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Of the Use of Plausible Deniability by the United States in Iraq and Afghanistan.

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Remerciements:

The community of militaryphotos.net.
M. John Cassini.
My mother.

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Introduction

Similarly to many Anglo-Saxon concepts Plausible Deniability has a narrow definition with a very broad field of applications. Even though this study will focus on the geopolitical, geo-strategic and military aspects of the concept, it has to be acknowledged that Plausible Deniability can also be applied in very different sectors such as marketing or general everyday life. As a matter of fact Plausible Deniability is mostly seen as a legal concept referring to a lack of evidence proving an allegation. The most accurate definition that can be given would be of being able to safely and believably deny having knowledge of any partial, or complete, elements of truth because one is deliberately made unaware of the said elements in order to benefit, and or be shielded, from any responsibility linked or associated to the said truth. This definition may not do justice to the concept of Plausible Deniability but it allows us to get a grasp on the basic and most important principles of it. Even though, nowadays, this concept is mostly used by the judiciary, its applications remain numerous and, in the past, were mostly used for military and political purposes. Apart from being a strategy used by lawyers to defend their clients, what usually accompanies it is scandals, such as the BC Hydro Smart Meter Program. In 2012 customers in British Columbia were told by representatives from the BC Hydro Company that excessive amounts of electricity had been consumed, but it later appeared that the newly installed smart meters were not operating correctly. According to Hydro's director of Customer Care, the issue remained unnoticed because nobody in the highest ranks of the company and government knew that a smart meter had

malfunctioned (1).

The concept can be traced back to Sun Tzu himself. Sun Tzu's treatise is probably the oldest dated reference related to the concept of Plausible Deniability. In this treatise on strategy, written in China in 500BC and entitled The Art of War Sun Tzu explains the importance of such a strategy in order to prepare and conduct a successful military campaign. The concept here concerns the approach to lure the adversary in order to take advantage of his weaknesses and turn his strength against him. *"The essays written by Sun Tzu on The Art of War are the most ancient of the treaties ever written on the subject. Yet they have never been equaled and are considered as the very quintessence of wisdom on how to conduct a war"*. (2) Even though the concept is taken up at several points throughout the treatise, it is in chapter 13th entitled "Of The Use of Secret Agents" that Sun Tzu goes more into detail on the subject and also explains the importance of using spies, in military and political operations so as to win a war before it even starts. Even though The Art of War is one of the oldest sources it can be easily inferred that strategies depending on unconventional warfare have most certainly been used a long time before, though from 500BC to today very few written or official traces showing or explaining the use of this concept can be found. As an example we could mention the case of the murder of Thomas Becket who was assassinated in 1170. At the time the King of England, King Henry II, is believed to have stated *"Who will rid me of this meddlesome priest?"*, this "meddlesome priest" being Thomas Becket, shortly before he was murdered. Although the King denied his statement was to be understood in such a way, four Anglo-Norman knights, Reginald Fitzurse, Hugues de Morville, Guillaume de Tracy and Richard le Breton, took it as an order and carried out the execution. A more recent statement would be the one made, in the 19th century, by Charles Babbage in which he describes the use of temporarily eliminated members of a committee so they could safely and truly declare

they had no knowledge of any questionable actions. (3) Later on, during World War II, Marechal Chapochnikov showed the importance of *"taking appropriate measures from within the enemy organization in order to guarantee the successful outcome of the campaign started against it"*. The ex-chief of Army Staff continued by paraphrasing Sun Tzu *"The victorious army is the one attacking a demoralized and already beaten enemy"*. (4)

During the Kennedy administration the expression "plausible deniability" was invented by the CIA to describe the withholding of information from senior officials in order to protect them from possible repercussions in the event that illegal activities by the CIA became known by the public. In fact Allen Dulles, the then CIA director, was the first person to publicly use the term (5). In 1974 a US Senate Committee, known as the Church Committee, conducted an investigation of US intelligence agencies during which it was revealed that the CIA, going back to the Kennedy Administration, had plotted the assassination of a certain number of foreign leaders, such as Fidel Castro. Despite the CIA taking its order directly from the president, who clearly was in favor of such actions, the president was not directly involved, thus allowing him to deny having any knowledge of such operations. This was given the term plausible denial. (6)

Non-attribution to the United States for covert operations, thus making them impossible to trace back to their point of origin, was the original and principal purpose of the so-called doctrine of "plausible deniability." Evidence before the Committee clearly demonstrated that this concept has been expanded to mask decisions of the president and his senior staff members when in fact it was first designed to protect the United States and its operatives from the consequences of disclosures. (7) As a consequence Plausible Denial involved the creation of chains of command that were loose and informal enough

to be denied if necessary. The idea was that the CIA, and other government agencies, could be given controversial instructions by decision makers such as the President, but in such a way that the existence and true origin of those instructions could be denied if necessary. For instance, if an operation went disastrously wrong and/or the operative were compromised, the administration would be able to disclaim any responsibility and/or knowledge.

A direct descendant of the Office of Strategic Service (OSS) (which was itself created only a few months after the Japanese attack on Pearl Harbor on the morning of December 7, 1941), the CIA was proposed in 1944 by William J. Donovan, the OSS's creator, to US President Franklin D. Roosevelt. Under his direct supervision the CIA's task was to *"provide intelligence both by overt and covert methods and will at the same time provide intelligence guidance, determine national intelligence objectives, and correlate the intelligence material collected by all government agencies."* (8) but the agency was also asked to be able to conduct *"subversive operations abroad"* but *"no police or law enforcement, either at home or abroad"*. (9)

In 1949, thanks to Public Law 81-110, the Central Intelligence Agency Act authorized the CIA to use confidential fiscal and administrative procedures in order to make it exempt from most of the usual limitations on the use of Federal funds as well as enabling the agency to be exempt from the necessity to disclose its *"organization functions, officials, titles, salaries, or numbers of personnel employed"*. During the Cold War, between 1953 and 1966, the main covert operations were conducted by the CIA, mostly against left-wing organizations or movements perceived as communist. On August 19, 1953, and at the request of Winston Churchill, the first foreign government to be overthrown by the CIA was the democratically elected government of Iran. This was known as the 28 Mordad Coup. The biggest operations were mostly aimed at Cuba,

including assassination attempts against Fidel Castro and the failed Bay of Pigs invasion. A large number of operations were also carried out during the Indochina and Vietnam Wars with the CIA having the task of estimating the actual damage dealt to the enemy. But in November 1986, under the Reagan administration, repercussions from the Iran-Contra arms smuggling scandal, also known as Irangate or Contragate, included the creation of the Intelligence Authorization Act, in 1991. This act defined and codified covert operations as secret missions in geopolitical areas where the US was neither openly nor apparently engaged. It also defined the requirements for an authorizing chain of command, including an official, presidential finding report and the informing of the House and Senate Intelligence Committees. (10)

But before going more into detail we first need to "define" and "clarify", if possible, the exact purpose and role of the CIA. The Central Intelligence Agency is the intelligence agency of the United States government. It is an executive agency reporting directly to the Director of National Intelligence, who is responsible for providing national security intelligence assessments to United States policymakers. The task of intelligence gathering is given to and performed by non-military civilian intelligence agents, many of whom are just analysts and therefore are not supposed to take part in any kind of tactical situations. The CIA also oversees, and may sometimes be engaged in tactical and covert activities if requested by the President. Often, when such operations are organized, the US military or other warfare tacticians carry out these tactical operations on behalf of the agency. In such a situation the CIA will be overseeing them. Although intelligence gathering is at the top of the agency's, tactical divisions were also organized to carry out emergency field operations requiring immediate intervention. The CIA acts as the primary US human intelligence (HUMINT) and general analytic agency, under the Director of National Intelligence, whose job it is to direct and coordinate the 16 different

organizations of the United States Intelligence Community. In addition, the CIA also obtains various kinds of information from other US government as well as foreign intelligence services.

To achieve its objectives the CIA can count on a wide variety of resources and assets which can be either internal or external. CIA operations are commonly carried out by trained and specialized operators whose field of expertise cover a vast spectrum of fields since the underlying principle is to be able to face any given situation. Nevertheless it happens that, under some circumstances, the CIA needs to ask for the help of other government agencies or organizations. The CIA, not being allowed to carry out operations on American soil, will sometimes have to work in collaboration with other federal agencies such as the FBI or the NSA. Just like other analytic members of the US intelligence community, such as the analytic division of the Defense Intelligence Agency (DIA), the CIA's raw input includes imagery intelligence (IMINT) collected systems of the National Reconnaissance Office (NRO), which are then processed by the National Geospatial-Intelligence Agency (NGA), signals intelligence (SIGINT) of the National Security Agency (NSA), and measurement and signature intelligence (MASINT) from the DIA.

During external operations the CIA usually works on its own relying on the use of the Special Activities Division (SAD). This division in the CIA's National Clandestine Service (NCS) is responsible for covert operations known as "special activities". Within SAD there are two separate groups, one for tactical paramilitary operations and another for covert political action. The Political Action Group within SAD is responsible for covert activities related to political influence, psychological and economic warfare as well as, with the rapid development of technology, cyber-warfare. Tactical units within SAD are also capable of carrying out covert political actions. The Special Operation

Group (SOG) is the department within SAD responsible for carrying out operations including the collection of intelligence in hostile countries, as well as all the high-threat military or intelligence operations the US government does not wish to be overtly associated with. As such, the members of the unit, called Paramilitary Operations and Specialized Skills Officers, do not carry any objects or wear clothing, such as military uniforms or insignias, that would associate them with the United States government. If they are to be compromised during a mission the United States government is likely to deny all knowledge.

The SOG is usually considered to be the most secretive special operation force in the US. The group selects operatives from Delta Force, Naval Special Warfare Development Group, the 24th Special Tactics Squadron (24th STS) and other special operations forces from the US Military. A large majority of SOG Paramilitary Operations Officers have received the Distinguished Intelligence Cross and Intelligence Star awarded for their involvement in any given conflict or incident eliciting the CIA's involvement. Also, depending on the mission, the CIA can either ask for the standard military corps (USMC, NAVY, Air Force, US-Army) or more specialized branches (DEVGRU, SAD, JSOC) to help them. The CIA, working with the military, formed the joint National Reconnaissance Office to operate reconnaissance aircraft such as the SR-71 and later satellites. "The fact of" the United States operating reconnaissance satellites, like "the fact of" the existence of National Reconnaissance Office (NRO), was highly classified for many years.

In this study several aspects of the US plausible deniability policy, both military and judiciary, will be presented. The military application will focus on the two most important and relevant theaters of these past decades, namely Iraq and Afghanistan, with an insight into the evolution of the tactics used by the US in these particular regions.

From 1979 to 2013 the worldwide political context has greatly changed, as well as the political configuration of the Middle East, and consequently, so have the reasons for the US to get involved in this part of the world. Even though the missions carried out by the CIA have remained fundamentally the same, safeguarding the interests of the United States, the US prerogatives have undergone changes and development from 1979 to 2013. From purely ideological and strategic reasons, with the backing of the Afghan insurgency to prevent the USSR from increasing its sphere of influence in Southeast Asia, to missions of geo-political and economic stabilization in Iraq, and finally to the Global War on Terror, the CIA has had to adapt its *modus operandi* and strategies. Adapting one's strategy to the evolution of society is not a problem in itself, it is the logical procedure to follow in order to survive, and to remain an efficient and competitive intelligence agency. The real challenge has been to respond to the new threats and the changes imposed by the evolution of warfare. New tactics have had to be invented, new protocols created, and new issues taken into account. For if the CIA enjoys relative freedom in terms of its actions, the agency still has to answer for the legality of those actions before the US Congress and the courts and International Law. But, as time goes by, the multiplication of inquiries, reports and the need for transparency from executives and decision makers, tends to make the strategy of plausible deniability less and less relevant.

