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National Security in the United States: September 11, the turning point

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"Terrorist attacks can shake the foundations of our biggest buildings, but they cannot touch the foundation of America. These acts shatter steel, but they cannot dent the steel of American resolve. America was targeted for attack because we're the brightest beacon for freedom and opportunity in the world. And no one will keep that light from shining."¹ (President George Bush, Washington D.C, September 11, 2001)



ABSTRACT

The events of 9/11/2001 changed the United States forever. It was the first foreign aggression within the borders of the country since the attack on Pearl Harbor and the United States was completely unprepared for an attack of that magnitude this is the called "turning point". Since this moment the government was forced to begin some specific actions in attempt to detect further terrorist activity. September 11th 2001 represented a turning point in contemporary history; with consequences of a similar transcendence to these of the Berlin Wall fall in November the 9th of 1989.²

Keywords:

Security, Patriot Act, intelligence services, freedom, counterterrorism

INTRODUCTION

Through history there were several moments that, in one way or another, affected the history of humanity such as Hiroshima, the assassination of Kennedy and the

¹ **George W. Bush:** "Address to the Nation on the Terrorist Attacks," September 11, 2001. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=58057>.

² Although is a really general idea in the History of International Relations, in this case is defended by the analyst of the *Instituto de Estudios Estratégicos* J.Ruiz González in his document of analysis nº 23/2011 of 13th September of 2001 named "Tendencias y dilemas internacionales tras el 11-S de 2001: ¿Un Sistema internacional en transición?"

resignation of Nixon, the Hitler's suicide, the first man's arrival to the moon, the fall of the Berlin wall, the state of Israel or the accident in Chernobyl.

After those events, there were changes in several aspects of politics but in this article, I want to focus on the changes in security in one of the world's superpowers, the United States. Security strategies of different presidents will be analyzed and described.

THE USA BEFORE THE TERRORIST ATTACKS

Though the George W. Bush's first administration already had given samples of a major unilateralism before 9/11, in general there was a predictable continuation of the foreign policy, neither realistic, similar to the one executed by his father between 1988 and 1992. His crew was totally conservative and it was composed principally by the ex-general Colin Powell at the head of diplomacy and Condoleezza Rice as the Adviser of National Security.

The vice-president Dick Cheney, being an *unipolarist*, has already been the Secretary of Defense with Father Bush, Donald Rumsfeld and Paul Wolfowitz. The attempts of 2001 were so striking for the President Bush that he managed to declare:

*"Just three days removed from these events, Americans do not yet have the distance of history. But our responsibility to history is already clear: to answer these attacks and rid the world of evil. War has been waged against us by stealth and deceit and murder. This nation is peaceful, but fierce when stirred to anger. The conflict was begun on the timing and terms of others. It will end in a way, and at an hour, of our choosing."*³

These attempts supposed an overturn in the American Foreign Policy, and the period in which his doctrinal bases sat down was during one year, between September 11 2001 and September 2002. This process of change, already directed by the most representative leaders of the neo-conservatism such as *Wolfowitz*, he had as milestones the denounce of the Anti-Ballistic Missile Treaty (ABM) in December of 2001, the speech of *State of Union* in January 2002 (with the classification of North Korea, Iran and Iraq as the axis of evil), and the promulgation of the *Strategy of National Security* in September 2002 in which he had mentioned the disposition of the US for the fulfillment of any unilateral action if is needed in order to preserve the safety of the country and lead the unofficially declared global

³ **George W. Bush:** "Speech at Friday's National prayer service", September 14, 2001.

war against the international terrorism.

In addition, it was where the *Article Number 5* of the NATO ⁴was applied for the first time. This article was foreseen for an armed attack, or rather, for a war. This is the reason why we should ask ourselves; ***is terrorism a kind of war?***

I personally believe that this a basic question, for this reason I will use a quote from Professor Federico Aznar when he says "*It must be clear already in his definition, that terrorism can be considered as a way of limited war regarding the aims they chase and also with the regard to the means that it uses for such an purpose, even though the target selected are not combatant.*" ⁵

Terrorism share several elements with the asymmetric war but the strategy is different, they don't use violence to destroy the enemy, they use it to discredit him. The main difference between these two types of war is the intensity of violence.

CHANGES IN SECURITY AFTER THE ATTACKS

The 9/11 forced the democratic societies to reconsider many factors in order to maintain the necessary equilibrium rights-freedom, which has imply retouched in the different organizations, legislations, procedures, especially in the intelligence services, and many others that appears in the following scheme, that can be considered a simplification of the problem.

This is the scheme that would summarize the principal aspects in which there have been modifications, but in this article, I will focus just in two of them; the *struggle* between freedom and security and the importance of the intelligence services.

¿FREEDOM OR SECURITY?

