary/Opinion/2010/0219/What-happens-after-Guantanamo>
- Porter, G. (2011, September 11). How McChrystal and Petraeus built an indiscriminate "killing machine." *Truthout*.
- Posner, E., & Vermeule, A. (2007). *Terror in the balance: Security, liberty, and the courts*.
- Preston, J. (2002, September 12). Departing rights commissioner faults U.S. *The New York Times*, B22.
- Prison Legal News. (2002). *Florida guards murder another prisoner, get another acquittal*. <https://www.prisonlegalnews.org/news/2002/aug/15/florida-guards-murder-another-prisoner-get-another-acquittal/>
- Prison Legal News. (2003). *U.S. District Court finds supermax placement at Ohio prison "atypical and significant hardship"*. <https://www.prisonlegalnews.org/news/2003/feb/15/us-district-court-finds-supermax-placement-at-ohio-prison-quotatypical-and-significant-hardshipquot/>
- Prison Legal News. (2004). *Mississippi death row conditions unconstitutional; sweeping reforms ordered*. <https://www.prisonlegalnews.org/news/2004/apr/15/mississippi-death-row-conditions-unconstitutional-sweeping-reforms-ordered/>
- Purkiss, J., & Serle, J. (2017, January 17). Obama's covert drone war in numbers: Ten times more strikes than Bush. *The Bureau of Investigative Journalism*. <https://www.thebureauinvestigates.com/stories/2017-01-17/obamas-covert-drone-war-in-numbers-ten-times-more-strikes-than-bush>
- Rabbi, F. (2012). War against terrorism and its repercussions for Pakistan. *Pakistan Journal of History and Culture*, 33(2), 71–90.
- Radsan, J. A. (2006). A more regular process of irregular rendition. *Seton Hall Law Review*, 37, 1–27.
- Raghavan, S. (2012, May 29). In Yemen, US air strikes breed anger, and sympathy for al-Qaeda. *Washington Post*.

- Raines, J. (2002). Osama, Augustine, and assassination: The just war doctrine and targeted killings. *Transnational Law & Contemporary Problems*, 12(1), 217–243.
- Rampton, R. (2013, January 27). Obama says struggling over whether to intervene in Syria. *Reuters*. <http://www.reuters.com/article/2013/01/28/us-obama-syria-idUSBRE90R00V20130128>
- Rasul et al. v. United States, 2002 U.S. Dist. LEXIS 14031 (D.D.C. 2002).
- Reader, I. (2014). Beating a path to salvation: Themes in the reality of religious violence. In P. Bramadat & L. L. Dawson (Eds.), *Religious radicalization and securitization in Canada and beyond* (pp. 34–63). University of Toronto Press.
- Remnick, D. (2010). *The bridge: The life and rise of Barack Obama*. Alfred A. Knopf.
- Report of the International Law Commission, Fifty-third Session. (2001). 56 UN GAOR Supp. No. 10, UN Doc. A/56/10 at 103–122.
- Restad, H. E. (2012). The war on terror from Bush to Obama: On power and path dependency. *Norwegian Institute of International Affairs Working Paper*, (798), 27.
- Rice, S. E. (2011, March 16). *Remarks by Ambassador Susan E. Rice, U.S. Permanent Representative to the United Nations, at the Security Council Stakeout on Libya*. U.S. Mission to the United Nations. <http://usun.state.gov/briefing/statements/2011/158451.htm>
- Riedel, B. (2012, December 3). Al Qaeda 3.0: Terrorism's emergent new power bases. *The Daily Beast*. <https://www.thedailybeast.com/articles/2012/12/03/al-qaeda-3-0-terrorism-s-emergent-new-power-bases.html>
- Roberts, P. M. (1972). *Review text in United States history*. Amsco School Publications.
- Rogers, P. (2004). *A war on terror: Afghanistan and after*. Pluto Press.
- Rohde, D. (2012, February 27). The Obama doctrine. *Foreign Policy*. <https://foreignpolicy.com/2012/02/27/the-obama-doctrine/>
- Rotaru v. Romania, 8 BHRC 449 (2000).
- Roth, K. (2010). Empty promises? Obama's hesitant embrace of human rights. *Foreign Affairs*, 89(2), 2–8.
- Rubin, B. (2013). *Afghanistan from the Cold War through the War on Terror*. Oxford University Press.
- Rumsfeld, D. (2001, November 8). *Press briefing by Secretary of Defense Donald Rumsfeld*. U.S. Department of Defense. <https://2001-2009.defense.gov>
- Safi, M. (2011). *Drone strikes and Pashtun identity: Cultural repercussions*. South Asia Journal.