The first chapter will deal with Iraq, in particular the two consecutive US-Iraq wars focusing on the role played by the CIA prior to and during both of them. From an attempt to turn Iraq into a country favorable to the US instead of the USSR and the subsequent "Saddam Hussein issue".

The second chapter will deal with Afghanistan; from the involvement of the United States during the 1979 - 1989 Soviet War in Afghanistan, to the Operation Neptune Spear focusing the means employed to hunt and find Osama bin Laden. The second chapter will

also focus on the shifting position of Pakistan toward the United States.

Finally the third chapter will deal with some of the controversies surrounding the use of strategies linked to plausible deniability. Strategies involving violation of Human Rights and Torture, controversial adaptive strategies and the issue of command responsibility.

Chapter 1

Iraq

Right from the early 1960s the CIA is believed to have run a certain number operations in Iraq. In 1963 an allegedly CIA-supported coup managed to overthrow the Qasim government which was believed to be leaning toward communism. A certain number of US court records from the period show the CIA assisted Iraq both militarily and monetarily during the Iran-Iraq war. Later the CIA got involved in the failed 1996 coup that was supposed to oust Saddam Hussein.

In the 1990–1991 Gulf War, intelligence played a crucial and generally very effective role, but was hardly convincing when trying to justify the need for and plan the 2003 invasion of Iraq.

1-1 Iraq - from 1960 to Desert Storm

Abd al-Karim Qasim (November 21, 1914 –February 9, 1963), was a nationalist Iraqi Army general who seized power in a 1958 military coup, leading to the elimination of the Iraqi monarchy. He ruled the country as Prime Minister of Iraq until his downfall and death in 1963, and the CIA had plans to assassinate him. (11) The report included, "*the Near East Division of the Directorate of Plans (for instance, the Clandestine Service) sought the endorsement of what the Division Chief called the "Health Alteration Committee" for its proposal for a "special operation: to 'incapacitate' an Iraqi Colonel believed to be 'promoting Soviet bloc political interests in Iraq'.*" The Division was looking for a solution involving a technique, "*which while not likely to result in total disablement would be certain to prevent the target from pursuing his usual activities for a*

minimum of three months," adding: "We do not consciously seek subject's permanent removal from the scene; we also do not object should this complication develop."(12) In April, the Health Alteration Committee unanimously recommended the Deputy Director for Plans, Richard Bissell for a "*disabling operation*" to be carried out, an operation that was considered "*highly desirable*" by the Chief of Operations. The action was eventually approved by Tracy Barnes, Bissell's deputy, on his behalf. (13) The modus operandi of the operation was to mail to the colonel Qasim, from a random Asian Country, a monogrammed handkerchief containing an incapacitating agent. The Science Advisor to Bissell, James Scheider, testified that he does remember mailing from the Asian country a handkerchief "*treated with some kind of material for the purpose of harassing that person who received it.*". (14) During this Committee's investigation, the CIA stated that the handkerchief was "*in fact never received nor sent.*" But it did not matter, since the CIA added that the colonel: "*Suffered a terminal illness before a firing squad in Baghdad, an event we had nothing to do with, after our handkerchief proposal was considered.*" (15)

In 1963 the United States supported the Ramadan Revolution against Qasim's government. It was carried out by a coalition of Iraqi nationalists, the Nasserists, members of the Arab Socialist Union, the Ba'athists, and anti-Communist members of the Iraqi armed services. CIA intelligence analyst Harry Rositzke designated this revolution as being one on which they had fairly good intelligence, especially if compared to others that caught the agency completely by surprise such as the infamous operation on the Bay of Pigs which was supposed to help overthrow Fidel Castro. "*Agents in the Ba'th Party headquarters in Baghdad had for years kept Washington au courant on the party's personnel and organization, its secret communications and sources of funds, and its penetration of military and civilian hierarchies in several countries... CIA sources were*

in a perfect position to follow each step of Ba'th preparations for the Iraqi coup, which focused on making contacts with military and civilian leaders in Baghdad. The CIA's major source, in an ideal catbird seat, reported the exact time of the coup and provided a list of the new cabinet members... To call an upcoming coup requires the CIA to have sources within the group of plotters. Yet, from a diplomatic point of view, having secret contacts with plotters implies at least unofficial complicity in the plot." (16) Still Qasim was completely aware of the US complicity in the plot and never stopped denouncing the attitude of the US in public. Because of this the Department of State became worried that Qasim would consequently decide to retaliate by harassing American diplomats in Iraq. (17)

The best direct evidence that the US took part in this Revolution is the memo from Bob Komer, NSC staff member, to President John F. Kennedy on the night of the coup: *"We will make informal friendly noises as soon as we can find out whom to talk with, and ought to recognize as soon as we're sure these guys are firmly in the saddle. CIA had excellent reports on the plotting, but I doubt either they or UK should claim much credit for it."* (18) Following the fall of Qasim the new Iraqi government established a lists-based system, provided by the CIA, which led to the systematic murder of suspected communists. (19) *"Although individual leftists had been murdered intermittently over the previous years, the scale on which the killings and arrests took place in the spring and summer of 1963 indicates a closely coordinated campaign, and it is almost certain that those who carried out the raid on suspects' homes were working from lists supplied to them. Precisely how these lists had been compiled is a matter of conjecture, but it is certain that some of the Ba'athist leaders were in touch with American intelligence networks, and it is also undeniable that a variety of different groups in Iraq and elsewhere in the Middle East had a strong vested interest in breaking what was probably*

the strongest and most popular Communist Party in the region." (20)

According to former CIA Near East Division Chief, James Chritchfield, and even though it did not actively support the coup, the CIA took interest in the Ba'ath Party around 1961-1962. Several months later, the Ba'ath staged a kind of counter-coup which led Arif, at the time the third President of Iraq, to purge the party in the November 1963 Iraqi coup d'état. The CIA *"did not identify a radical movement within the Ba'ath,"* and was surprised by the power struggles that followed the Ramadan Revolution. After al-Bakr and Vice President Saddam Hussein seized power in 1968, *"America slowly developed, not hostility to, but enormous reservations about the ability of the Ba'ath to constructively bring Iraq along."* (21) A few years later, after the 1966 Syrian coup d'état, the original Ba'ath Party split into two different parties carrying the same name.

After Hussein's trip to Moscow in 1972, the CIA created an alliance with the Shah of Iran with the objective to finance and arm Kurdish rebels in the Second Kurdish-Iraqi War. But the support eventually came to an end when Iran and Iraq signed the Algiers Agreement in 1975. The Shah denied the Kurds refuge in Iran, even though as many were slaughtered in Iraq, but since the US were willing to safeguard safe relations with Iran, the US decided to simply forget about the issue. (22) This betrayal of the Kurds by the Americans was later investigated by the Pike Committee which eventually described it as *"cynical and self-serving"*, (23) and also contributed in tarnishing America's image with one of the most pro-Western groups in the Middle East. (24) In 1979, in order to calm Saddam Hussein's ambition, Al-Bakr tried to demote him to a position of lesser importance. Hussein, at the time Prime Minister, responded with a counter-coup by conducting a purge of hundreds of Ba'athists and naming himself President and forcing al-Bakr to resign.

At the beginning of 1980, the CIA militarily and monetarily assisted Iraq during the

Iran-Iraq War. This assistance was organized by the South Asia Operations Group headed by Gust Avrakotos. In his book Charlie Wilson's War George Crile writes "*There was little the Agency could do directly against Khomeini. But indirectly it was doing tremendous damage by providing covert assistance to Saddam Hussein and the Iraqis for their bloody war with Iran. They were just leveling the playing field: "We didn't want either side to have the advantage. We just wanted them to kick the shit out of each other".*" (25)

During Operation Desert Shield and Operation Desert Storm the CIA provided intelligence support to the US military. (26) These were mostly used during the third stage of the air campaign whose goal was to neutralize military targets in Iraq and Kuwait: Scud missile launchers, weapons research facilities, and naval forces. About one-third of the Coalition forces air power was exclusively devoted to attacking Scuds. Since some of these launchers were on trucks, making them hard to locate, US and British special operations forces were covertly used to locate them.

After the Gulf War, the CIA took measures to correct the shortcomings identified during the Gulf War in order to improve its support to the US military. Such measures included, most of all, improving communications with major US military commands. As a result, in 1992, the Office of Military Affairs (OMA) was created to improve cooperation between the CIA and the military. OMA answers to the Associate Director of Central Intelligence for Military Support and is jointly staffed by CIA officers from all directorates and military personnel from all the services.(27)

According to former US intelligence officials interviewed by The New York Times, the CIA indirectly supported a bomb and sabotage campaign between 1992 and 1995, which was conducted by the Iraqi National Accord insurgents, but which eventually failed in ending Saddam Hussein's regime. (28) At the time various rebel groups were

trying to do the same. No public records of the CIA campaign are known to exist, recollections happen to be sketchy if not contradictory. As a former official said "*The United States had no significant intelligence sources in Iraq then.*" In 1996, Amneh al-Khadami, the chief bomb maker for the Iraqi National Accord, recorded a document in which he talked about the bombing campaign and the lack of both money and supplies. (29)

During the 1990s US and Iraqi sources provided an account of the unsuccessful strategy to overthrow Saddam. The strategy was known by the cryptonym "DBACHILLES". Though they failed, the coup efforts showed important lessons to the CIA: first they showed that Iraqi intelligence penetrated the Iraqi operations based on exiles, second they illustrated the damage caused by a long-lasting hostility between these Iraqi exile groups and their American patrons. (30)

The CIA appointed Stephen Richter to be the new chief of the Near East Division. Stephen Richter was the one who believed that a large part of the Iraqi army was likely to support a coup against Saddam Hussein. This assumption was made after a team met with General Mohammed Abdullah Shawani. (31) The British services encouraged the agency to contact Ayad Alawi an Iraqi exile who was at the head of a network built around Iraqi military officers, current and former, as well as Ba'ath Party operatives. The coup planning went ahead and DBACHILLES succeeded in reaching a sufficient number of senior Iraqi military officers, but unfortunately DBACHILLES was compromised and collapsed in June 1996 leading to the arrest, on June the 26th, of the coup plotters. During the invasion, both Alawi and Shawani played important roles in the US/UK effort to encourage Iraqi officers to surrender or defect, which did not really work since, instead of just surrendering or defecting, they choose to go home. (32)

1-2 From Operation Iraqi Freedom to the Surge.