Normally, when a terrorist attack occurs and the security measures increase the same debate seems to appear. Up to where can the State use the limiting powers of the freedoms and individual rights? Where is the line that must not be trespassed

⁴ **Article 5:** The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area. Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security. (*The North Atlantic Treaty Organization, Washington D.C. - 4 April 1949 .NATO*)

⁵ **Aznar Fernández-Montesinos, F.** (2014). *Reflexiones sobre el empleo de las Fuerzas Armadas en la lucha contra el terrorismo local*. Instituto de Estudios Estratégicos (IEEE)

without the break of the rule of law?

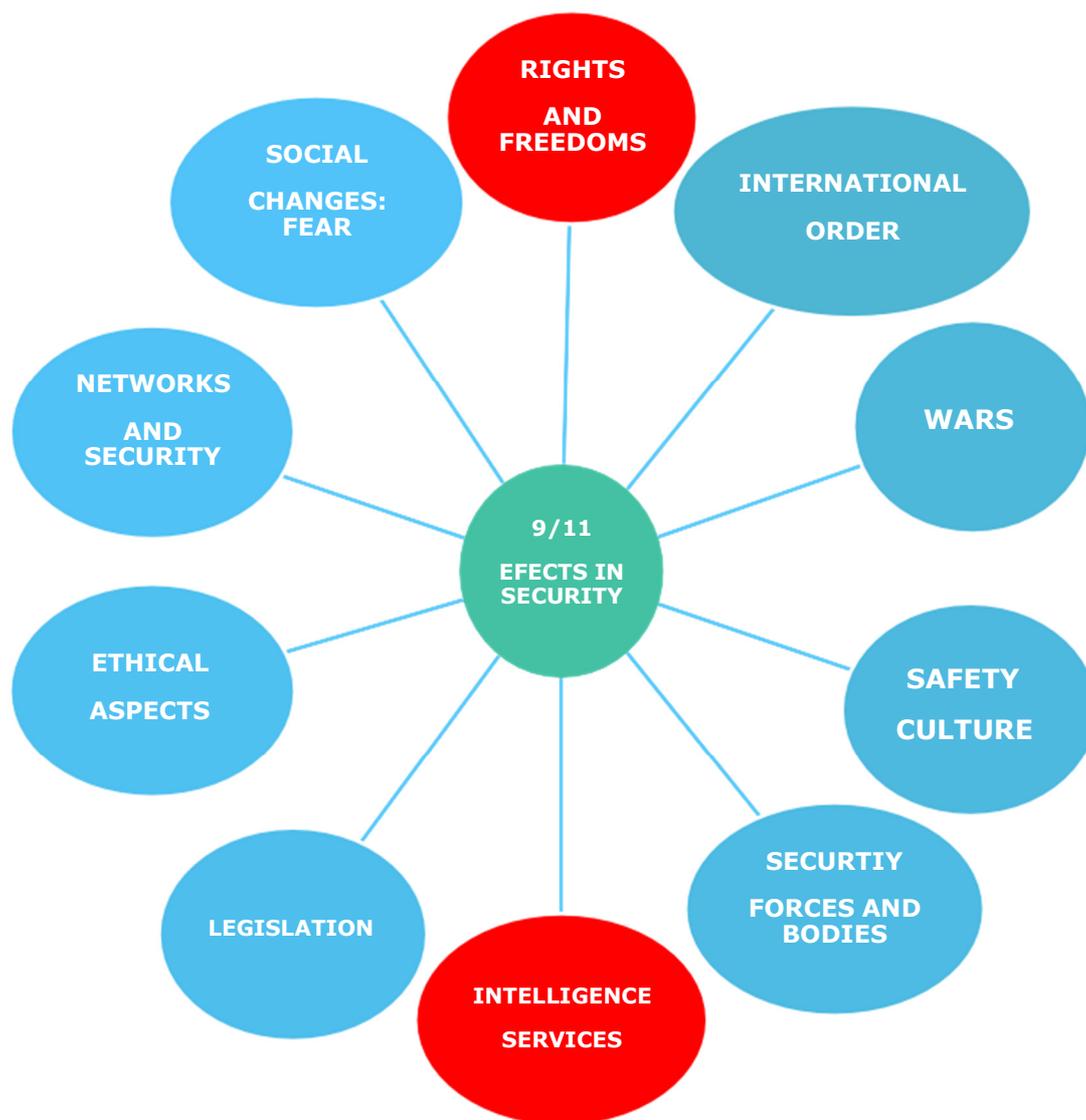


Figure 1. Principal changes in security after the 9/11.

Source: Blanco Navarro, J.M (7/9/2011). *Seguridad e Inteligencia 10 años después del 11-S*. IEEE

Certainly, most of people only see the negative part, that one which believes that both concepts are opposed, in other words, the rise of one goes with the reduction of the other. However, it can be seen in a positive way; both are supplementary: the more security given the better execution of the human rights. I personally agree with this last idea.