- Salyer, J. C. (2002). Abuse of immigration detainees: Before and after September 11. *Criminal Justice Ethics*, 21, 61–63.
- Sanger, D. E. (2012). *Confront and conceal: Obama's secret wars and surprising use of American power*. Crown Publishers.
- Sattar, A. (2007). *Pakistan foreign policy: 1947–2005*. Oxford University Press.
- Saul, B. (2005). Definition of "terrorism" in the UN Security Council: 1985–2004. *Chinese Journal of International Law*, 4(1), 141–166.
- Scahill, J. (2013). *Dirty wars: The world is a battlefield*. Nation Books.
- Scahill, J. (2016). *The assassination complex: Inside the government's secret drone warfare program*. Simon & Schuster.
- Schanzer, J. (2008). *Hamas vs. Fatah: The struggle for Palestine*. Palgrave Macmillan.
- Schellekens, C. (2025). Declaration of the Rights of Man and of the Citizen 1789. In *Teaching and learning about religious diversity in the past and present: Beyond stereotypes* (pp. 109–121). Springer Nature Switzerland.
- Scheuer, M. (2005). Interview. *Frontline: The Torture Question*.
<http://www.pbs.org/wgbh/pages/frontline/torture/interviews/scheuer.html>
- Schlesinger, A., Jr. (1973). *The imperial presidency*. Houghton Mifflin.
- Schmitt, C. (2005). *Political theology: Four chapters on the concept of sovereignty*. University of Chicago Press.
- Scowcroft, B. (2011, April 13). Obama must not delay in brokering a new Mideast peace. *Atlantic Council*. http://www.acus.org/new_atlanticist/obama-must-not-delay-brokering-new-mideast-peace
- Selim, G. M. (2013). The United States and the Arab Spring: The dynamics of political engineering. *Arab Studies Quarterly*, 35(3), 255–272.
<https://doi.org/10.13169/arabstudquar.35.3.0255>
- Sen, A. (1999). *Development as freedom*. Oxford University Press.
- Senn, M., & Troy, J. (2017). The transformation of targeted killing and international order. *Contemporary Security Policy*, 38(2), 175–211.
- Shah, M., & Romaniuk, S. N. (2023). *War in Afghanistan*. Springer. https://doi.org/10.1007/978-3-319-74336-3_674-1

- Shah, N. (2013). *Civilian harm from drone strikes: Assessing limitations & responding to harm*. Columbia Law School. <https://cpc-grijalva.house.gov/uploads/Naureen%20Shah%20DronesHearingWrittenTestimony1.pdf>
- Shane, S. (2015). *Objective Troy: A terrorist, a president, and the rise of the drone*. Tim Duggan Books.
- Shane, S., & Mazzetti, M. (2007, April 27). Ex-C.I.A. chief, in book, assails Cheney on Iraq. *The New York Times*.
- Shue, H. (1996). *Basic rights: Subsistence, affluence, and U.S. foreign policy* (2nd ed.). Princeton University Press.
- Siegmán, H. (2011, September 15). September madness. *Foreign Policy: The Middle East Channel*. http://mideast.foreignpolicy.com/posts/2011/09/15/september_madness
- Simon, S., & Stevenson, J. (2009). Afghanistan: How much is enough? *Survival*, 51(5), 47–67.
- Sinai, J. (2008). How to define terrorism. *Perspectives on Terrorism*, 2(4), 9–11.
- Smith, T. (2000). *Foreign attachments: The power of ethnic groups in the making of American foreign policy*. Harvard University Press.
- Soufan, A. (2009, April 22). My tortured decision. *The New York Times*. <http://www.nytimes.com/2009/04/23/opinion/23soufan.html>
- South Asia Terrorism Portal. (2016). *Fidayeen (suicide squad) attacks in Pakistan*. <http://www.satp.org/satporgtp/countries/pakistan/database/Fidayeenattack.htm>
- Sperling, J., & Kirchner, E. (1995, May). The changing definition of security. ESCA Conference, Charleston, South Carolina.
- Stanikzai, M. (2016). Peace processes and dialogue in Afghanistan: A case study. *USIP*.
- Starkey, J. (2010, February 25). NATO admits that deaths of 8 boys were a mistake. *The Times*. <https://www.thetimes.co.uk/article/nato-admits-that-deaths-of-8-boys-were-a-mistake-6hbm3l3mj6>
- Steans, J., Pettiford, L., Diez, T., & El-Anis, I. (2013). *An introduction to international relations theory: Perspectives and themes*. Routledge.
- Stockholm International Peace Research Institute. (2016). *SIPRI military expenditure database: Pakistan's military budget*. http://www.sipri.org/research/armaments/milex/milex_database
- Sullivan, A. (2011, December 15). Obama caves again on civil liberties. *The Dish*.