In July 2002 CIA SAD paramilitary teams were the first to arrive in Iraq where they helped prepare the battle space for the US military forces. SAD teams then joined the US Army Special Forces on a team called the Northern Iraq Liaison Element. (33) Its objective was to organize the Peshmergas for the US invasion and together they managed to defeat Ansar al-Islam, a powerful ally of Al-Qaeda. The success of the battle helped to get rid of a considerable hostile force that would have harassed the US/Kurdish force during the assault on Saddam's Army. (34) SAD teams also conducted high-risk special reconnaissance missions behind Iraqi lines to identify senior leadership targets and led to the initial strikes against Saddam Hussein and his key generals. Although the initial strike against Saddam Hussein was unsuccessful in killing him, it was successful enough to suppress his ability to command and control his forces. Other strikes against key generals were successful and managed to nullify the command's ability to react to and maneuver against the invasion force. (35 - 36)

Since Turkey refused to allow its territory to be used by the US Army's 4th Infantry Division for the invasion the SAD, US Army Special Forces joint teams and the Kurdish Peshmerga represented the entire northern force against Saddam's Army during the invasion. Their efforts helped keep the 1st and 5th Corps of the Iraqi Army in place to defend against the Kurds thus preventing them from moving south and oppose the coalition force. This combined US Special Operations and Kurdish force eventually managed to defeat Saddam's Army. (37)

Prior to the invasion of Iraq, Richard Kerr who served three years as deputy director for intelligence for the CIA, was asked to produce a series of agency analysis reports on Iraqi WMD. (38) He said that CIA analysts felt intimidated by the Bush administration: *"A lot of analysts believed that they were being pressured to come to certain*

conclusions... . I talked to a lot of people who said, 'There was a lot of repetitive questioning. We were being asked to justify what we were saying again and again.'". (39)

In a January 26, 2006 interview, Kerr admitted this had eventually resulted in open conflict between some in the CIA and the Bush White House: *"There have been more leaks and discussions outside what I would consider to be the appropriate level than I've ever seen before. I don't think an intelligence organization can take up arms against politics, or a policy-maker."* (40)

Evidence against Iraq having a WMD program included information provided by CIA officer Valerie Plame, who was publicly identified as being *"an agency operative on weapons of mass destruction."* This was mostly due to the fact that her husband, Ambassador Joseph C. Wilson IV, had been sent by CIA to Niger in order to investigate claims that Iraq was intending to purchase uranium yellowcake from that country, a claim which was later incorporated, though not verified, in President George W. Bush's 2003 State of the Union address to support the waging of a preventive war against Iraq. Kenneth Pollack, a National Security Council expert on Iraq, told that the Bush administration *"dismantled the existing filtering process that for fifty years had been preventing the policymakers from getting bad information. They created stovepipes to get the information they wanted directly to the top leadership.... They always had information to back up their public claims, but it was often very bad information"*. (41) Some of these information came from a discredited informant codenamed "Curveball" by CIA. "Curveball" claimed that he had worked as a chemical engineer at a plant that manufactured biological weapon laboratories as part of an Iraqi weapons of mass destruction program. Despite warnings from the German Federal Intelligence Service regarding "Curveball" and his claims, they were nonetheless incorporated into President Bush's 2003 State of the Union address. (42)

Tyler Brumheller, former head of CIA covert operations in Europe, reported that there was serious disbelief within the agency concerning the Bush administration's claims of Iraqi weapons of mass destruction. The CIA had managed to infiltrate Saddam Hussein's inner circle by the fall of 2002, and a very high-level source told CIA *"they had no active weapons of mass destruction program."* When asked about these obvious contradictions within the Bush administration statements regarding Iraqi WMDs, Brumheller answered *"The policy was set. The war in Iraq was coming. And they were looking for intelligence to fit into the policy, to justify the policy."* (43)

The mission that captured Saddam Hussein was called "Operation red Dawn". It was planned and carried out by the JSOC's Delta Force and SAD/SOG teams, together called Task Force 121 for the occasion, and numbering around 40 members. "Operation red Dawn" also included 600 soldiers from the 1st Brigade of the 4th Infantry Division (44). Credit for the success of the mission and the capture of Saddam Hussein mostly went to the 4th Infantry Division soldiers, even though CIA and JSOC were the driving force. But former deputy assistant Secretary of Defense for special operations Robert Andrews stated that *"Task Force 121 were actually the ones who pulled Saddam out of the hole", "They can't be denied a role anymore."* (45) SAD/SOG and JSOC eventually continued to team up in Iraq, and in 2007 this combination led to the creation of a lethal force credited with killing or capturing many of the key al-Qaeda leaders in Iraq. (46) Eventually several senior US officials stated that the *"joint efforts of JSOC and CIA paramilitary units was the most significant contributor to the defeat of al-Qaeda in Iraq"*. (47)

In 2004, reports of Abu Ghraib torture and prisoner abuse surfaced. In the following investigation Major General Antonio Taguba stated *"I find that contrary to the provision*

of AR 190-8, and the findings found in MG Ryder's Report, Military Intelligence interrogators and Other US Government Agency's (OGA) interrogators actively requested that MP guards set physical and mental conditions for favorable interrogation of witnesses.", "The various detention facilities operated by the 800th MP Brigade have routinely held persons brought to them by Other Government Agencies without accounting for them, knowing their identities, or even the reason for their detention". The Joint Interrogation and Debriefing Center at Abu Ghraib called these detainees "ghost detainees". On at least one occasion, the 320th MP Battalion at Abu Ghraib held a handful, 6 to 8, "ghost detainees" for OGAs that they then moved around within the facility in order to hide them from a visiting Red Cross survey team. This maneuver was judged deceptive, contrary to Army Doctrine and in violation of international law. (48) In addition to that a prisoner named Manadel al-Jamadi died while CIA interrogator Mark Swanner was "supervising" him. Swanner was not charged with any crime. (49)

Chapter 2

Afghanistan

Since the 1970s, the CIA has been engaged in multiple operations in Afghanistan. Even though the United States had no boots on the ground during the conflict opposing the USSR to the Afghan mujahedeen, the CIA has played a significant role by funding and training the insurgents.

31 years later the United States relations with Afghanistan and Pakistan got more closely tied when the War on Terror started following the terrorist attacks of September 11, 2001. The United States policy in the region has been to coordinate the conflict, taking place in Afghanistan and northwestern part of Pakistan, in order to eradicate Al-Qaeda, capture or kill its leader Osama bin-Laden and to remove the Taliban from power.

2-1 Involvement of the United States during the Soviet war in Afghanistan.

According to a report by CIA National Foreign Assessment Center "Afghanistan: Ethnic Divergence and Dissidence" from May 1979, the insurgency in Afghanistan began in 1978 in response to the installation of a pro-Soviet government. Even though the government tilted toward the Soviet Union, the analysis said that many tribal groups were hostile to the government on ethnic and political grounds not ideological ones.

A 2002 article by Michael Rubin stated that prior to the Iranian Revolution, the United States were looking to create a rapprochement with the Afghan government, something the USSR found unacceptable since it would mean the weakening of Soviet influence in

the region. This would eventually trigger the Soviets military intervention to preserve their influence in the country. According to Marshall Shulman "*the State Department worked hard to dissuade the Soviets from invading.*" (50), but in February 1979, US Ambassador Adolph Dubs was murdered in Kabul. As a consequence the US reduced bilateral assistance and ended all military training programs and all remaining assistance agreements after the Soviet invasion. Though the US had stopped assisting Afghanistan they never stopped supporting diplomatic efforts to achieve a Soviet withdrawal and also greatly contributed to the refugee program in Pakistan.

In 1979 the US National Security Advisor Zbigniew Brzezinski, renowned for having policies that could be seen as being hardline toward the Soviet Union, started a campaign to support the mujahedeen in Pakistan and Afghanistan which was supposed to be run by Pakistani security services, the ISI, with financial support from both the CIA and Britain's MI6, to promote and support radical Islamist and anti-Communist forces. In his book Out Of The Shadows, Bob Gates wrote that Pakistan, hoping to find a possible diplomatic solution to avoid a war, had been pressuring the United States for years for arms to aid the rebels, an arrangement which would eventually be refused by the Carter administration. (51) Brzezinski was apparently in favor of the provision of arms to the rebels but was accused by Cyrus Vance, the United States Secretary of State, of wanting to revive the Cold War. Again, and still according to Brzezinski, the United States provided communications equipment and limited financial aid to the mujahedeen prior to the "formal" invasion, but these measure were only taken in response to the Soviet deployment of forces in Afghanistan with the intention of preventing Soviets from further advance in the region. (52)

Years later, in a 1997 National Security Archive interview, Brzezinski detailed the strategy taken by the Carter administration against the Soviets: "*We immediately*

launched a twofold process when we heard that the Soviets had entered Afghanistan. The first involved direct reactions and sanctions focused on the Soviet Union, and both the State Department and the National Security Council prepared long lists of sanctions to be adopted, of steps to be taken to increase the international costs to the Soviet Union of their actions. And the second course of action led to my going to Pakistan a month or so after the Soviet invasion of Afghanistan, to coordinate with the Pakistanis a joint response to make the Soviets bleed for as much and as long as possible; and we engaged in that effort in a collaborative sense with the Saudis, the Egyptians, the British, the Chinese, and we started providing weapons to the mujahedeen. We even got Soviet arms from the Czechoslovak communist government and at some point we started buying arms for the mujahedeen from the Soviet army in Afghanistan, because that army was increasingly corrupt." (53)

The Soviet war in Afghanistan caused the deaths of nearly 2 million Afghans. In 2010, Brzezinski defended the arming of the rebels saying that it "*was quite important in hastening the end of the conflict,*" thus allowing to save the lives of thousands of Afghans, but "*not in deciding the conflict, because....even though we helped the mujahedeen, they would have continued fighting without our help because they were also getting a lot of money from the Persian Gulf and the Arab states. They didn't decide to fight because we urged them to, they're fighters and they want to be independent. It is just that they happen to have some kind of a curious complex: they don't like foreigners with guns in their country. That's why they fought the Soviets. Giving them weapons was very important for them to defeat the Soviets, and that's all to the good as far as I'm concerned.*" When he was asked if he thought it was the right decision considering the following rise to power of the Taliban, he said: "*Which decision? For the Soviets to go in? The decision was the Soviets', and they went in. The Afghans would have resisted*

anyway, and they were resisting. I just told you: in my view, the Afghans would have prevailed in the end anyway, 'cause they had access to money, they had access to weapons, and they had the will to fight." (54) Similarly Charlie Winston stated: *"The US had nothing whatsoever to do with these people's decision to fight ... but we'll be damned by history if we let them fight with stones."*(55)

This supplying of billions of dollars in arms to the Afghan mujahedeen was one of the CIA's longest and most expensive covert operations ever made. (56) The CIA provided assistance and support to the mujahedeen through the Pakistani ISI in a program called Operation Cyclone. The program consisted in transferring around US\$ 3 billion into the country in order to train and equip troops. The ISI was used as an intermediary for most of these activities to disguise the sources of support for the resistance. The arms provided to the insurgents included the FIM-92 Stinger, a shoulder-fired antiaircraft weapon used against Soviet aircraft. The providing of this weapon is believed to have greatly contributed to the defeat of the Soviet troops in Afghanistan. As a matter of fact Soviet strategy relied on a heavy use of the Mil Mi-24 Hind helicopter gunship to provide air support to ground troops but also to carry out bombing and harassing missions. The Hind was considered by the mujahedeen as being one of the greatest threats, hence the nickname "*Shaitan-Arba*" (Satan's Chariot).



Mujahedeen standing beside the debris of a Soviet helicopter they had shot down with a stinger missile in Sanglakh valley. September 1, 1987.

Even though the actual document has not been declassified, the National Security Decision Directive 166 of 27 March 1985, US Policy, Programs and Strategy in Afghanistan defined a US policy to drive the Soviet forces out of Afghanistan "*by all means available*", such as providing Stinger missiles to the insurgents. At first this goal involved close cooperation with the ISI, to assist mujahedeen groups and to plan operations inside Afghanistan. This cooperation was already in place in 1984, prior to NSDD-166, and as a matter of fact, in the 1980s, it was evident to residents in Islamabad and Peshawar that large numbers of Americans were on site. However, one of the main features of NSDD-166 was to allow the CIA to enter Afghanistan directly and establish its own separate and secret relationships with Afghan fighters. (57) The funding by ISI and CIA of Afghan anti-Soviet fighters created linkages among Muslim fighters worldwide. (58)

Contrary to the Soviets during the conflict in Vietnam or the Cuban crisis, no Americans trained or had direct contact with the mujahedeen (59) but the CIA is believed to have had at least 10 operatives deployed in the region. With US and other countries funding, the ISI was able to arm and train over 100,000 insurgents. On July 20, 1987, the Soviet troops withdrew from the country with the last Soviets leaving Afghanistan on February 15, 1989.