The attacks caused some more immediate and a deeper influence to people's daily lives in civil liberty on the ground of national security. Some heightened security

measures were introduced in the United States after the 9/11 such as face recognition devices in public places, the use of wiretaps and the ability to intercept and read email, unparalleled airport checkpoint procedures and random searches of internet content by intelligence officers. ⁶This is the price that the American citizens have to pay in order to keep the nation safe. In October 26, 2001, the President Bush signed the **USA Patriot Act** that can be resumed in five points⁷:

1. It protects civil liberties and provides for the common defense.
2. Expectation of privacy is not unlimited.
3. The law provides significant safeguards.
4. It has passed constitutional muster.
5. Disagreements over the role of government are different from actual abuse.

This law was designed to give to the FBI more freedom in the interception and in the monitoring of illegal activities; it also gave to the State Treasury department a major flexibility in the search of illegal monetary transactions suspicious of serving as financing for terrorists. This law was also criticized because those who are against it argued that the Patriot Act gives too much power to Law Enforcement and that there were evidences of serious abuse of authority by the FBI in cases where the people involved has no clear connection to terrorism.⁸

Despite of these cons, it was an effective counterterrorism tool; at least 39 terrorist plots have been thwarted since 9/11⁹. Critics often fail to recognize that the act has served as a powerful and effective tool in the fight against terrorism and that it was not designed to undermine liberty but to protect and preserve it. Most of Americans are comfortable with this law but they think it needs to be revised. President Obama at the annual conference of the American Library Association¹⁰ in 2005 he said he believed in a fight against terrorism that does not trample the civil rights but he also supports the USA Patriot Act.

PROPORTIONALITY PRINCIPLE

The resolution of the conflicts that can be lay out between the search of the security and the fundamental rights can be solved with the application of the *proportionality*

⁶ **Liberman, A** (2011). *Security Measures after September 11*. Urban Institute.

⁷ **Baker McNeill, J.** (2011). *The PATRIOT Act and the Constitution: Five Key Points*. Heritage Foundation.

⁸ "The State of Civil Liberties: One year later". Erosion of Civil Liberties in the Post 9/11 era. A report issued by The Center for Constitutional Rights.

⁹ **Baker McNeill, J., Zuckerman J.** (2011). *After Bin Laden: Support the PATRIOT Act*. Heritage Foundation.

¹⁰ The American Library Association (ALA) is the oldest and largest library association in the world.

*principle. The principle says: "a public authority may not impose obligations on a citizen except to the extent to which they are strictly necessary in the public interest to attain the purpose of the measure"*¹¹

This legal principle must be applied initially when the legislator approves the regulations which permit the limitation of the rights due to security reasons and then, the proportionality must lead the action of those who are going to apply that regulation.

This is other complex factor in the case of September 11. There are also several questions about this; which means of proportionality can be applied facing such terrific attacks like these? What about the means of proportionality that must be applied in order to benefit the civil personnel? What about the number of times of sick that produced? Difficult answer.

THE ROLE OF THE INTELLIGENCE SERVICES

The Bush Administration has suffered undue criticism due to the fact that there exist some *conspiracy theories* that argue the government had information about Osama Bin Laden's terrorist projects before the September 11th, but there are not proved.¹²

The incidents of 9/11 supposed a hard blow to the American services of Intelligence, they were directly blamed, as it has already happened in previous cases and unfortunately, it will continue to happen. One of those conspiracy theories is related with the fact that the secret agencies had evidences since 1998 that the Bin Laden's organization could use airplanes as weapons to carry out their attacks and their list of targets included from embassies to airports. But that warning was based in information for a single British source that maintained that the goal of such an operation would be to take hostages. The precise target of his terrorist's plans was not known. Actually, the CIA prevail over the general opinion that if the attacks of Bin Laden took places it would probably been against American objectives in other countries.¹³

The attacks propelled intelligence reform to center stage in American politics. It is true that September 11 was an immense failure for U.S intelligence but the citizens

¹¹ **Hartley, T.C.** (2014). *The Foundations of European Union Law: An introduction to the constitutional and administrative law of the European Union*. United Kingdom. Oxford University Press. Pp. 168.

¹² **Phillips, J.** (2002). *Undue criticism for September 11*. Heritage Foundation.

¹³ **Lewis, J.A.** (2007). *Five years after 9/11: An assessment of America's War on Terror – Intelligence*. Center for Strategic & International Studies (CSIS).

only receives this information, the bad news, the failures but never the achievements. The CIA is the best intelligence agency in the world, they have dismantled several complots, and they had prevented more terrorist attacks that anybody could imagine. The problem was the lack of organization between the NSA, the CIA, and the Pentagon. After that, the specialization of the police, judicial, and fiscal actions started as well as the civil protection measures and also the measures to reinforce the intelligence services.¹⁴ Is really unfair to blame them of this tragedy due to their efforts are immeasurable.