- Sunday Independent. (2012, March 11). How Obama became adept at waging war. *Sunday Independent*, E1–E18.
- Suri, J. (2011). *Liberty's surest guardian: American nation-building from the Founders to Obama*. Free Press.
- Swift, C. (2012, July 1). The drone blowback fallacy. *Foreign Affairs*.
<https://www.foreignaffairs.com/articles/137760/christopher-swift/the-drone-blowback-fallacy>
- Szpyra, R. (2014). Military security within the framework of security studies: Research results. *Connections*, 13(3), 59–82.
- Szyliowicz, J. S. (2004). Aviation security: Promise or reality? *Studies in Conflict and Terrorism*, 27, 47–63.
- Taguba, A. (2004). *The "Taguba Report" on treatment of Abu Ghraib prisoners in Iraq*.
<http://www.findlaw.com>
- Tampa Bay Times. (2002, February 16). *3 prison guards acquitted*.
<https://www.tampabay.com/archive/2002/02/16/3-prison-guards-acquitted/>
- Taylor, P. J. (1994). The state as container. *Political Geography*, 18, 151–162.
- Teslik, L. H. (2008, January 15). Forget terrorism: The news from Pakistan is all nuclear weapons and suicide bombers. But the average citizen cares much more about the economy. *Council on Foreign Relations*. <https://www.cfr.org>
- Texas Moratorium Network. (2002). *Juvenile executions in Texas*.
- The Bureau of Investigative Journalism. (2012). *Drone wars: The full data*.
<https://www.thebureauinvestigates.com>
- The New York Times. (2011, May 19). Obama's Mideast speech.
<http://www.nytimes.com/2011/05/20/world/middleeast/20prexy-text.html?pagewanted=all>
- The Watson Institute for International and Public Affairs. (2022, August). *Afghan civilians. The Costs of War*. <https://watson.brown.edu/costsofwar/costs/human/civilians/afghan>
- The White House. (2002, February 7). *Fact sheet: Status of detainees at Guantanamo*.
<http://www.whitehouse.gov/news/releases/2002/02/>
- The White House. (2010, May). *National security strategy*.
<https://www.whitehouse.gov/sites/default/files/rss-viewer/national-security-strategy.pdf>
- Tomkins, A. (2002). Legislating against terror: The Anti-terrorism, Crime and Security Act 2001. *Public Law*, Summer, 205–220.