A convoy of Soviet Army armored personal vehicles cross a bridge in Termez, 21 May 1988 at Soviet-Afghan border, during the withdrawal of the Red Army from Afghanistan. Termez, Russia May 21 1988 (Vitaly Armand/AFP/Getty Images)

After the withdrawal of Soviet troops, the CIA's next objective was to oust the government of Mohammad Najibullah formed during the Soviet occupation (60). The

three main factions that CIA was supporting to replace Mohammad Najibullah were Ahmed Shah Massoud, Gulbadin Hekmatyar, Jalaluddin Haggani, the last two being supported through the ISI, but there happened to be disagreements between CIA and the US State Department regarding which Afghan factions to support. Edmund Mc Williams, the US State Department Special Envoy to Afghanistan, thought that Afghan people were unhappy with the Wahhabist and anti-American Hekmatyar, and strongly recommended pulling back support for fighting in favor of a political settlement involving more of the Afghan professional class. But CIA station chief Milton Bearden did not want to get involved in Afghanistan internal politics, believing the ISI would be able to establish a stable regime in Afghanistan which would hopefully be favorable to Pakistan. He felt that Afghanistan was, somehow, historically divided from Pakistan only by a line drawn by the British, and consequently felt that the British didn't know what they were talking about when backing Edmund Mc Williams.

The early foundations of al-Qaeda were built partly on relationships and weaponry that came from the billions of dollars in US support during the Soviet war in Afghanistan. (61) However scholars such as Jason Burke, Steve Coll, Peter Bergen, Christopher Andrew and Vasily Mitrokhin have argued that Bin Laden was *"outside of CIA eyesight"* and that there is *"no support"* in any *"reliable source"* for *"the claim that the CIA funded bin Laden or any of the other Arab volunteers who came to support the mujahedeen."* (62 - 63 - 64)

2-2 Afghanistan and the War on Terror

The War on Terror, also known as the Global War on Terror, is the term applied to a worldwide military campaign led by the United States, the United Kingdom and other NATO, as well as non-NATO, countries originally waged against al-Qaeda and other

militant organizations with the purpose of eliminating them. This concept of America being at war with terrorism may have been created on September 11, 2001 when Tom Brakaw declared "*Terrorists have declared war on America.*" after having just witnessed the collapse of the towers of the World Trade Centers. (65) The phrase 'War on Terror' was eventually popularized by George W. Bush and other high-ranking US officials to denote the global military, political, legal and ideological fight against terrorists organizations labeled as terrorist and regimes accused of having any kind of connections with them. However this "slogan" was typically used with a particular focus on militant Islamists and al-Qaeda. Even though the term is not used by the president Barack Obama administration, preferring to it the more neutral and politically correct term "Overseas Contingency Operation", it is still commonly used by politicians and in the media.

a-Operation Enduring Freedom

On September 20, 2001, following the 11 September attacks, president George W. Bush delivered an ultimatum to the Taliban government of Afghanistan to either turn over Osama bin Laden and Al-Qaeda leaders operating in the country or face attack. (66) In response the Taliban demanded evidence of bin Laden's link to the September 11 attacks and, if such evidence warranted a trial, they offered to handle such a trial in an Islamic Court. The US refused and in October 2001, US forces invaded Afghanistan. On 7 October 2001, the official invasion began with British and US forces conducting airstrike campaigns over Taliban and al-Qaeda targets, and by mid-November Kabul fell. The remaining al-Qaeda and Taliban militants fell back and tried to seek refuge in eastern Afghanistan in the Tora Bora mountains, and Coalition forces were fighting within that region by December. It is believed that, one way or another, Osama bin Laden escaped into Pakistan during the battle, using his chauffeur as a decoy. In March 2002, the US,

NATO and non-NATO forces launched Operation Anaconda with the objective of destroying the remaining Al-Qaeda and Taliban forces in the Shah-i-Kot Valley and Arma Mountains of Afghanistan. The Taliban suffered heavy casualties and were eventually forced to evacuate the region in order to regroup in western Pakistan from where, in late 2002, they were able to launch insurgent-style offensives against Coalition forces. Throughout southern and eastern Afghanistan, firefights broke out between the Taliban and Coalition forces which responded with a series of military offensives and an increase in the amount of troops in Afghanistan. In February 2010, Coalition forces launched Operation Moshtarak in southern Afghanistan hoping to eradicate the Taliban insurgency once and for all.

In 2001, operatives of the CIA's Special Activities Division (SAD) were the first US forces to enter Afghanistan. Their efforts were aimed at organizing the Afghan Northern Alliance prior to imminent arrival of USSOCOM forces. The plan for the invasion of Afghanistan was developed by the CIA and it was actually the first time in the United States history that such a large-scale military operation was planned by the CIA. (67) SAD, US Army Special Forces and the Northern Alliance combined their effort to overthrow the Taliban in Afghanistan without the need for US military conventional ground forces. (68) The operation, code-named Jaw-Breaker, consisted in infiltrating a team of seven CIA operatives into Afghanistan to, with the help of the Northern Alliance, lay the ground work to oust the Taliban, destroy al-Qaeda and capture or kill Osama bin Laden. The operation was rendered difficult to put in place for the Northern Alliance nearly crumbled with the death of Ahmed Shah Massoud, in a suicide attack carried out by the Taliban on September 9, 2001.

In an editorial by John Lehman, in The Washington Post 2006, stated that "*What made the Afghan campaign a landmark in the US Military's history is that it was prosecuted by*

Special Operations forces from all the services, along with Navy and Air Force tactical power, operations by the Afghan Northern Alliance and the CIA were equally important and fully integrated. No large Army or Marine force was employed". (69) And in a 2008 New York Times review of Horse Soldiers, by Doug Stanton on the invasion of Afghanistan, Bruce Barcott wrote that "The valor exhibited by Afghan and American soldiers, fighting to free Afghanistan from a horribly cruel regime, will inspire even the most jaded reader. The stunning victory of the 350 Special Forces soldiers, 100 CIA officers and 15,000 Northern Alliance fighters routing a Taliban army 50,000 strong deserves a hallowed place in American military history". (70)

b- The Hunt for Osama bin-Laden

Capturing Osama bin Laden had been an objective of the United States government since the presidency of Bill Clinton. Shortly after the September 11 attacks it was revealed that President Clinton had signed a directive authorizing the CIA, and specifically the SAD, to apprehend bin Laden and bring him to the United States for he could be trailed for the bombings of US embassies in Nairobi and Dar es Salaam on August 7, 1998. If capturing bin Laden alive was not possible, then deadly force was authorized. (71) On August 20, 1998, the US retaliated by launching 66 cruise missiles from US Navy ships on bin Laden's training camps in Afghanistan, but narrowly missing him only by a few hours. In 1999, the CIA and Pakistani military intelligence had prepared a team of 60 Pakistani commandos tasked to infiltrate Afghanistan in order to capture or kill bin Laden, but the plan was aborted by the 1999 Pakistani coup d'état. In 2000, foreign operatives working on behalf of the CIA had fired a RPG at a convoy of vehicles in which bin Laden was traveling, hitting one of the vehicles but not the one in

bin Laden was in.

Immediately after the September 11 attacks, US government officials named bin Laden and the al-Qaeda organization as the prime suspects and offered a reward of \$25 million for information leading to his capture or death. (72 - 73) On July 13, 2007, the reward was doubled to \$50 million and the Airline Pilots Association and the Air Transport Association even offered an additional \$2 million reward.

According to The Washington Post, the US government concluded that Osama bin Laden was present during the Battle of Tora Bora in late 2001, and according to civilian and military officials, failure of the United States to mobilize enough troops to hunt him led to his escape and was the most serious failure done by the United States in the war against al-Qaeda. Intelligence officials have assembled evidence, from interrogations and intercepted communications, that bin Laden began the Battle of Tora Bora inside the cave complex along Afghanistan's mountainous eastern border. (74) The Washington Post also reported that the CIA unit composed of special operations paramilitary forces dedicated to capturing bin Laden was shut down in late 2005. President Bush had previously defended this change of strategy several times, saying, *"I don't know where bin Laden is. I have no idea and really don't care. It's not that important. It's not our priority."* (75)

US and Afghanistan forces raided the mountain caves in Tora Bora once again between August 14 and August 16, 2007. The military was drawn to the area after receiving intelligence of a pre-Ramadan meeting held by al-Qaeda members but after killing dozens of al-Qaeda and Taliban members, they were unable to find either Osama bin Laden or Ayman al-Zawahiri. (76)

On October 7, 2008, in the second presidential debate, and on a question related to foreign policy, then-presidential candidate Barack Obama pledged, *"We will kill bin*

Laden. We will crush al-Qaeda. That has to be our biggest national security priority." (77) and expressed his plans to *"renew US commitment to finding al-Qaeda leader Osama bin Laden, according to his national security advisers"* in an effort to ratchet up the hunt for the terrorist. (78) President Obama rejected the Bush administration's policy on bin Laden that *"conflated all terror threats from al-Qaeda to Hamas to Hezbollah,"* replacing it with *"with a covert, laser-like focus on al-Qaeda and its spawn."* (79)

US Secretary of Defense Robert Gates said in December 2009 that officials had had no reliable information on bin Laden's whereabouts for years and one week later, General Stanley McChrystal, the top US commander in Afghanistan said that al-Qaeda would not be defeated unless Osama bin Laden were captured or killed. Testifying to the US Congress, he said bin Laden had become an *"iconic figure, whose survival emboldens al-Qaeda as a franchising organization across the world"*, and that Obama's deployment of 30,000 extra troops to Afghanistan meant that success would be possible. *"Killing or capturing bin Laden would not spell the end of al-Qaeda, but the movement cannot be eradicated while he remains at large."* (80) The same month a suicide attack occurred at Camp Chapman, a major CIA base in the province of Khost. The fortified base is located about 5 km of Khost city, the provincial capital of the eastern Afghan province of Khost near Afghan-Pakistan border, in an area considered as being a stronghold of the Taliban movement. In the attack seven CIA officers, including the chief of the base and the base's security director, were killed and six others seriously wounded. According to Leon Panetta, the CIA Director, it was the second most deadly attack carried out against the CIA, after the 1983 United States Embassy bombing in Beirut. This attack is still considered as being a major setback for the intelligence agency's operations since the suicide bomber, who was later identified as a double agent working for Islamist extremists, had already made a number of visits to the base and was considered trusted

enough not to be searched. It was not until he was standing just outside a building, located well within the compound, that he detonated the explosives attached to his body. As a result the facility was rendered inoperative until the arrival of a new team of CIA officers, then it was locked down and 150 workers at the base, mostly Afghan, were temporarily detained. The incident eventually suggested that Al-Qaeda was probably not as weakened as previously thought and following the attack there happened to be a great confusion about the motivations of the attacker and also the source of his support. In fact it was not clear whether claims of responsibility, most of which in conflict with each other, indicated that Pakistani Taliban, Afghan Taliban, and al-Qaeda were working independently from each other. US officials later said that their investigators had yet to determine which of the groups organized the attack. They believed that the Haqqani network, which is known to operate in the region, actively assisted the bombing and Michael Scheuer, a former head of the CIA's Bin Laden Issue Station, said that it would be in fact inconceivable that the attack could have been carried out without the knowledge of the Haqqani network. Former CIA officials said that there were high chances for the Osama bin Laden's inner circle to have also helped the planning and organization of the attack. (81) According to ABC News the CIA launched more than 50 drone attacks in 2009, compared to more than 30 in 2008; and still according to intelligence officials, the CIA officials based at Forward Operating Base Chapman were at the center of the drone campaign and were looking for informants to help them find senior al-Qaeda and Haqqani leaders.

c- *"For God and Country - Geronimo, Geronimo Geronimo"*. (82)

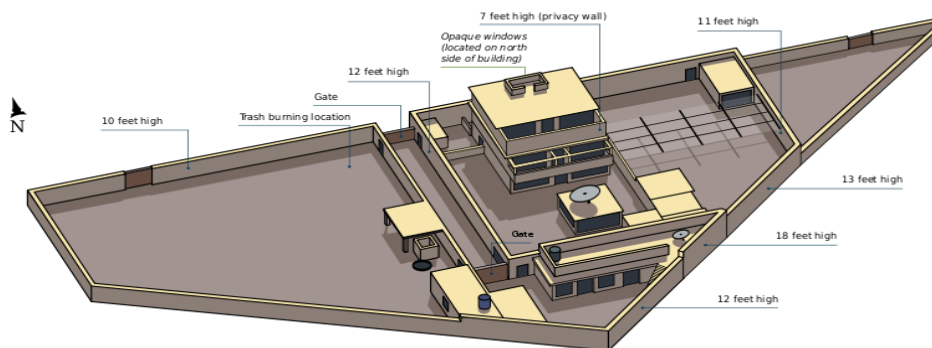


President Barack Obama and Vice President Joe Biden, along with members of the national security team, receive an update on the mission against Osama bin Laden in the Situation Room of the White House, May 1.