LEGAL REALITY

This is probably one of the most complicated fields to analyze and there are many questions that can be made related to this topic: what is legal? Who determines what is legal? If something is legal is also ethical? Which means are used in the legislation process? These questions come to collation of the USA's actions after the attacks of 9/11.

Curiously, a country which has defended as the national slogan the liberty and the democracy have applied rules with suspicious legality, such as incarcerations of prisoners without a trial, Guantanamo, the existence of hidden prisons, advanced systems of interrogatories known as "torture", presumed executions, the dark murder of Osama Bin Laden or the suspicious flights of the CIA. But the phenomenon of *WikiLeaks* appears and this entire scenario changes with a learned lesson¹⁵; maybe it is better to say the truth and to act with total transparency because before or after, someone will say it to the world.

The Geneva Convention of 1949 and its additional Protocols of 1977 contain a certain number of dispositions where there are emphatically prohibited the cruel or inhuman treatments and the attempts against the people's dignity. The prohibition of torture and other cruel or degrading treatment does not yield to the threat posed by terrorism or the supposed danger posed by a person against the security of the State.

However, in practice, states have often adopted policies and methods to combat terrorism that actually shirk and undermine this absolute prohibition.¹⁶For

¹⁴ **Arteaga, F.** (2011). *Una década de cambios en la seguridad tras el 11-S: de la globalización a la glocalización*. Real Instituto Elcano.

¹⁵ **Cordesman, A.H.** (2011). *The lessons and challenges of September 2011- the new "9/11"*. Centre for Strategy & International Studies. (CSIS)

¹⁶ *Los derechos humanos, el terrorismo y la lucha contra el Terrorismo*. Informative brochure num. 32. Published by the Office Of The High Commissioner For Human Rights. The United Nations.

example, the use of torture in order to extract information from terrorist suspects is totally forbidden, as well as the use of that evidences obtained through the torture in judicial intervention because it is an infraction of one of the principles included in the article 15 of the Convention against Torture. Evidently, in Guantanamo this right is completely ignored. This topic could go a long way but the intention was just to shortly enrich the document.

THE POSITION OF OBAMA: "LIQUID SECURITY"

There is no doubt that at this point, the former president of the United States, Barack Obama has changed his sight about the phenomenon of the terrorism but in an ambiguous way and sometimes undefined. Obama has widely used the term "*liquid security*", based in the theories of Bauman. ¹⁷Bauman believes that social change is needed but with a dynamic process. He plays-off a solid society with a liquid one. The solid one is based in the security and in the values but the liquid society is based on the mobility, the uncertainty, the flexibility and the adaptation capabilities. To Bauman, the procedure of change is the only possible way to avoid social conflicts and to improve our adaptation to the future. This is the theory in which Obama based his own perception of the security.

Is important to highlight that if we live in a *liquid world*, with a *liquid society* facing *liquid risks* such as terrorist's attacks, it is expected to progress into a *liquid security*. ¹⁸Obama with these ideas break up with the post 9/11 era, giving importance to the fact that since that day, changes had been produced in terms of security.

CONCLUSIONS

The issues analyzed here are really complex with many variables specially the 9/11, that in a certain way recall the Pearl Harbor attack, either for the massive attack or the doubt that fall back into both of them of the possible knowledge about some evidences of the attacks.

As it can be noticed, after the attacks, the George W. Bush's administration leverage the situation to continue the labor that his father started and define the famous "axis of evil" and the occupation of Iraq despite of the fact that there existed a big

¹⁷ Bauman is a polish sociologist and philosopher, winner of the "*Principe de Asturias*" Price of Communication and Humanities in 2010, known by his term "liquid modernity".

¹⁸ **Blanco Navarro, J.M** (2013). *Terrorismo y "seguridad líquida"*. Instituto de Estudios Estratégicos (IEEE)

opposition by the public opinion. Obama had changed his strategy assuming the Bauman's theory and his concept "*liquid terrorism*" but I consider that it is about fake promises and not truly actions because in that case, Guantanamo would be closed. In the light of the International Humanitarian Law, to maintain Guantanamo is not deserving of a country that is considered as one of the biggest democracies in the world.

The intelligence services have changed and they have also been adapted to this new situation, but reneging on one of the human rights such as the privacy of communications, since the new massive system of communication's caption could be sure, but it is also against the law. About the principle of proportionality in such a complex case like this is truly difficult.

Many opinions had been given about this issue and there are also several researchers trying to find out what happened and why, but my conclusion is that to be free we have to be safe.

"It was not a religion that attacked us that September day. It was al-Qaeda. We will not sacrifice the liberties we cherish or hunker down behind walls of suspicion and mistrust." Barack Obama