- Toobin, J. (2003, January 13). To kill or not to kill. *The New Yorker*.
- Toohy, P. (2011, March 26). War-weary US in no mood for another costly desert fight. *The Advertiser*, p. 50.
- Turse, N. (2012). *The changing face of empire: Special Ops, drones, spies, proxy fighters, secret bases, and cyberwarfare*. Haymarket Books.
- Turse, N. (2014). *Kill anything that moves: The real American war in Vietnam*. Picador.
- Tyler, H. (2017). The politics of policy: The Obama Doctrine and the Arab Spring. *Rice Historical Review*, (2), 70–87.
- U.N. General Assembly. (1966). *International Covenant on Civil and Political Rights*. <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>
- U.N. Human Rights Committee. (1992). Gordon v. Jamaica, Communication No. 237/1987, UN Doc CCPR/C/46/D/237/1987. <http://hrlibrary.umn.edu/undocs/html/dec237.htm>
- U.S. Department of Justice, Immigration and Naturalization Service. (2002a). Notice designating aliens subject to expedited removal. *Federal Register*, 67, 68924.
- U.S. Department of Justice, Immigration and Naturalization Service. (2002b). Registration of certain nonimmigrant aliens from designated countries: Notice. *Federal Register*, 67, 66765–70525.
- U.S. Department of State, Bureau of Democracy, Human Rights, and Labor. (2008a, March). Egypt. <http://www.state.gov/g/drl/rls/hrrpt/2007/100594.htm>
- U.S. Department of State, Bureau of Democracy, Human Rights, and Labor. (2008b, March). Syria. <http://www.state.gov/g/drl/rls/hrrpt/2007/100606.htm>
- U.S. State Department. (1996, March). *Egypt human rights practices, 1995*. http://dosfan.lib.uic.edu/ERC/democracy/1995_hrp_report/95hrp_report_nea/Egypt.html
- UN Security Council. (2002). Press releases SC/7487, SC/7490. United Nations.
- UNAMA. (2016, February). *Afghanistan annual report 2015: Protection of civilians in armed conflict*. <https://unama.unmissions.org>
- United Nations Assistance Mission in Afghanistan. (2008–2015). *Afghanistan annual report: Protection of civilians in armed conflict*. <http://unama.unmissions.org/protection-of-civilians-reports>

- United Nations Assistance Mission in Afghanistan. (2018, October 10). *Quarterly report on the protection of civilians in armed conflict: 1 January to 30 September 2018*.
https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_in_armed_conflict_3rd_quarter_report_2018_10_oct.pdf
- United Nations General Assembly. (1948). *Universal Declaration of Human Rights*. United Nations. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- United Nations General Assembly. (1988). *Protocol II to the Geneva Conventions*.
- United Nations High Commissioner for Human Rights. (2002). *Report of the High Commissioner submitted pursuant to General Assembly Resolution 48/141: Human rights: A uniting framework* (UN Doc. E/CN.4/2002/18). United Nations.
- United Nations Human Rights Committee. (1992). *General Comment No. 6: The right to life (Article 6)*.
- United Nations Security Council. (2001). United Nations Security Council Resolution 1378. United Nations.
- United Nations Security Council. (2002). UN Security Council press releases SC/7487, SC/7490.
- United Nations Security Council. (2011a, February 26). *Resolution 1970 (S/RES/1970)*.
[https://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1970%20\(2011\)](https://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1970%20(2011))
- United Nations Security Council. (2011b, March 17). *Resolution 1973 (S/RES/1973)*.
[https://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1973%20\(2011\)](https://www.un.org/Docs/journal/asp/ws.asp?m=S/RES/1973%20(2011))
- United States v. Alvarez-Machain, 504 U.S. 655 (1992).
<http://www.law.cornell.edu/supct/html/91-712.ZS.html>
- Urban, M. (2011, September 9). The nature of President Obama's rendition programme. *BBC News World*. <https://www.bbc.co.uk/news/world-14862161>
- Venice Commission. (2010, July 4). *Report on counter-terrorism measures and human rights*.
- Wadhams, C., Katulis, B., Korb, L., & Cookman, C. (2008, November). *Partnership for progress: Advancing a new strategy for prosperity and stability in Pakistan and the region*. Centre for American Progress.
- Walsh, D., & Rashwan, N. (2020, February). In Mubarak's legacy, Egyptians see the failings of the Arab Spring. *The New York Times*. <https://www.nytimes.com>
- Walt, S. M. (2018). *The hell of good intentions: America's foreign policy elite and the decline of U.S. primacy*. Farrar, Straus and Giroux.