In April 2011, President Obama ordered a covert operation to kill or capture bin Laden and on May 2, the White House announced that Osama bin Laden had been killed in his Abbottabad compound in Pakistan. (83) The operation, code-named Operation Neptune Spear, was carried out in a CIA operation by a team of Navy SEALs from the Navy Special Warfare Development Group, also known as DEVGRU and its former name SEAL Team Six, of the JSOC, with high support from CIA operatives on the ground. (84 - 85) The raid on bin Laden's compound was launched from Afghanistan. After the raid, US forces took bin Laden's body to Afghanistan for identification, then buried it at sea 24

hours after his death. (86)

Shortly after the assault, critics started accusing Pakistan's military and security establishment of having protected bin Laden. These accusations were immediately rejected by Pakistan's president Asif Ali Zardari who denied that his country's security forces had been sheltering him, (87 - 88) and even called any supposed support for bin Laden by the Pakistani government as being "*baseless speculations*". It has been speculated that this issue might damage even more US ties with Pakistan since bin Laden happened to have been killed in, what some suggest was, his residence for five years, (89 - 90) an expensive compound probably built for him, located less than a mile from the Pakistan Military Academy and less than 100 kilometers away from Islamabad. The Pakistani government's foreign office issued a statement that categorically denying that "*the country's leadership, civil as well as military, had any prior knowledge of the US operation against Osama bin Laden*". (91) Pakistan's United States envoy, ambassador Husain Haqqani, subsequently promised a full inquiry to find how and why the ISI failed to find bin Laden in a fortified compound located inside Pakistan and also stated that "*obviously bin Laden did have a support system; the issue is, was that support system within the government and the state of Pakistan or within the society of Pakistan?*". (92)



Osama bin-Laden's fortified compound.

2-3 Pakistan

Right after the 11 September 2001 attacks and after the ultimatum given by President George W. Bush, former President of Pakistan Pervez Musharraf sided with the US against the Taliban government in Afghanistan. Part of this alliance mentioned giving the US the use of three airbases from which could be launched Operation Enduring Freedom. On 19 September 2001, Musharraf addressed the people of Pakistan and stated that, though he opposed military tactics against the Taliban, Pakistan risked being endangered by an alliance of India and the US if it did not cooperate. In 2006, Musharraf testified that this position was pressured by threats from the US, and revealed in his memoirs that he had "*war-gamed*" the United States as an adversary and decided that it would end in a loss for Pakistan. (93)

On 12 January 2002, Musharraf gave a speech against Islamic extremism in which he condemned all acts of terrorism and went as far as pledging to combat Islamic extremism within Pakistan itself. He stated that his government was committed to rooting out extremism and made it clear that the banned militant organizations would not be allowed to resurface anytime saying "*the recent decision to ban extremist groups promoting militancy was taken in the national interest after thorough consultations. It was not taken under any foreign influence*". (94) His government took a very firm stand against the jihadi organizations and other similar groups promoting extremism, and succeeded in arresting Maulana Masood Azhar, head of the Jaish-e-Mohammed, Hafiz Myuhammad Saeed, chief of the Lashkar-e-Taiba, as well as dozens of extremists. Later that year, Zayn al-Abidin Muhammed Hasayn Abu Zubaydah, said to have been a high-ranking al-Qaeda official acting as operation chief and in charge of running al-Qaeda training camps, was arrested by Pakistani officials during a series of joint US-Pakistan raids. (95)

Other prominent al-Qaeda members were also arrested in the following two years such as Khalid Sheikh Mohammed who was the third highest-ranking official in al-Qaeda and believed to have been directly in charge of the planning for the 11 September attacks. And in 2004, the Pakistan Army launched a military campaign in the Federally Administered Tribal Areas of Pakistan's Waziristan region to remove the al-Qaeda and Taliban forces present in the region.

After the fall of the Taliban regime in Afghanistan, many members of the Taliban resistance fled to the Northern border region of Afghanistan and Pakistan where the Pakistani army had previously little control. With the logistics and air support of the United States, the Pakistani Army captured or killed numerous al-Qaeda operatives such as Khalid Sheikh Mohammed, wanted for his involvement in the USS Cole bombing, the Bojinka plot, and the killing of Wall Street Journal reporter Daniel Pearl. Independently the United States has carried out an intensive and effective campaign of drone attacks all over the Federally Administered Tribal Areas where the Pakistani Taliban still operates. It is estimated that 15 US soldiers were killed while fighting al-Qaeda and Taliban in Pakistan since the beginning of the War on Terror. (96)

Allegations of a support system in Pakistan for Osama bin Laden have been made both before and after he was found and killed in a compound in Abbottabad. Following his capture and death, President Barack Obama asked Pakistan to investigate the network that is suspected to have sustained bin Laden. (97) *"We think that there had to be some sort of support network for bin Laden inside of Pakistan,"* Obama said in a interview with CBS news, adding that the US was not *"sure who or what that support network was."* (98) In addition to this, in an interview to Time magazine, CIA Director Leon Panetta stated that US officials had not alerted their Pakistani counterparts about the raid because they feared the information would have been leaked and the terrorist leader warned. Also

recurring criticisms point out the very close proximity of bin Laden's fortified compound to the Pakistan Military Academy, Pakistan's "West Point". US government files leaked by Wikileaks revealed that American diplomats were told that Pakistani ISI not only helped smuggle al Qaeda militants into Afghanistan troops but were also tipping off bin Laden every time US forces approached. According to these leaked files, in December 2009, the government of Tajikistan had told US officials that many in Pakistan were aware of bin Laden's whereabouts. (99)

The CIA Director and the US defense secretary Leon Panetta stated that Pakistan was *"either involved or incompetent."* (100), and in an interview to CBC television: *"Obviously the concern has always been how could bin Laden be in an area where there were military establishments, where we could see the military operating and not have them know."* (101) Regarding US's decision not to provide any intelligence concerning the raid on bin Laden's compound Leon Panetta said: *"The concern is that we had provided intelligence to them with regards to other areas and unfortunately, one way or another, it got leaked to the individuals we were trying to go after, so as a result of that we were concerned that if we were going to perform a sensitive mission like this, we had to do it on our own."* (102) And about the support network bin Laden benefited from Panetta stated that some lower rank officers in the military had to know where Bin Laden was hiding: *"Well, you know, these situations sometimes, the leadership within Pakistan is obviously not aware of certain things and yet people lower down in the military establishment find it very well, they've been aware of it, ...But bottom line is that we have not had evidence that provides that direct link."* (103) John O. Brennan, Obama's chief counterterrorism advisor, supported that theory of bin Laden not having benefited of any kind of support from within Pakistan, stating: *"People have been referring to this as hiding in plain sight. We are looking at how he was able to hide out there for so long."*

Furthermore Senator Dianne Feinstein said that *"it's hard for me to understand how the Pakistanis ... would not know what was going on inside the compound"*, and that top Pakistan officials may be *"walking both sides of the street."* Senator Lindsey Graham questioned, *"How could Bin Laden be in such a compound without being noticed?"*, raising once again the suspicion over Pakistan lack of commitment in the fight against Islamist militants and the fact that the country was actively sheltering them, and also possibly supporting them, while pledging to fight them. Wikileaks revealed that a US diplomatic dispatch told the Americans that many inside Pakistan knew where bin Laden was *"In Pakistan, Osama Bin Laden wasn't an invisible man, and many knew his whereabouts in North Waziristan, but whenever security forces attempted a raid on his hideouts, the enemy received warning of their approach from sources in the security forces."* (104)

Regardless of Pakistan's claims about their previous conduct, many observers have raised concerns that most of the people jailed by them since Bin Laden's killing may have been those who were trying to help capture him, instead of those who helped protecting him. (105 - 106) One such incident would be the one of Dr. Shakil Afridi who assisted the CIA in the hunt for Osama bin Laden, but who ended up being arrested shortly after the killing of bin Laden. According to *Washington post*, the Doctor could have received the death penalty if he had been tried under normal Pakistani law. (107) *"It is now indisputable that militancy in Pakistan is supported by the ISI. Pakistan's fight against militancy is bogus. It's just to extract money from America,"* Dr Shakil Afridi stated in an interview he gave to Fox News from inside Peshawar Central Jail, where he is being held by Pakistani authorities. According to his statements, the Pakistani authorities believe *"The Americans are our worst enemies, worse than the Indians"*. (108 - 109)

Chapter 3

Controversies surrounding the use of plausible deniability.

Areas of controversy about inappropriate, and most of the time illegal actions, include experiments on human beings to test chemical means in order to elicit information or to disable someone. Another area involves torture and clandestine imprisonment. Under CIA assassinations have been attempted as well as support for the assassination of foreign leaders by citizens of the leader's country, and, in a somewhat different legal category that may fall under the customary laws of war, assassinations of militant leaders.

3-1 Violation of Human Rights.

CIA has been called into question on many occasions for some of the tactics it employs in order to carry out its missions. These tactics are known to have included torture, targeted killings and assassinations, as well as the funding and training of groups and organizations that would later participate in the killing of civilians and would try, and sometimes succeed, in overthrowing governments elected democratically. It has also been criticized for ineffectiveness in its basic mission of intelligence gathering. A variant of this criticism is that accusations of misconduct imply a lack of attention to basic mission in the sense that controversial actions tend to be carried out in operations that have little, if anything, to do with intelligence gathering. Former Speaker of the United States House of Representatives Nancy Pelosi has stated that the CIA had misled the Congress on numerous occasions since 2001 about waterboarding and other torture, though Pelosi admitted to being told about the programs. (110) Six members of Congress have claimed that Director of CIA Leon Panetta admitted that over a period of several years since 2001 the CIA deceived and lied to the Congress.

a- Extraordinary rendition and black sites.

Extraordinary Rendition is the apprehension and extrajudicial transfer of a person from one country to another, but the term "torture by proxy" is more commonly used by critics to describe a situation in which the CIA (111 - 112), or other US state agencies, have transferred suspected terrorists to countries known to use torture on prisoners. Even though the transfer of anyone to anywhere for the purpose of torture is a violation of US law it has been claimed that torture has been employed with the knowledge or agreement of US agencies. The then United States Secretary of State, Condoleezza Rice, stated that *"the United States has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured. Where appropriate, the United States seeks assurances that transferred persons will not be tortured."* (113)

After the 11 September 2001 attacks the United States, and the CIA in particular, have been accused of rendering hundreds of people suspected of being terrorists, or of aiding terrorist organizations, to third-party countries such as Egypt, Jordan. These "ghost detainees" are kept away from judicial oversight, most of the time without even entering US territory. Eventually, though not always, they may be placed under the custody of the United States. According to former CIA case officer Bob Baer, *"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."* (114)

In Europe this US program has triggered a large number of official investigations regarding possible secret detentions and unlawful inter-state transfers in which European countries would have involved. A report from June 2006 from the Council of Europe

estimated that around 100 people had been kidnapped by the CIA in Europe to be rendered to other countries, often after having transited through secret detention centers called "black sites" used by the CIA. According to European Parliament reports of February 2007, the CIA violated the article 3 of the United Nations Convention Against Torture, by conducting around 1,245 flights to countries where suspects could face torture. (115)

Even though the Obama administration is trying to distance itself from harsh counterterrorism strategies it has said that at least some forms of renditions will continue, (116) allowing it only "*to a country with jurisdiction over that individual*" when there is the certitude "*that they will not be treated inhumanely.*" (117 - 118)

In military terminology, a black site is a location where an unacknowledged "black project" is conducted. The term has gained a kind of notoriety in describing secret prisons operated by the CIA, generally outside of US territory and legal jurisdiction. It refers to installations under the control of the CIA and used by the US government in its "War on Terror" to detain unlawful combatants. One of the most important aspects of these black sites operations is that the legal status of the detainees is not clearly defined.

On September 6, 2006 President George W. Bush acknowledged the existence of secret prisons operated by the CIA, (119) though in November 2005 a claim of these black sites existence was made by The Washington Post and even before by human rights NGOs. (120)

Many European countries have officially denied hosting black sites or cooperating with the CIA in the US extraordinary rendition program. However, a European Union report adopted on February 14, 2007, stated that the CIA operated over 1,245 flights and that it was clearly not possible to deny the existence of secret detention centers. (121)

The revelation of the existence of such black sites adds to the controversy surrounding US government policy regarding "unlawful enemy combatants". According to government sources, the detainees are divided into two groups. The first one is made of around 30 detainees who are considered to be the most dangerous or important suspects and are held by the CIA at black sites. The second group consists of more than 70 detainees who may have been sent to black sites, but were then delivered by the CIA to intelligence agencies in allied Middle Eastern and Asian countries such as Afghanistan, Morocco and Egypt. Swiss senator Dick Marty stressed that European countries probably knew of these covert operations. Furthermore, the CIA may have financially assisted and or directed the jails in these countries. But even though the US and host countries have signed the United Nations Convention Against Torture, CIA officers are nonetheless allowed to use what the agency calls "enhanced interrogation techniques" which are believed to cause "severe pain or suffering" under the UN convention, hence a violation of the treaty and thus US law.

It is believed that around 50 prisons have been used to hold detainees in 28 different countries, in addition to the, at least, 25 prisons in Afghanistan and the 20 in Iraq. It is also believed that, since 2001, the US has used 17 ships as floating prisons, bringing the total number of prisons operated by the US, and/or its allies, to more than 100. The countries holding detainees for the US include Algeria, Azerbaijan, Bosnia, Djibouti, Egypt, Ethiopia, Gambia, Israel, Jordan, Kenya, Kosovo, Libya, Lithuania, Mauritania, Morocco, Pakistan, Poland, Qatar, Romania, Saudi Arabia, Syria, Somalia, South Africa, Thailand, United Kingdom, Uzbekistan, Yemen, and Zambia. The prison at Bagram Air Base was first located in an abandoned factory outside Kabul known as the "Salt Pit", (122) but was then later moved to the base after a prisoner died of hypothermia after being stripped naked and left chained to the floor. During this period, there were several

incidents of torture and prisoner abuse, though related to non-secret prisoners and not located in the CIA-operated section of the prison. Prior to 2005, the prison was once again relocated, but this time to an undisclosed site. (123) Some Guantanamo Bay detainees reported having been tortured near Kabul in a prison they called "the dark prison". (124) In Iraq, Abu Grahیب was known to be working as a black site, and turned out to be the center of a vast prisoner abuse scandal. (125)

b- Detainees.

The suicide hijackers responsible for attacks of September 11 have been referred to as being "unlawful combatants" due to the nature of the attacks: hijacking commercial civilian airlines with passengers on board, in order to use them to crash, without warning, demands or negotiations, into civilian buildings. On the 18th September 2001 the United States Congress passed the Authorization for Use of Military Force (AUMF) in which the Congress invoked the War Powers Resolution: *"the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons"*. (126) Using this, on 13 November 2001, President Bush issued a Presidential Military Order: *"Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism"* (127) allowing *"individuals ... to be detained, and, when tried, to be tried for violations of the laws of war and other applicable laws by military tribunals"*, where such individuals are members of the organization known as al Qaeda; or has conspired or committed acts of international terrorism, or have as their aim to cause injury to citizens, national security, foreign policy, or economy of the United

States. Though the order also specifies that the detainees will be treated humanely, the length of time during which the detention can continue before being tried by a military tribunal is not mentioned.

Most of the individuals detained by the US military were initially captured in Afghanistan. The foreign detainees are held in the Guantanamo Bay detention camp established at the Guantanamo Bay Naval Base in Cuba. Guantanamo was chosen mostly because, even though it is under the control of the US administration, it is not a sovereign territory and the US courts had no jurisdiction over enemy aliens held outside the USA.

The practice of *ghosting* caught attention in 2005 when the Washington Post published a story suggesting that the US Army and the CIA were detaining "unlawful enemy combatants" at the Abu Ghraib prison in Iraq. (128) According to the article, the CIA asked military intelligence officials to let them house ghost detainees at Abu Ghraib. The Army and the DoD have acknowledged that the US has used ghosting in the past, but that it was limited to a few isolated incidents. According to the *Post*, "*unregistered CIA detainees were brought to Abu Ghraib several times a week in late 2003.*" (129)

c- Waterboarding and enhanced interrogation techniques.

Enhanced interrogation techniques describe a set of methods including hypothermia, stress positions and waterboarding. These techniques were used by the CIA and the DoD in black sites, the Guantanamo Bay detention camps Baghram and Abu Ghraib on numerous prisoners (130). Many debates rose concerning the legality of these techniques as to they had violated, or not, US or international law and whether or not they could be considered as torture.

American officials such as former CIA Director Leon Panetta, several former CIA

officers and a military tribunal judge, have called "enhanced interrogation" a synonym for torture. (131 - 132) Both President Barack Obama and Attorney General Eric Holder labeled some of the techniques as torture and also repudiated them. (133 - 134) Though they declined to prosecute CIA, DoD, or Bush administration officials who authorized the program, while leaving open the possibility of convening an investigatory "Truth Commission" for what President Obama called a "further accounting." (135)

In August 2002 the CIA requested for a legal opinion regarding the use of certain interrogation techniques. It included the following CIA's definition of waterboarding in a Top Secret 2002 memorandum: *In this procedure, the individual is bound securely to an inclined bench, which is approximately four feet by seven feet. The individual's feet are generally elevated. A cloth is placed over the forehead and eyes. Water is then applied to the cloth in a controlled manner. As this is done, the cloth is lowered until it covers both the nose and mouth. Once the cloth is saturated and completely covers the mouth and nose, air flow is slightly restricted for 20 to 40 seconds due to the presence of the cloth. During those 20 to 40 seconds, water is continuously applied from a height of twelve to twenty-four inches. After this period, the cloth is lifted, and the individual is allowed to breathe unimpeded for three or four full breaths... The procedure may then be repeated. The water is usually applied from a canteen cup or small watering can with a spout... You have... informed us that it is likely that this procedure would not last more than twenty minutes in any one application.*

Historically the technique of waterboarding is known to have been used by the Spanish Inquisition. Unlike most other torture techniques, it has been favored because it leaves no marks on the body. In 2005 this technique was characterized by former CIA director Porter J. Goss as a "*professional interrogation technique*". (136) Though some details may differ from a session to an other, waterboarding basically consists in placing

a cloth or plastic wrap over, or in, the person's mouth and then pouring water on to the person's head. A person subjected to the technique usually lasts an average of 14 seconds before capitulating. (137) According former CIA officials, information retrieved from the waterboarding may not be reliable because a person subjected to such an interrogation technique may admit anything, and as a matter of fact harsh interrogation techniques are known to lead to false confessions. John Sifton of Human Rights Watch said "*The person believes they are being killed, and as such, it really amounts to a mock execution*". (138) "*It is bad interrogation. You can get anyone to confess to anything,*" confirmed former CIA officer Bob Baer. (139)

On 20 July 2007, US President George W. Bush signed an executive order banning torture during interrogation of terror suspects. (140) Even though it did not specifically ban waterboarding, it referred to torture as defined by 18 USC 2340 (141), which includes "*the threat of imminent death,*" as well as the US Constitution's ban on cruel and unusual punishment. (142) Reacting to the order the CIA was satisfied that it "clearly defined" its authorities.

ABC reported that waterboarding had been authorized since 2002 by a Presidential finding (143) but reported on 14 September 2007 that in 2006, CIA Director Michael Hayden asked for Bush administration to ban the use of waterboarding in CIA interrogations. On 5 November 2007, The Wall Street Journal reported that "*sources confirm... that the CIA has only used this interrogation method against three terrorist detainees and not since 2003.*" (144) On 15 October 2008, it was reported that the Bush administration had issued a series of memos to the CIA in June 2003 and June 2004 endorsing waterboarding and other torture techniques. (145) The memos were finally granted after repeated and insistent requests from the CIA, who feared that the White House would eventually try to distance themselves from the issue. In the agency field

employees and operatives believed they could easily be blamed and become scapegoats for using these techniques of interrogation. (146) On December 2008, Robert Mueller, the Director of the FBI, said that even though the Bush Administration claimed that waterboarding has "*disrupted a number of attacks, maybe dozens of attacks*", he does not believe the evidences collected by using these enhanced interrogation techniques have allowed to disrupt one attack. (147)

3-2 Adaptive strategies

a- HUMINT (Human Intelligence).

The US has consolidated clandestine operations but there is still an argument concerning the level of covert operation that should be put under military control, most especially in military theaters of operations. The National Security Action Memorandum 57 made the distinction, during the Kennedy administration, between paramilitary operations, which can be clandestine until there are survivors or evidences, from combat operations (148) "*the Department of Defense will receive responsibility for overt paramilitary operations. Where such operations are to be covert or dis-avowable, it may be assigned to CIA. Any large paramilitary operation wholly or partly covert requiring significant numbers of militarily trained personnel, amounts of military equipment exceeding normal CIA-controlled stocks and/or military experiences of a kind and level peculiar to the Armed Services is properly the primary responsibility of the Department of Defense with the CIA in a supporting role.*" At the time the CIA was already training Cuban guerillas, and the disagreements between military officers and the CIA are part of the reason the Bay of Pigs invasion operation was a complete failure.