- Ward, J., & Solomon, J. (2008, December 17). Interview of the Vice President by John Ward and John Solomon, *Washington Times*. <http://georgewbush-whitehouse.archives.gov/news/releases/2008/12/20081222.html>
- Warren, V. (2012, January 9). Congress should close Guantanamo. *The New York Times*.
- Warrick, J. (2015). *Black flags: The rise of ISIS*. Doubleday.
- Wawro, G. (2010). *Quicksand: America's pursuit of power in the Middle East*. Penguin Press.
- Weiner, T. (2007). *Legacy of ashes: The history of the CIA* (pp. 487–492). Doubleday.
- Weissbrodt, D., & Bergquist, A. (2006). Extraordinary rendition: A human rights analysis. *Harvard Human Rights Journal*, 19, 123–153.
- Welch, M. (2004). Quiet constructions in the war on terror: Subjecting asylum seekers to unnecessary detention. *Social Justice*, 31, 113–129.
- West, B. (2011). Groundhog war: The limits of counterinsurgency in Afghanistan. *Foreign Affairs*.
- Wheeler, N. J. (2002). *Saving strangers: Humanitarian intervention in international society*. Oxford University Press.
- Wheeler, W. (2012, February 29). Finding the right targets. *Time*. <http://nation.time.com/2012/02/29/3-finding-the-right-targets/>
- Wilkinson, L. (2009, March 17). Some truths about Guantánamo. *The Washington Note*. http://www.thewashingtonnote.com/archives/2009/03/some_truths_abo/
- Williams, B. G. (2010). The CIA's covert predator drone war in Pakistan 2004–2010: The history of an assassination campaign. *Studies in Conflict and Terrorism*, 33(10), 871–892.
- Williams, R. E., Jr., & Caldwell, D. (2006). Jus Post Bellum: Just war theory and the principles of just peace. *International Studies Perspectives*, 7(4), 309–320.
- Wilner, A. (2010). Targeted killings in Afghanistan: Measuring coercion and deterrence in counterterrorism and counterinsurgency. *Studies in Conflict & Terrorism*, 33(4), 307–329.
- Winton, R., & Zamichow, N. (2002, July 9). Officer suspended over arrest video; teen shown getting slammed, punched. *Los Angeles Times*.
- Wittes, B., Chesney, R. M., & Reynolds, L. (2011, May). *The emerging law of detention 2.0: The Guantánamo habeas cases as lawmaking* (Public Law and Legal Theory Research Paper Series No. 195). University of Texas Law School. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1839793

- Wolfowitz, P. (2001). *U.S. strategy and preemption: A new era*. Council on Foreign Relations.
- Wood, D. (2018, August). Egypt loves China's deep pockets. *Foreign Policy*.
<https://foreignpolicy.com>
- Woods, C. (2015). *Sudden justice: America's secret drone wars*. Oxford University Press.
- Woods, C., & Lamb, C. (2012, February 4). CIA tactics in Pakistan include targeting rescuers and funerals. *The Bureau of Investigative Journalism*.
<http://www.thebureauinvestigates.com/2012/02/04/obama-terror-drones-cia-tactics-in-pakistan-include-targeting-rescuers-and-funerals/>
- Woods, C., & Yusufzai, M. (2013, August 1). Bureau investigation finds fresh evidence of CIA drone strikes on rescuers. *The Bureau of Investigative Journalism*.
<http://www.thebureauinvestigates.com/2013/08/01/bureau-investigation-finds-fresh-evidence-of-cia-drone-strikes-on-rescuers/>
- Woodward, B. (2002). *Bush at war*. Simon & Schuster.
- Woodward, B. (2009, January 14). Guantánamo detainee was tortured, says official overseeing military trials. *The Washington Post*. <http://www.washingtonpost.com/wp-dyn/content/article/2009/01/13/AR2009011303372.html>
- Yoo, J. (2003, March 14). *Memorandum for William J. Haynes II*. <http://www.aclu.org/national-security/memo-regarding-torture-and-military-interrogation-alien-unlawful-combatants-held-o>
- Yoo, J. (2006). *War by other means: An insider's account of the War on Terror*. Atlantic Monthly Press.
- Yousaf, F. (2017). *CIA drone strikes in Pakistan: History, perception, and future*. Center for Research and Security Studies. <https://crss.pk/wp-content/uploads/2010/07/CIA-Drone-Strikes-in-Pakistan.pdf>
- Yusuf, S. (2012). The resilience of the human rights norm in an era of counter-terrorism.
- Zaiby, P. (2008, May 1). *Economic impact of war on terror and continuing recession in Pakistan*. Overseas Pakistani Friends. <http://www.opfblog.com/5935/economic-impact-of-war-on-terror-and-continuing-recession-in-pakistan/>
- Zaman, A. (2003). India's increased involvement in Afghanistan and Central Asia: Implications for Pakistan. *IPRI Journal*, 3(2).
<http://ipripak.org/journal/summer2003/indiaincreased.shtml>
- Zard, M. (2002). Exclusion, terrorism and the Refugee Convention. *Bender's Immigration Bulletin*, 7, 933–940.