The distinction between paramilitary and combat operations became clearer during the deployment of covert advisors into Laos and Vietnam. The Military Assistance Command Vietnam Studies and Observation Group (MACV-SOG), commanded by a military officer under a CIA supervisor, carried out both covert Direct Action missions and clandestine Special Reconnaissance. (149) MACV-SOG had additional challenges since its real chain of command turned out to be very complicated. It first went to the Special Assistant for Counterinsurgency and Special Affairs (SACSA) in the Pentagon, then to the Joint Chiefs of Staff and finally to either the National Security Council or the White House decision makers. During the Nixon Administration things were more simple and the paramilitary operations were assumed to be assigned to the CIA unless the President ordered otherwise. (150)

Different countries do also use covert operations but the way they use them are different based on their respective legal and political constraints. They can be carried out by military special operations under military command, by military special operations under the command of an intelligence agency, or by paramilitary personnel under intelligence command. For instance the United Kingdom does not have a rigid and legal separation between the two, but also does not appear to have a major bureaucratic conflict between the intelligence community and military special operations. While these also may not be as strict for Russia, there is a historical conflict among the security organizations and the military, and among different security agencies such as the FSB and OMON.

The US has consolidated espionage, small paramilitary and information operations into the National Clandestine Service (NCS), also known as the CIA Directorate of Operations. The NCS contains a Special Operations Group (SOG) which can rely on the CIA's relationships with foreign intelligence services, and is less regulated than the

military. (151) Should a military unit obtains a HUMINT asset of national interest, the NCS will then oversee it.

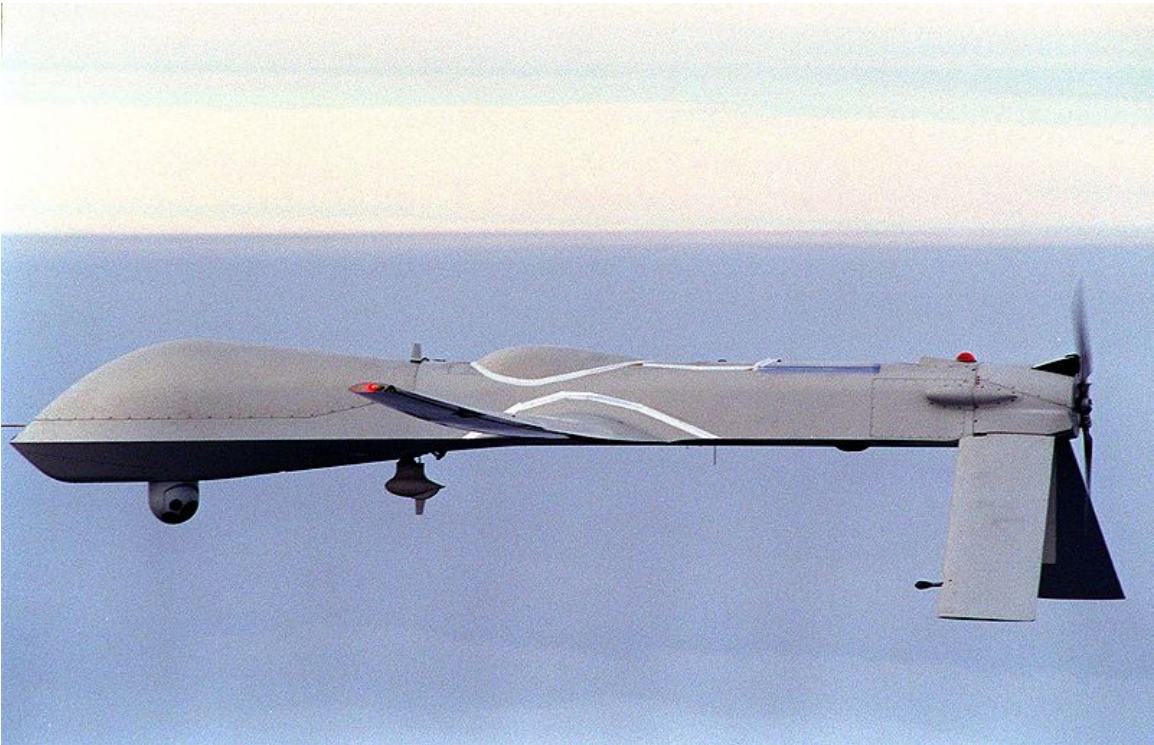
b- Targeted killing.

The strategy of targeted killing strategy has been used by many governments around the world, and has often been used by the United States and Israel. (152) While article 2-4 of the United Nation Charter (153 - 154) prohibits the threat or use of force by one state against another, two exceptions appear to be relevant to the question of whether targeted killings are lawful or not. First, when the use of force is carried out with the approbation of the host state; and second when the use of force is in self-defense in response to an armed attack or an imminent threat. In this second argument it has to be considered that the host state is unwilling or unable to take appropriate action. (155) The legality of a targeted drone strike must also be evaluated according to International Humanitarian Law, including the principles of distinction and military necessity. (156)

Though that tactic raises several complex questions as to the legal basis for its application, such as who qualifies someone as an appropriate "hit list" target and what circumstances must exist before the tactic may be employed. (157) Opinions vary from people considering it is a legal form of self-defense that allows reduce terrorism, to people calling it an extrajudicial killing lacking due process and which can eventually lead to more violence. (158 - 159 - 160) So far targeted killings methods have included firing a AGM-114 Hellfire missile from an AH-64 Apache attack helicopter, a MQ-1 Predator or MQ-9 Reaper drone, detonating a cell phone bomb, and long-range sniper shooting.



MQ-9 Reaper Drone.



RQ-1 Predator drone.

Governments pursuing a law enforcement strategy tend to punish people for their individual guilt, which has to be proven in a court of law, where the accused enjoys the protections of fairness and guarantees of a due process. But, on the other hand, during a war governments are no longer legally obliged to follow these rules and can take advantage of this to use deadly force. Enemy combatants are not always targeted and killed because they are guilty, but also because they are potentially lethal agents of a hostile party. Warnings are not necessary either, nor are attempts to arrest or capture required, nor are the efforts to minimize casualties among enemy forces demanded by law. Despite these tensions, the United States has made targeted killing, the deliberate assassination of a known terrorist outside the country's territory, usually carried out by an airstrike, an essential part of its counter-terrorism strategy. (161) As a matter of fact the United States has justified the killing of terrorists under a war paradigm. *"Using the war paradigm for counter-terrorism enabled government lawyers to distinguish lethal attacks on terrorists from prohibited assassinations and justify them as lawful battlefield operations against enemy combatants, much like the uncontroversial targeted killing of Japanese Admiral Isoroku Yamamoto while he was traveling by a military airplane during World War II."* (162)

The legislative basis given to justify drone strikes is the AUMF, a resolution of both houses of Congress that has been passed exactly one week after the September 11 attacks, allowing the President to use *"all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons."* (163) In early 2010, under President Barack Obama's approval, Anwar al-Awlaki became the first US citizen to be approved for targeted killing by the CIA and

subsequently killed in a drone strike in September 2011. (164 - 165 - 166) A Reuters report analyzing the killing of 500 "militants" by US drones between 2008 and 2010 found that only 5% of those killed were high-level organizers or leaders, the rest were just foot soldiers. (167)

3-3 Command responsibility.

Command responsibility, sometimes referred to as the Yamashita standard or the Medina standard, is the doctrine of hierarchical accountability in cases of war crimes. (168) This doctrine of "command responsibility" was established by the Hague Convention IV and X of 1907 and applied for the first time by the German Supreme Court in Leipzig after World War I, in the 1921 trial of Emil Müller. Emil Müller was a captain in the Imperial German Army charged with failing to maintain decent conditions of the POW camp Flavy de Martel, he was appointed head of, which led to many deaths because of dysentery, but also failing to prevent and punish abuses directed toward prisoners. In The Art of War Sun Tzu argued that it is a commander's duty to ensure that his subordinates conducted themselves in a civilized manner during an armed conflict. The Hague Convention IV of 1907 was the first attempt at implementing the principle of command responsibility on a multinational level, though it was not until after WWII that the Allied Powers' Commission on the Responsibility of the Authors of the War and on the Enforcement of Penalties recommended the establishment of an international tribunal. Its task would be to try individuals for "*ordering, or, with knowledge thereof and with power to intervene, abstain[ing] from preventing or taking measures to prevent, putting an end to or repressing, violations of the laws or customs of war.*" (169)

A number of commentators have advanced the argument that the principle of

"*command responsibility*" could make high-ranking officials, within the Bush administration, guilty of war crimes. War crimes which may have been committed either with their knowledge or by persons under their control. As a reaction to the September 11 attacks the US Government adopted several controversial measures. One of them proposed by Alberto Gonzales, and others, arguing that detainees should be considered as "*unlawful combatants*", making them unable to be prosecuted by the Geneva Conventions. His statement was denying coverage under the Geneva Conventions "*substantially reduces the threat of domestic criminal prosecution under the War Crimes Act*" suggests an awareness by those involved in crafting these policies that some US officials may be involved in acts that could be considered as war crimes. (170)

a- Legal authority for black site operation.

There is little or no legal authority, at least not stated, for the operation of black sites by the United States or the other countries believed to be involved. In fact, the specifics of the network of black sites remains controversial and the United Nations has begun to intervene in this aspect.

The fourteen European countries Dick Marty listed as collaborators in "*unlawful interstate transfers*" are Britain, Bosnia, Cyprus, Germany, Greece, Isle of Man, Ireland, Italy, Republic of Macedonia, Poland, Portugal, Romania, Spain, Sweden and Turkey. Airport bases include Glasgow Prestwick Airport (Britain), Shannon (Ireland), Ramstein and Frankfurt (Germany), Aviano Air Base (Italy), Palma de Mallorca Base (Spain), Tuzla Air Base (Bosnia-Herzegovina), Skopje (Republic of Macedonia), Athens (Greece), Larnaca (Cyprus), Prague (Czech Republic), Stockholm, as well as Rabat (Morocco) and Algiers (Algeria). (171) When Polish Prime Minister Kazimierz Marcinkiewicz

characterized the accusation as "libel", and Romania said there was no evidence whatsoever, British Prime Minister Tony Blair said that the report "*added absolutely nothing new whatever to the information we have*", (172 - 173) though Poland and Romania received the most direct accusations, as a matter of fact the report claims the evidences for these sites are "*strong*". The report also mentions airports in Romania and Poland, as well as eight airports outside Europe, as being "*detainee transfer/drop-off points*".

Responding to the allegations about black sites, Secretary of State Condoleezza Rice stated on December 5, 2005, that US had not violated any country's sovereignty in the rendition of suspects, and that individuals were never rendered to countries where it was believed that they might be tortured. Though some media sources have noted her comments do not exclude the possibility of covert prison sites operated with the knowledge of the "*host*" nation, (174) or the possibility that promises by such "*host*" nations that they will refrain from torture may not be genuine. But on September 6, 2006, Bush publicly admitted the existence of the secret prisons and that many of the detainees held there had been transferred to Guantanamo Bay. (175)

On May 19, 2006, the United Nations Committee Against Torture, the UN body monitoring compliance with the UN Convention Against Torture, recommended that the United States to stop holding detainees in secret prisons and to also stop the practice of rendition to countries where prisoners were likely to be tortured. The decision was made in Geneva following two days of hearings during which a delegation of 26 US members defended these practices. (176 - 177)

Conclusion

So far we have been able to see some of the many aspects and recent uses of plausible deniability by the US in Iraq and Afghanistan. This strategy has proven to be effective even though not systematically reliable. Thanks to it great successes have been achieved, wars have been won, crises avoided, though these came with their fair share of, sometimes dramatic, failures. As a conclusion Plausible Deniability has to be considered as only one component of the whole global US strategy and not as a means in itself, for we have seen that the greatest achievements have been reached when this particular strategy was used in parallel and collaboration with other military and strategic assets. Furthermore we have been able to witness the evolution and changes this strategy had to go through in order to adapt to the goals to achieve. But now we are able to question the relevance of Plausible Deniability. In other words does our society still need this kind of strategy? Obviously, because of all the numerous and different situations where Plausible Deniability is used, there cannot be a clear-cut answer, but from what we have seen this strategy has been used in three different ways. The first one being the very political aspect consisting in supporting coups and overthrowing regimes by funding opposition parties and backing revolutions. The second one being as one component in a global military strategy such as in Iraq where its role was to allow the United States and its allies to gain strategic superiority over Saddam Hussein's regime and the Iraqi army. The same conclusion can be drawn from the involvement of the United States in the conflicts of Afghanistan from the asymmetric warfare, to the funding of the mujahedeen in 1979 to the Operation Jaw-Breaker and later the Operation Neptune Spear. These can also be considered as being part of a more global military involvement. And finally, as an independent strategy, regardless of any kind of possible involvement taking place at the

same time, and working at the limit of legality, from strategic assassinations or targeted killings to the use of torture.