- Zelman, E. (2001). Recent developments in international law: Anti-terrorism legislation—Part one: An overview. *Journal of Transnational Law & Policy*, 11(1), 183–184.
- Zenko, M. (2010). *Reforming U.S. drone strike policies*. Council on Foreign Relations.
- Zenko, M. (2012, September 18). The seven deadly sins of John Brennan. *Foreign Policy*.
- Zenko, M. (2015). *Red team: How to succeed by thinking like the enemy*. Basic Books.

Glossary

Glossary

1. Axis of Evil

The ‘Axis of Evil’ was President George W. Bush’s 2002 designation for Iran, Iraq, and North Korea as state sponsors of terrorism pursuing weapons of mass destruction. This rhetorical framing expanded the war on terror to include nation-states rather than just terrorist groups (Bush, 2010). While intended to justify pre-emptive action, the concept was criticized for oversimplifying complex geopolitical realities. The term significantly influenced U.S. foreign policy, particularly the decision to invade Iraq in 2003 based on disputed WMD claims (Bush, 2010).

2. De-Ba’athification

De-Ba’athification refers to the systematic removal of Ba’ath Party members from the Iraqi government and society following the 2003 U.S. invasion. Implemented through Coalition Provisional Authority Orders 1 and 2, it banned senior party members from public office and disbanded Iraq’s military and security forces (Allawi, 2007). This policy aimed to dismantle Saddam Hussein’s power structure, but instead created massive unemployment and institutional collapse. Many experts blame de-Ba’athification for creating conditions that allowed ISIS to emerge (Allawi, 2007).

3. Fatwa

A fatwa is a formal Islamic legal opinion issued by a qualified scholar (Mufti) in response to specific questions about religious or social matters. These rulings are based on interpretations of the Quran, Hadith, and Islamic jurisprudence (Fiqh), but remain non-binding unless adopted by state authorities (Esposito, 2003). Fatwas can range from personal guidance on daily life to politically charged declarations that influence international relations. The authority of a fatwa depends entirely on the reputation of the issuing scholar, as there is no centralized Islamic religious hierarchy (Esposito, 2003).

Glossary

4. International Security Force (ISAF)

ISAF was NATO's security mission in Afghanistan from 2001 to 2014, authorized by the UN to stabilize the country after the Taliban's fall. Despite deploying over 130,000 troops at its peak, ISAF struggled with inconsistent strategies and corrupt Afghan partners. The mission failed to establish lasting security, as shown by the Taliban's rapid return after NATO's withdrawal. Many analysts consider ISAF's nation-building efforts largely unsuccessful despite massive expenditures (Jones, 2010).

5. Multilateralism

Multilateralism is an institutional form that coordinates relations among three or more states based on generalized principles of conduct, principles which specify appropriate conduct for a class of actions, without regard to the particularistic interests of the parties or the strategic exigencies that may exist in any specific occurrence (Ruggie, 1992).

Multilateral diplomacy is the management of international relations by negotiations involving three or more states, usually within the framework of international organizations such as the United Nations. It emphasizes collective decision-making, consensus-building, and adherence to international norms and procedures (Wiseman, 2004).

6. Rogue States

Rogue states are nations that systematically violate international norms through terrorism sponsorship, weapons proliferation, or human rights abuses. The term gained prominence in the 1990s U.S. foreign policy to describe countries like Iraq, Iran, and North Korea (Litwak, 2000). This classification justified containment strategies, including sanctions and military threats. Critics argue the label was applied selectively based on U.S. interests rather than consistent principles, often overlooking similar behavior by American allies (Litwak, 2000).

Glossary

7. Shia

Shia Islam (also spelled Shi'a or Shiite) is the second-largest branch of Islam. Shia Muslims believe that leadership of the Muslim community should have remained within the Prophet Muhammad's family, specifically through his cousin and son-in-law, 'Ali ibn Abi Talib', and his descendants. Shia Muslims believe that Ali and his descendants, whom they call Imams, are the rightful spiritual and political successors to the Prophet. This belief distinguishes Shia Islam from Sunni Islam, which accepts the legitimacy of the first four caliphs (Esposito, 2003).

8. Soft Power (Obama Administration)

Soft power, as defined by Joseph Nye, is a nation's ability to influence others through attraction rather than coercion, leveraging culture, political values, and diplomatic engagement instead of military force or economic sanctions. The Obama administration (2009-2017) explicitly embraced this concept, seeking to restore America's global standing after the divisive Bush-era policies. Obama's approach relied on multilateral diplomacy, public engagement, and symbolic gestures to reshape international perceptions of U.S. leadership.

9. Sunni

Sunni Islam is the largest branch of Islam, comprising the majority of Muslims globally. It is rooted in adherence to the sunna (the traditions of the Prophet Muhammad) and upholds the legitimacy of the first four caliphs: Abu Bakr, Umar, Uthman, and Ali, as his rightful successors. Sunni jurisprudence is based on community consensus (*ijma*) and the Prophet's traditions, emphasizing correct practice (orthopraxy) and the authority of established religious scholars and legal schools (Esposito, 2003).

Glossary

10. Unilateralism

Unilateralism is the doctrine or policy that favors one-sided action. It is often contrasted with multilateralism, which emphasizes joint action by multiple states. In foreign policy, unilateralism typically refers to a state acting on its own to pursue its interests, without regard for the preferences or interests of other international actors (Hurd, 2017).

11. U.S. Central Intelligence Agency (CIA)

The CIA is America's primary civilian foreign intelligence agency, responsible for collecting information and conducting covert operations. After 9/11, its role expanded dramatically into paramilitary activities like drone strikes and enhanced interrogations (Weiner, 2007). This shift created tensions between intelligence-gathering and combat roles, raising legal and ethical concerns. The CIA's post 9/11 transformation reflects broader changes in U.S. counter-terrorism approaches (Weiner, 2007).

Summary

This study explores how the Bush and Obama administrations shaped the U.S. counter-terrorism aftermath of the 9/11 attacks, implementing measures such as arbitrary detention, torture, and drone strikes in the name of national security. Through a comparative historical approach, this work reveals significant human rights violations under both administrations and critically examines the effectiveness of President Obama's reforms. Despite the American administration's strong rhetoric on human rights, its actions often undermine civil liberties and global stability, revealing the persistent tension between national security and fundamental freedoms.

Keywords: 9/11 events, Bush administration, counter-terrorism, human rights, Obama administration

ملخص

تكشف هذه الدراسة كيفية قيادة إدارتا بوش وأوباما لإستراتيجية مكافحة الإرهاب الأمريكية بعد أحداث الحادي عشر من سبتمبر، حيث طبقت كلتا الإدارتين تدابير مثل الإحتجاز التعسفي والتعذيب وشن غارات بطائرات بدون طيار باسم الأمن القومي. ومن خلال المنهج التاريخي المقارن، تكشف هذه الدراسة عن إنتهاكات جسيمة لحقوق الإنسان في فترتي حكم بوش وأوباما. وتوصلت إلى التشكيك في فعالية إصلاحات الرئيس أوباما. ورغم قوة الخطاب السياسي للإدارة الأمريكية حول حقوق الإنسان، إلا أن الواقع يثبت تقويض الحريات المدنية والإستقرار العالمي من خلال ما قامت به، مما يُظهر التوتر المستمر لديها بين الحاجة للأمن القومي وضرورة الحفاظ على الحريات الأساسية.

الكلمات المفتاحية: أحداث الحادي عشر من سبتمبر، إدارة بوش، إدارة أوباما، حقوق الإنسان، مكافحة الإرهاب

Résumé

La présente étude est destinée à examiner comment les administrations Bush et Obama ont-elles mené la stratégie antiterroriste américaine après les attentats du 11 septembre, en mettant en oeuvre des mesures telles que la détention arbitraire, la torture et les frappes de drones au nom de la sécurité nationale. À travers une approche historique comparative, ce travail révèle d'importantes violations des droits de l'homme sous les deux administrations et examine de manière critique l'efficacité des réformes pendant les deux mandats présidentiels du président Obama. Malgré le discours politique fort de l'administration américaine sur les droits de l'homme, la réalité est que ses actions ont souvent porté atteinte aux libertés civiles et à la stabilité mondiale, révélant la tension persistante entre l'importance de préserver la sécurité nationale et l'obligation de protéger les libertés fondamentales.

Mots-clés: 11 septembre, administration du Bush, administration d'Obama, droits de l'homme, lutte antiterroriste