Though, thanks mostly to popular literature, plausible deniability has been turned into a kind of old-fashioned reminiscence of the Cold War and, therefore, considered as being outdated and not relevant anymore; especially in an era where countries are believed to work out their differences peacefully through diplomacy. As a matter of fact, a mentality considering military action as the only offensive action is inadequate and old-fashion given the new range of threats. Indeed this is what could become the most relevant and significant evolution of warfare, evolution which can be achieved through the forming of a composite force in all aspects related to national interest. The contemporary plausible deniability strategy implies "grand warfare method" combining all of the various dimensions and methods in the areas of military and non-military affairs so as to carry out warfare. Such method is clearly in opposition with the definition of warfare exemplified by the last major conflicts. In fact, though the question could be discussed at length, major conflicts, opposing vast armies and industrial might, have ceased to exist with the end of the Cold War and the arms race. Countries tend to base their military strategies on threats and on more subversive actions in order to avoid direct confrontation. This is one possibility; the other is the use of plausible deniability and unconventional warfare, which is the opposite of conventional warfare. Where conventional warfare is used to reduce an opponent's military capability, unconventional warfare is an attempt to achieve a military victory through acquiescence, capitulation, or clandestine support for one side of an existing conflict. On the surface, UW contrasts with conventional warfare in that forces or objectives are covert and/or not well defined. The general objective of unconventional warfare is to create and instill a belief that peace and security are not possible without compromise or concession and the ultimate goal of

this type of warfare is to motivate, or somehow force, an enemy to stop attacking or resisting even if it has the ability to continue. Presented as such, unconventional warfare could be mistaken with terrorism, but where the purpose of terrorism is to instill, as its name suggests, terror and fear by striking indiscriminately civilian and political bodies, unconventional warfare targets civilian population psychologically to win hearts and minds and only targets military and political bodies directly in order to render the military proficiency of the enemy irrelevant. As a matter of fact terrorism is one of the most infamous instances of Unrestricted Warfare. Terrorism is used by a group to gain satisfaction for demands and even if these demands are not satisfied, a terrorist attack can have disproportionate effects on a nation's welfare. One only has to look at the economic crisis that followed the September 11 terrorist attacks against the United States and the extensive security measures that were created in response. Terrorism erodes a nation's sense of security and well being, even if the direct effects of the attacks only concern a minute percentage of the population.

Still another question remains, does the end justify the means? Answering such a question, from a civilian and uninvolved point of view, is both difficult and dangerous. Laws, ethics and our individual definition of morality are what limit our actions. In 2011 documentary film, The Gatekeepers by Dror Moreh, six former heads of Israeli Shin Bet interviewed stated that morality had to be forgotten in order to fight an enemy for whom victory is quantified in the amount of harm and suffering inflicted. *"In terrorism there is no morality, in the war against terrorism there is no morality either. This is not even a question of morality; this is all about tactic, not strategy. Our pain is their victory."* (178) Most counter-terrorism strategies involve an increase in standard police and domestic intelligence. Domestic intelligence is often directed at specific groups, defined on the basis of origin or religion, which is a source of political controversy. Similarly mass

surveillance of an entire population tends to raise objections on the ground of civil liberties violations. One of the primary difficulties of implementing effective counter-terrorist measures is the waning of civil liberties and individual privacy that such measures often entail, both for citizens of, and for those detained by states attempting to combat terror. Measures designed to tighten security have been seen as abuses of power, violations of human rights and have even been compared to the very acts of terrorism they try to prevent.

While this study has presented some of the aspects of the fourth generation warfare another could later be focused at the possible imminent fifth generation. Such a future generation that would be based on secrecy and stealth following the principle of "one cannot kill what one cannot see", aimed at combatting not an enemy made of flesh and blood, but ideas, the psychological scourges of its predecessor. The kind of warfare that cannot be won by using force, but through a change in morals, ethics and mindset.

Annex

Glossary

The glossary lists acronyms and abbreviations terms with Army, multi-Service, or joint definitions, and other selected terms.

Acronyms and abbreviations

AUMF: Authorization for Use of Military Force. Joint resolution passed by the United States Congress on September 14, 2001, authorizing the use of United States Forces against those responsible for the attacks on September 11, 2001.

CIA: Central Intelligence Agency. Independent civilian intelligence agency of the United States government.

COIN: Counter Insurgency. Operations involving actions taken by the recognized government of a nation to contain or quell an insurgency taken up against it.

DA: Direct Action.

DBACHILLES: CIA cryptonym used to design the 1995 effort to support a military coup in Iraq.

DEVGRU: United States Naval Special Warfare Development Group (NSWDG), also known as DEVGRU.

DoD: Department of Defense. Also known as the Pentagon. Executive Department of the Government of the United States charged with coordinating and supervising all agencies and functions of the government concerned directly with national security and the US Armed Forces.

FBI: Federal Bureau of Investigation. Governmental agency belonging to the Department of Justice serving as both a federal criminal investigative body and an internal intelligence agency (counter-intelligence).

FSB: Federal Security Service of the Russian Federation (ФСБ, Федеральная служба

безопасности Российской Федерации; *Federal'naya sluzhba bezopasnosti Rossiyskoy Federatsii*). Main domestic security agency of the Russian Federation and the main successor agency of the Soviet Committee of State Security (KGB).

HUMINT: Human Intelligence. Intelligence gathered by means of interpersonal contact, as opposed to the more technical intelligence gathering disciplines such as Signal Intelligence, Imagery Intelligence and MASINT (Measurement and Signature Intelligence).

ISA: Intelligence Support Activity. Also nicknamed The Activity is a Tier-One US Army Special Operation unit originally subordinated to the US Army intelligence and Security Command (INSCOM). It is tasked to collect actionable intelligence in advance of mission by other US special operations forces, especially 1st SFOD-D and DEVGRU in counter-terrorist operations.

ISI: Inter Service Intelligence. Pakistan's leading intelligence agency.

JSOC: Joint Special Operations Command is a component command of the US Special Operations Command (USSOCOM) and charged to study special operations requirements and techniques to ensure interoperability and equipment standardization, plan and conduct special operations exercises and training, and develop Joint Special Operations Tactics.

MACV: US Military Assistance Command, Vietnam. Was a joint-service Command of the United States Department of Defense.

MACV-SOG: Military Assistance Command, Vietnam - Studies and Observation Group. Was a highly classified, multi-service United States special operations unit which conducted covert unconventional warfare operations prior to and during the Vietnam War.

MP: Military Police.

NATO: North Atlantic Treaty Organization.

NCS: National Clandestine Service. One of the CIA's four main components. Created in 2005, the NCS serves as the clandestine arm of the CIA and the national authority for the coordination, de-confliction, and evaluation of clandestine operations across the Intelligence Community of the United States.

NRO: National Reconnaissance Office. One of the 16 US intelligence agencies and considered, along with the CIA, NSA, DIA and DGA, to be one of the «big five» US intelligence agencies. It designs, builds and operates the spy satellites of the United States government, and coordinates the analysis of aerial surveillance and satellite imagery from several intelligence and military agencies.

NSA: National Security Agency. Cryptologic intelligence agency of the United States Department of Defense responsible for the collection and analysis of foreign communications and foreign signals intelligence, as well as protecting US government communications and information systems, which involves information security and cryptanalysis/cryptography.

NSDD: National Security Decision Directive.

OGA: Other Government Agencies.

OMA: Office of Military Affairs.

OMON / ОМОХ: (Отряд мобильный особого назначения; *Otryad Mobilniy Osobovo Naznacheniya*, Special Purpose Mobile Unit) Generic name for the system of special units in Politsiya (Police) within the Russian and earlier Ministry of Internal Affairs (MVD).

OSS: Office of Strategic Services. A United States intelligence agency formed during WW2 and predecessor of the CIA. the OS was formed in order to coordinate espionage activities behind enemy lines for the branches if the United States Armed Forces.

POW: Prisoner of War.

RPG: Rocket-Propelled Grenade. A shoulder-fired, anti-tank weapon system firing rockets equipped with an explosive warhead.

SACSA: Special Assistant for Counter-insurgence and Special Affair.

SAD: Special Activities Division. Division in the CIA's NCS responsible for covert operations known as "special activities". Within SAD there are two separate groups, one for tactical paramilitary operations and another for covert political operations.

SR: Special Recon, or Strategic Recon, also known as Scouting. Preliminary exploratory military survey in order to gain, or collect, information to determine the enemy forces positions, dispositions and intentions.

UN: United Nations.

USSOCOM / SOCOM: United States Special Operation Command. Unified Combatant Command charged with overseeing the various Special Operations Component Commands of the Army, Air Force, Navy and Marines Corp of the United States Armed Forces.

UW: Unconventional Warfare. Attempt to achieve military victory through acquiescence, capitulation, or clandestine support for one side of an existing conflict.

WMD: Weapon of Mass Destruction. Weapon able to kill and bring significant harm to a large number of humans and/or cause great damage to man-made structure, natural structures, or the biosphere in general. A WMD is considered as being either chemical, biological, radiological or nuclear (CRBN).

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-*The Objective* (2008): A group of Special Ops Reservists on a mission in the harsh and hostile terrain of Afghanistan find themselves lost in a Middle Eastern "Bermuda Triangle" of ancient evil.

-*Safe House* (2012): A young CIA agent is tasked with looking after a fugitive in a safe house. But when the safe house is attacked, he finds himself on the run with his charge.

-*The Siege* (1998): After the abduction by the US military of an Islamic religious leader, New York City becomes the target of escalating terrorist attacks. Anthony Hubbard, the head of the FBI's Counter-Terrorism Task Force in New York, teams up with CIA operative Elise Kraft to hunt down the terrorist cells responsible for the attacks. As the bombings continue, the US government responds by declaring martial law, sending US troops, led by Gen. Devereaux, into the streets of New York City.

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-*The Sum of All Fears* (2002): When the president of Russia suddenly dies, a man whose politics are virtually unknown succeeds him. The change in political leaders sparks paranoia among American CIA officials, so CIA director Bill Cabot recruits a young analyst to supply insight and advice on the situation.

-*Syriana* (2005): A politically-charged epic about the state of the oil industry in the hands of those personally involved and affected by it.

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-*Tinker Tailor Soldier Spy* (2011): In the bleak days of the Cold War, espionage veteran George Smiley is forced from semi-retirement to uncover a Soviet agent within MI6.

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Abstract

The purpose of this work is to study the different uses of the said plausible deniability strategy, by the United States during the past decades. It will try to show and explain the evolution the CIA went through in term of organization, its relation with the decision makers and the military. To do so the study will focus on the actions and operations ran by the CIA in Iraq and Afghanistan as well as the subsequently raised controversies.

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Je, soussigné BREMAUD BILLAND Benjamin
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Signé le: 30 Mai 2013